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Dear Rebecca

Response to: Consultation on Electricity North West Limited's Competition Notice

In summary, we do not support the approval of ENWL's competition test application. Whilst we appreciate that ENWL may have done more than many of the other DNOs to facilitate competition; Annex 1 demonstrates clearly that much more remains to be done.

GTC operates both licensed electricity distribution and gas transportation businesses. This gives us the ability to compare and contrast the process for getting an electricity connection with that of getting a gas connection. Since being granted our IDNO licence in 2006 we have faced, and continue to face, significant barriers to the development of an open and equitable framework that facilitates competition. This is true both for the provision of electricity connections and through the margins made available to IDNOs through DNO use of system charges.

Progress in resolving issues has been slow, punctuated by procrastination and a general lack of urgency to resolve issues. Changing the connections framework has been a war of attrition requiring significant resource, often requiring referral to Ofgem, to achieve even minor changes. We have little evidence of DNOs being genuinely proactive to establish frameworks.

You will recall that in July 2011, the Competitive Networks Association (CNA) gave a presentation to DNOs highlighting deficiencies in the electricity connections process and showing the alternative successful competitive framework for gas connections. The key differences were illustrated in a check list which is reproduced in Annex 1. We also explained that in responding to any competition test application consultation we would use this checklist to demonstrate whether the market could be considered open.

Whilst it is true that ENWL are working positively with us and other connections providers to develop solutions to address these process areas, the solutions are not in place yet. Our assessment is that ENWL currently satisfy none of the nine categories. On that basis we cannot support ENWL's competition test submission.

We think the areas where we highlighted improvements are straightforward to resolve and see no reason why revised processes should not be in place by April 2012 (at the latest)

If ENWL achieve this and there is a follow up mechanism to ensure compliance we would review our position again.

Our responses to the questions asked by Ofgem in their consultation are provided in Annex 2. If there are any aspects of our consultation where you require further clarification please contact me.

Yours sincerely

Mike Harding
Head of Regulation
GTC

Annex 1 Check list showing differences between Gas connections Process and Electricity Connections process.

Process Area	Gas	ENWL Electric
ICP in control throughout connections process	✓	X
In control of meeting delivery to customers	✓	X
No onerous application process	✓	X
Process removes need for onerous inspection regimes	✓	X
Self connection process in place	✓	X
Behaviour of Upstream Operator doesn't cause loss of work	✓	X
No additional boundary constraints imposed by upstream operator	✓	X
Legal/commercial issues agreed and in place	✓	X
Agreed Industry wide arrangements (formal agreements)	✓	X

Annex 2 Responses to Questions asked in Ofgem's Consultation

CHAPTER 2

Question 1: Are customers aware of competitive alternatives available in each RMS?

We do not believe that all customers are fully aware of the extent of competition available in each RMS. Whilst the connection charging methodology statement does make reference to competition in connections on page 7, it doesn't set out the process of how customers can consider competitive alternatives. The section is silent on the existence of independent distribution network operators

We believe the same is also true of ENWL's website. From the homepage, a customer has the option of selecting the '*Connection Services*' page. This page gives, as one of 8 options, '*independent connection providers*'. The opening sentence of this page states "*These pages offer support for Independent Connection Providers applying for Points of Connections in the North West Region*". Whilst the website points out that "*any Independent Connections Provider*", it does not set out the process for doing this. Additionally, the pages make no reference to IDNO parties operating downstream networks. We have also looked on the "*Advice and Guides*" web page and can find no such guidance on how customers can seek competitive quotations from alternative providers.

We therefore conclude that any customer awareness on competition alternatives is primarily through the activities of ICPs and IDNOs operating in that area.

Question 2: Do customers consider that they have effective choice in each RMS? Ie, are they easily able to seek alternative quotations?

We accept that customers have choice in each RMS. However, we are not convinced at the ease which customers can seek alternative quotations. However, we believe that this is directly because of the actions of Independent Contractors rather than any promotional activity by ENWL.

Question 3: Do customers consider that ENWL takes appropriate measures to ensure that customers, in each of the RMS, are aware of the competitive alternatives available to them?

See our response to question 1.

Question 4: Do customers consider that quotations provided by ENWL for connections in each RMS are clear and transparent? Do they enable customers to make informed decisions whether to accept or reject a quote?

So that customers can make an informed decision they need to understand the breakdown of costs. ENWL's connection charging methodology statement (paragraph 2.18) states that ENWL will only provide a breakdown of contestable works where the charge is greater than £20,000. There are many projects that will have costs below this. We question why ENWL are unwilling to provide a breakdown for lower value works. Such breakdown would offer greater transparency on the reasonableness of costs. Since ENWL would have a breakdown in assessing the total charge, we do not understand why a breakdown of costs for works less than £20,000 cannot be easily provided..

The current approach does not enable customers to understand the basis of charges or make informed decisions. This is also true in respect of the basis of charges for non contestable works where, because of the opaque nature of charges, it is difficult to make a value based assessment of the charges.

Question 5: For each RMS, in ENWL's area, do customers consider that they have benefitted from competition? Ie, have they seen improvements in ENWL's price or service quality or have they been able to source a superior service or better price from ENWL's competitors?

As an IDNO we do not answer for other customers' experiences. We have limited experience of constructing networks in ENWL's area.

However, in July the CNA gave a presentation to all DNOs highlighting the issues we face under the current connections framework and the areas that needed to addressed to facilitate an open framework for competition in connections that would enable us to properly differentiate the service we offer to customers. Until the issues highlighted are addressed we do not believe a fully open competitive framework exists.

Under the current arrangements the service offered by a competitor is constrained by the non- contestable activities provided by ENWL.

CHAPTER 3

Question 1: Do interested parties agree with the assertions made by ENWL in its analysis of the level of competition in its area in each RMS? In particular, do interested parties consider that the data provided by ENWL gives a clear indication of the current level of competitive activity in each RMS?

We are unable to ratify or dispute ENWL's assertions in respect of competition in their distribution services area.

As we have said previously, we recognise that ENWL have done more than many DNOs to address competition issues. However, we do not think that competition has developed in ENWL's area because of ENWL's approach. We think the development of competition has more to do with other factors:

- The initial penetration of Core Utilities, an affiliate of Scottish Power, in ENWL's area and the development of UU's own affiliate business going into competition out of area for connections.
- The high number of independent electrical contractors in ENWL's area with ICP capability.
- The movement of ENWL staff to ICPs/ IDNOs, giving the contractors a better insight into ENWL systems and processes

Question 2: Considering the market share currently retained by ENWL and the number of ICPs currently active in each RMS, do interested parties consider that competition in each RMS is at a level that in itself indicates that effective competition exists?

No, for effective competition to exist parties must be able to differentiate the service offerings to customers. The current framework unduly constrains the processes, timescales and hurdles offered by competitors.

CHAPTER 4

Question 1: For each RMS, do existing/potential competitors agree with the statements made by ENWL regarding the number of competitors active (and the ease at which new entrants can operate) in their area?

We are unable to ratify or dispute ENWL's figures.

Question 2: For each RMS, how do existing/potential competitors consider ENWL's organisational structure, procedures and policies, compare to those encountered elsewhere in the gas and electricity markets or other industries? In particular, do you consider that they reflect best practice, or are there areas where ENWL fall short of this?

We believe the appropriate benchmark to use is the gas connections process. In July the CNA highlighted areas where the electricity connections process fell short of that in place for gas. These areas are summarised in Annex 1 of this letter.

Question 3: For each RMS, do existing/potential competitors consider that barriers exist that:

- ***a) prevent existing competitors from competing effectively with ENWL?***
- ***b) obstruct or delay connection providers entering ENWL's area?***
- ***c) obstruct or delay connection providers currently working in ENWL's area in one or more RMSs, starting to compete in another RMS in ENWL's area?***

We the connections process in gas offers a best practice benchmark.

In July, through the CNA, we gave a presentation at Ofgem to all DNOs setting out the types of services we require to enable us to properly differentiate the service we offer to customers. In developing these we compared the connections process in electricity with that in gas. These services requested are outlined in annex 1 to this letter.

Whilst we acknowledge that ENWL may be one of the better performing DNOs, we believe that significant work is required before this benchmark is achieved. Until these services are available we do not believe a fully open competitive framework exists.

We also highlight that ICPs cannot effectively compete for certain reinforcement works because whereas ENWL will part fund the works where they carry them out, they will not do so where an ICP carries them out. We acknowledge that Ofgem have established a workgroup to look at this area. However, it is important to note that this work results from a complaint to Ofgem rather than any proactive work by any DNO.

Question 4: If you do consider that barriers exist, please explain: what you consider the impact of the barrier to be? Whether the issue has been addressed by ENWL or whether it is outside of their control? What you would like to see changed to allow competitors to compete on a level playing field/facilitate market entry?

There are a number of activities and process areas that are considered as non-contestable that should be developed as contestable. These were highlighted in our presentation to DNOs in July and are summarised in Annex 1. This included:

- access to network records to allow self determination of points of connection and self design and approval of contestable works.
- making the final connection (ENW state that they have initiated trials for making the final connection of a network to their existing distribution system, however, this needs to established as business as usual prior to being considered as part of the competition test)

Whilst we acknowledge that not all ICPs may want to take advantage of wider contestability, we think it is an essential part of competition since competitors will be able to better differentiate the service they offer, free from constraints and extra costs imposed by the DNO through non-contestable activities.

Indirect Costs

We are concerned that the indirect costs associated with providing contestable works will either be recovered through non-contestable charges or through DUoS charges. This would lead to unduly lower charges and make it difficult for incumbents to compete on an equitable basis. How the costs of operating the connections business are recovered should be transparent.

DUoS Charges

As a licensed electricity distributor our ability to compete for and adopt a network is determined by the DUoS revenues we are able to earn. Such revenues are determined directly from the DUoS charges that ENW levies on us. If the DUoS revenues are insufficient to cover the costs of operating the network (and make a return) then it our ability to adopt is constrained.

We note that Charges are determined through the CDCM (together with Method) and are subject to open governance. However we also note that to date all modifications have been raised by IDNOs. This includes DCUSA change proposal DCP 71. The changes covered by that proposal were changes that Ofgem required DNOs to carry out without delay. There is nothing that prevented ENWL to raise the change proposals to bring the change into play in a timely manner.

Question 5: For each RMS, what are existing/potential competitors' views of ENWL's efforts to extend contestability? In particular, do ENWL engage with stakeholders to develop procedures that promote competition? Do you consider that the extension of contestability is likely to stimulate further competition?

See our response to Question 4 above.

Question 6: For each RMS in ENWL's area, do existing/potential competitors consider that they will enter new RMSs/expand in the RMSs they already compete in, within the next 5 years. What factors do they expect to influence their decision? e.g. economic conditions, ENWL's margin regulation being lifted, etc.

We support the principle that ENWL and other DNO should be able to earn a margin on connection works. However, the biggest factor that will influence the development of competition is the development of an open competitive framework that neither imposes undue procedural burdens nor undue costs on a competing ICP.

Question 7: Do existing/potential competitors consider that there are any types of connections in any of the RMSs, or geographic locations in ENWL's area, that by their nature, are not attractive to competition?

No comment.

CHAPTER 6

Question 1: For each RMS, do customers consider that there is currently effective choice for customers? In particular, do customers feel that levels of choice, value and service will be protected and improve if the restriction on ENWL"s ability to earn a margin is removed?

No comment.

Question 2: For each RMS, do existing/potential competitors consider that there is scope for existing competitors to grow their market share (for example, if ENWL put up its prices or if its quality dropped), or are there factors constraining this?

See our response to Q4 in Chapter 5

Question 3: For each RMS, do existing/potential competitors consider that there is scope/appetite for new participants to enter the market? Do competitors consider that they would be able to provide similar or better services than existing participants or are there factors constraining this?

We have already commented on the need to increase contestability to allow different competitors to better differentiate the services they offer.

Question 4: For each RMS, given your overall view of ENWL, do you consider that we can have confidence in them to operate appropriately in the circumstance that price regulation were lifted?

No comment.