

6/10/11

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Distribution Policy
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9 Millbank,
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Dear Rebecca

Electricity North West's Competition Notice

We welcome this opportunity to reiterate the points we made in our letter to ENW that they included in their Competition Notice and to respond to the questions raised in your consultation.

We have answered each of your specific questions below but would reiterate our view that ENW are the best DNO to deal with and that competition in the North West is far more significantly advanced than it is in other areas of the country. As ENW have, sometimes as a result of Regulatory intervention, sometimes due to concerted pressure and complaining, and occasionally voluntarily played their part in facilitating competition.

We support the ENW application for unregulated margin conditional upon clarification regarding the following areas of concern regarding the ENW submission, and its terms.

1) Unregulated margin

If margin is not regulated it can be as high or as low as the company determines fit, potentially even negative. How will the regulator guard against misuse of this privilege.

2) Re. page 5 1.6 Excluded market segments

Our concern is that the extent of competition is not necessarily as advanced in all areas of work.

As an ICP we have witnessed the demise of several ICP subsidiaries of DNO companies which have failed to succeed in the environment in which we are forced to operate.

It seems obvious that ICP and IDNO success is based upon two factors namely service and cost. IDNO asset values have allowed success on housing sites by virtue of cost advantages accrued from asset values, but projects which attract little or no asset value offer the opportunity to the DNO as licensed connections provider to bypass statutory timescales and mandatory processes thereby offering a quicker end to end process which is a key consideration on industrial and commercial projects. This opportunity combined with unregulated margin may serve to effectively lock out competition. How will this be guarded against.

3) Competition a work in progress

While we would endorse any proposal that all DNO companies should at least meet the standards of service and free and fair competition achieved by ENW (SP nearly do, EON used to until they became WPD and stepped back 10 years), it must be emphasised that for all that ENW have achieved there is much that still must be done. How will the Regulator provide them with that encouragement?

Yours sincerely

Mr. Patrick J Daly
Director
P N Daly Ltd

CHAPTER 2

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

We believe they are and have benefited directly from their awareness as an ICP.

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

We would say that they are as generally we are in competition with other ICPs and IDNOs when we quote customers for projects.

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?

We believe that ENW are open with customers in communicating competitive alternatives and take all reasonable steps to ensure this.

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?

Whilst more detail would always be welcomed, we consider that the level of detail provided is acceptable and enough to allow customers to make informed decisions.

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?

It does not feel appropriate for us to comment on the competitive edge that we have that results in us winning work in ENW's area.

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?

It is difficult to comment without access to all the detail but we have confidence that the information provided, knowing it will be subject to Ofgem scrutiny, will be valid.

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?

From our experience of competing for and winning jobs we consider that there is effective competition. We recognise that some customers still choose to go with ENW but that that does not mean competition does not exist, however we have made reference to our concerns in our covering letter. While we do not think that there are any of the markets where we are unable to compete, our ability to compete effectively is often a function of licence and regulatory conditions imposed upon ENW.

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 do not have visibility of the exact numbers but are not surprised at the numbers stated.

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 have the benefit of having worked in ENW's area for a number of years and have helped shape many of the procedures and policies that they now have in place. As we said in our letter, we consider that ENW are the best DNO to work with and say that with the knowledge and direct experience of operating in most other DNOs. We would welcome it if all DNOs adopted the approaches of ENW and would see that as a major step forward for the industry. We will comment appropriately in the future should other DNO apply for unregulated margin without having such practices in place.

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?

Based on us successfully winning work from ENW we do not consider that there are any barriers. As processes and policies apply across the market segments Ofgem has defined we do not see these as a barrier across any of the ones we currently choose not to be active in, we have however indicated in our covering letter that how level the playing field is varies according to the activity and advantages or handicaps which result for the relevant regulatory framework imposed on ENW.

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?

As long as we are unable to access network information particularly load information with the same ease as any DNO we will be at a disadvantage. This lends huge power to all DNO.s where major projects are at feasibility stage.

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?

We have been impressed with the proactive approach taken by ENW to extend contestability and have been in discussions with them regarding the joint to main trials. These are helpful and welcome extensions but in themselves are unlikely to stimulate more competition. It is the overall package of approaches that make the difference rather than a few incremental changes, though welcome nonetheless.

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? Eg, economic conditions, ENWL's margin regulation being lifted, etc.

As we already see a high degree of competition in ENW's area we see more opportunities in other DNO areas to expand.

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?

We have worked across the whole of ENW geographic area and across all market segments and therefore all can have attractive jobs.

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?

We do not think there will be any adverse impact on customers if ENW is allowed to earn an unregulated margin, however as we have outlined in our covering letter without some delimitation of the unregulated margin it may serve to prejudice customer choices and prejudice fair competition.

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?

We do not believe that there are any constraining factors.

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?

As an existing participant in this market it does not seem appropriate to comment.

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?

Based on our long experience of working with ENW we would consider them to act appropriate. Competition law still governs them and we know they will want to avoid such damaging scrutiny. They are well aware we will have no hesitation in bring any concerns to you as the Regulator should they arise.

Question 5: For each RMS, do you consider that there are factors not addressed in this consultation that should be taken into consideration in determining whether price regulation should be lifted in ENWL's area.

Please refer to our covering letter