

Roger Morgan
Distribution Policy Manager
Office of Gas and Electricity Markets
9 Millbank
London
SW1P 3GE

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Dear Roger

Response to Ofgem Letter regarding Connections Assessment and Design (A&D) fees levied by Electricity Distribution Network Operators

The following response is made on behalf of the Metered Connections Consumer Group (MCCG). We have a number of representatives on the Electricity Connections Steering Group and our members are fully active within the Connections market and are committed to developing competition and removing the monopoly of the DNO's for the overall benefit of customers within the market place.

Whilst this response will focus on the future discussions of whether Ofgem should consider if there are any circumstances where DNO's are able to apply front charges for A&D work in the future, we believe firstly we must comment on the current situation.

DNO actions prior to 14 August 2008

DNO's have applied up front charges to consumers for a number of years and some DNO's had even started charging additional secondary fees for Competition in Connections (CinC) and Independent Distribution Network Operators (IDNO) applications. We have made representations regarding this practice within a number of our responses to Ofgem both as a customer group and as individual organisations.

However DNO's have continued to apply these charges, which have been used as a method of cross subsidising its own connections businesses. The DNO sees these charges as an income stream whether they undertake the connection or not, whereas they are a sunk cost to a competitive applicant.

Furthermore these charges have in no way been representative of the costs incurred by the DNO for undertaking the work associated with progressing the application and thus have been a major barrier to competition.

It is interesting to note that the DNO's that have applied significant upfront A&D charges are the DNO's with the least established competition i.e. EDF and SSE.

In 2005-06 and 2006-07 CinC reporting years, the combined three EDF licensed companies received 19 CinC enquiries. In the same period United Utilities acted upon 2,400 enquiries in one DNO region.

Therefore before Ofgem considers if there are any situations where DNO's should be allowed to charge upfront A&D charges, Ofgem must also consider what impact allowing these upfront charges has within the overall competitive market.

Consideration to future Upfront Charges

Whilst it would be our preference to not see up front charges, we also accept that it is reasonable for the party who is requesting the DNO to undertake work should incur the costs associated with this work.

However due to the delicate nature of the competitive market place and the power of the incumbent DNO to be able to distort the market with up front charges, we do not believe up front charges should be applied to general applications for a point of connection and non contestable costs associated with schemes that have been submitted for planning permission and therefore are not speculative. The cost for doing this work is only required to be done once and thus should be borne by the successful applicant either CinC or Section 16.

Where major protection or engineering studies are required for large export generation schemes, such as windfarms etc. then there is a considerable amount of feasibility work completed by the DNO and we believe it is fair for the DNO to be able to request payment for these activities.

Whilst there may be differing views as to what level of work undertaken would allow charges to be applied for A&D work by the DNO, we would continue to draw Ofgem's attention to the fact that only when there is a level playing field in the CinC market will competition truly flourish. When Ofgem considers the implications of this consultation it must ensure it meets one of its primary objectives to protect the interests of consumers through the introduction of competition.

Condition 4 Statements

Although it is clearly the responsibility of the DNO to comply with the requirements of The Electricity Act, the MCCG also believes that Ofgem must scrutinise the charges and methodology stated by the DNO's in their Condition 4 Statements to ensure they fully comply with the Act and are truly cost reflective.

Too often DNO's make statements that Ofgem has approved its Condition 4 charging methodology and whilst we appreciate this is not the case and Ofgem purely approves the format, the current situation of illegal up front charges

highlights that Ofgem must take a greater role in regulating the dominant monopoly.

Second Comer Rule

The MCCG and its members have previously identified to Ofgem the inconsistencies of the Second Comer Rule and how it has a negative impact on competition. Ofgem has identified that to change the current arrangements would take a change in primary legislation and therefore it would be difficult to instigate as a single matter.

However if after consultation, Ofgem is minded to allow up front charges in certain circumstances, we believe this would also require primary legislation changes and thus would urge Ofgem to ensure that the Second Comer Rule anomalies are dealt with during the same process.

We trust the above is useful in helping you to determine the way forward and would urge you to consider the impact and benefit to the overall market place when coming to your decision.

Yours Sincerely

Chris Bean
On behalf of the MCCG