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Dear Rebecca

**Competition in connections - consultation on extending contestability to jointing to existing DNO mains and associated operational activities**

In responding to Ofgem's consultation dated December 12, 2011 on extending contestability in connections I am writing on behalf of Northern Powergrid Holdings Company and each of its wholly-owned electricity distribution companies Northern Powergrid (Northeast) Ltd and Northern Powergrid (Yorkshire) plc.

In summary, we remain committed to the principle of extending contestability wherever safety and practicality have been adequately demonstrated via appropriate start-up arrangements. To that end, we have been proactive in developing and testing a robust framework to enable independent connections providers (ICPs) that are approved under the National Electricity Registration Scheme administered by Lloyds Register Group quicker and more straightforward progression through a controlled start-up phase to a business-as-usual phase in live jointing to existing approved low-voltage mains cable types. However, we remain concerned that the low numbers of responses to date to the offer of trials, whether due to the economic recession or unwillingness on the part of ICPs to explore potential new areas of contestability, cannot yet provide sufficient confidence in every area that all potential issues have been properly identified and remedied.

In this context, it cannot be emphasised too strongly that the safety of all relevant stakeholders is, and must continue to be, of paramount importance. This is, of course, true in any area of our operations, but we must be particularly vigilant when it comes to work being carried out on existing networks, whether by our own staff, our subcontractors or ICPs. Notwithstanding the commercial and regulatory impetus to extend contestability into operational activities and into live jointing to existing mains cables we must retain proper focus on the real safety risks on our network and satisfy both ourselves and other interested parties that these continue to be appropriately mitigated.

By way of illustration, an immediate concern we have is that there are cables used in different local geographical areas that are not constructed to modern nationally accepted specifications. In the Northern Powergrid (Northeast) Ltd and Northern Powergrid (Yorkshire) plc distribution services areas (DSAs) alone there are many examples of legacy low-voltage cable installations, where assets have been used historically that are not used elsewhere in Great Britain. In the context of Great Britain as a whole, there have been recent tragic examples where the safety of individuals and the network has been compromised in relation to gas and electricity mains incidents with third-parties and licensee's sub-contractors, and we need to assure ourselves that there is a sufficient risk-

assessment process developed in conjunction with the DNO for working on each type of asset.

During 2011, we actively promoted our live jointing start-up arrangements and have successfully proven the competency of those ICPs who requested to connect to approved live low-voltage cables. However, each site must be considered on its own merits and having regard to the risk factors present at that site, and we are committed to assisting with that assessment. For example, where the live cables are an approved cable type and the ICP involved has demonstrated their competency for live jointing techniques on this cable type then we have a process that enables them to progress. Elsewhere, in locations with types of cable that require specialist jointing skills and the associated approach to safety management, it is far less likely that ICP live jointing could immediately progress. For those jobs (that perhaps include multiple installations in the same footpath), we will work in collaboration with the ICP, to confirm the identification of the right cable and that the ICP operative has the appropriate authorisation for that cable type.

We operate a business whose absolute priority is to ensure that all of our practices and procedures do nothing to compromise the safety of the general public, our staff, subcontractors and anyone else working legitimately on, or in proximity to, our network at any time. All other priorities and developments must operate within those parameters. We have worked with ICPs to explore ways to prove competency on assets using appropriately rigorous frameworks and risk-assessment procedures, which will need to include different components for different types of asset. We would welcome a step-up in applications for trials.

In the consultation, Ofgem poses five questions. We shall now take each of these in turn.

**Question 1: In considering trials of contestable live jointing and associated operational activities offered and/or run by DNOs:**

**(a) Do you consider that trials have been a success? By what criteria has this been judged?**

Northern Powergrid has made sound progress in the area of extending contestability in low-voltage connections onto approved mains cable installations and we would expect to see this become a contestable activity as approved by Ofgem.

During 2011, we developed a network-connection framework with input from two ICPs that volunteered to work with us following our request for involvement from interested parties. Our framework allows ICPs that are approved under the National Electricity Registration Scheme administered by Lloyds Register Group to undertake live low-voltage jointing to approved existing low-voltage mains and service cables. The ICPs subsequently carried out the live final connections work successfully and one of the companies has several more sites in the pipeline. Thus, we have completed and tested the documentation required to allow Lloyd's Register-accredited ICPs to enter a controlled start-up in relation to carrying out live low-voltage network connections through to successful completion of this phase and subsequent progression to full access to jointing to approved low voltage mains as business-as-usual work. Our approach in opening up this area to contestability provides ICPs with a clearly defined path, as set out in our shared framework, to get to the business-as-usual phase quickly.

It should be noted, however, that the connections made to our low-voltage system to date under the extension of contestability have involved only four low-voltage mains breeches joints. In each case, the company adopted a short length of cable in order to provide a supply to an IDNO-owned underground link box. In all instances, the work was performed satisfactorily. We feel that the volume of work completed is insufficient to draw meaningful conclusions on the principles of success of this type of work. That said, some elements of judging the success of our network connection development work relate to the ease of the interaction between Northern Powergrid and the ICP testing the framework and the 'partnership' approach that evolved when resolving issues that occurred during the carrying out of the connections. Another success factor is that the new procedure does not rely on cumbersome trials or multiple levels of authorisation but provides a simple-to-understand initial 'controlled start-up' phase before progression to live jointing as 'business as usual'.

Our main operational/safety concern for unsupervised third-party jointing on our network (whether done by an ICP or a vendor/subcontractor) is their likely unfamiliarity with legacy cable types, which remain prevalent on our network. Our experience of managing our prime contractors, and indirectly their subcontractors, with respect to complex cable works (especially where obsolete or unusual cable types are involved) indicates that the safeguards we have in place for our own contractors are not easy to replicate where an ICP is acting independently of our oversight.

So far, we have not been able to resolve these safety concerns with unapproved low-voltage cables and particularly the risks with high-voltage assets, nor do we currently see the evidence that these issues have been resolved nationally. However, we, and other companies, actively continue to seek progress.

We think a minimum set of standards, covering nationally relevant safety and operational practice manual (OPM) subjects such as, for example, mandatory risk-assessment procedures is required. Following the recent incidents on our network, we are working with our subcontractors to address the issues of misidentification of cable assets and responding to such incidents. When we are confident that we have identified and implemented sufficient controls to prevent recurrences of such incidents with our subcontractors we can begin to develop these into a suitable framework that ICPs may work to. For these reasons, we feel strongly that we must assume that activities that have not been tested and proven with third parties are not safe until competency can be proved in a controlled start-up arrangement.

We cannot comment directly on the trials associated with jointing to high-voltage mains cables or operational work, as we have not had any direct involvement with trials in this area. We believe there are some fundamental obstacles at high voltage that may be difficult to overcome. However, we are happy to work through these in a systematic approach to explore the opportunities.

**(b) Are the procedures and policies associated with the extension of contestability accessible and acceptable to competitors? If not, why not? Have you seen any examples of best practice? Do you consider that issues encountered during trials have been adequately addressed/resolved? If not, why not?**

In relation to approved low-voltage network connections, our framework has been developed in partnership with ICPs, we have tested it in the field, and it has been proven to be fit for purpose. The process enabled us to share and develop best practice with the ICPs involved. We continue to have regular meetings with the companies working with us to refine the process as required and shall continue to do this.

Any issues encountered have been resolved as the framework developed and we expect that the framework will undergo continuous improvement and refinement as necessary.

**(c) Do you consider that DNOs will be able to implement the procedures/terms etc introduced for the trials on a business as usual basis? Please explain the reasons behind your view.**

We consider our published network-connection framework to be a document that enables business-as-usual working on our approved live low-voltage mains cables and services, notwithstanding the fact that formal extension of contestability will require a change to our published common connection charging methodology. The framework provides a clear path for ICPs to progress quickly through controlled start-up to business-as-usual working.

**(d) Has there been any interest from competitors to undertake jointing to existing DNO mains and associated operational activity? If not, do you consider that interest would exist if the activities became contestable? ie, would promotion from trial status (including the associated margin arrangements) encourage competition in the provision of this service?**

As previously indicated, we have to date had limited interest (well below 'critical mass') from ICPs looking to work with us on extension of contestability. There have been no expressions of interest from ICPs in relation to extending contestability to operational works at low voltage or high voltage.

Normalisation of these arrangements and the associated margin logically should make the activities more attractive to competitors. However, all a DNO can do is ensure there are no obstacles to competitors competing for and undertaking the activities. We have been working to make it easier for competitors to work on our live low-voltage cables and we have publicised our efforts to do this and extended our invitation to all accredited ICPs. We must then leave it to these parties to assess on a commercial basis whether to enter the market in respect of these activities.

**(e) What are the views of respondents that have not had the opportunity/wanted to participate in trials?**

We have not received any feedback, positive or adverse, from those companies that have not participated. We are seeking feedback as to what has prevented or dissuaded these companies from participating.

**Question 2. Do you consider that competitors should be able to compete with DNOs to undertake live jointing and associated operational activities? If not, why not? If yes, in which segments of the market do you consider that contestability should be extended?**

We consider that competitors should be able to compete with DNOs to undertake live jointing on approved low-voltage mains cables and services but should not be allowed to carry out operational activities.

Jointing to existing mains	Jointing to existing main	Associated operational activities ( <i>where applicable</i> )
Unmetered	<i>Yes</i>	<i>No</i>
Metered low voltage	<i>Yes</i>	<i>No</i>
Metered high voltage	<i>No</i>	<i>No</i>

Operational activity is excluded from the scope of activities in our framework document. There has been no expression of interest in extension of contestability from competitors to date in relation to high-voltage and operational work. As it is a basic requirement for holding system authority codes that individuals regularly practise the duties and responsibilities of those authority codes, it is extremely unlikely that any ICP could justify a nomination for operational authority codes for any of its staff. At current levels of uptake of work under the extension of contestability, the need for operational work to be performed by ICPs would be most infrequent. This could be reviewed in future if a rise in demand occurs.

We consider extension of contestability on approved low-voltage assets workable and reflective of the gas model, which is recognised as best practice and has been proven a success over a number of years. In this specific area (low voltage), the ability of an ICP to autonomously organise and deliver its own connections works with minimal DNO input provides a clear benefit, and it is for this reason that we have focused on getting this aspect of contestability implemented as business as usual within our DSA.

However, we do not have the same view in considering contestability in operational activities particularly at high voltage. We feel that the benefits seen in relation to low-voltage connections do not materialise when high-voltage connections are considered. High-voltage connection timescales are directly influenced in every case by a number of factors that will remain the DNO's responsibility even if contestability in the area is extended; this is so irrespective of the personnel involved in carrying out the site-based connection works. The responsibilities that will remain with the DNO include but are not limited to:

- control of the network and its associated costs;
- circuit release;
- identification of operational restriction on existing equipment;
- planned interruption customer negotiation and notification; and
- maintenance of connected-customer lists.

The ability of an ICP to autonomously organise and deliver its own connections works at high voltage is significantly diminished given that the direct control of the network and outage planning remain with the DNO. Therefore, it is difficult to see what real benefit customers would gain from an extension of contestability in this particular area.

**Question 3. We note that, as yet, not all DNOs have completed trials at all voltage levels. Do you agree that learning from trials in one DNO area at one voltage level can be applied across all DNOs? Do you agree that learning from trials at one voltage level can be applied across other voltage levels? If not, why not?**

Experiences described by other DNOs at meetings of the Ofgem subgroup on extension of contestability have been considered in the development of our framework document. This document does not currently include high-voltage work. We have focussed on extending contestability to existing low-voltage mains cables to date in response to the demand from ICPs. We have, as yet, seen no demand to extend contestability to high voltage and, as stated in response to question two, we feel that the benefits seen in relation to low-voltage connections do not materialise when high-voltage connections are considered.

From the limited experiences described by other DNOs at the Ofgem subgroup meetings, it appears that separate considerations would be required at different voltage levels. Whilst we consider other findings to be useful we would still need to apply an appropriate level of due diligence ourselves.

**Question 4. Do you consider that there are any Distribution Service Areas (geographical DNO areas) where live jointing and associated operational activities should not be made contestable or should these activities be made contestable in principle across all DSAs? Please explain the reasons behind your view.**

We have touched upon the legacy use of differing cable types and network configurations in different DSAs, which has serious safety implications. There may be other technical, policy or commercial aspects that differ from one DNO to another and affect the working arrangements in various DSAs. We believe that each DNO will need to apply its own due diligence, including risk assessment, in relation to extending contestability in any new areas. DNOs may not be starting from the same position and some may have a different set of challenges to overcome; for instance, some may have had the opportunity to carry out trials already whereas others may not have had this opportunity, perhaps due to lack of interest from ICPs. The competition test will ultimately incentivise businesses to move quickly or at least provide a backstop date for completion. This mechanism already exists without the need for Ofgem to introduce additional timetables.

Question 5. If we decide that in-principle contestability should be extended:

- (a) Do you consider that where an ICP does not hold the accreditation required to joint to existing DNO mains, DNOs should continue to provide this service to the timescales set out in SLC 15 (the existing standards of service associated with the provision of non-contestable final connections services)?

We contend (as stated in our response of 30 March 2011 to Ofgem's letter on the application of standard licence condition (SLC) 15 (15 February 2011)) that SLC15 applies to "the applicant's request [for the] provision of Non-Contestable Connection Services by the licensee" (SLC15.1(b)). The licence defines Non-Contestable Connection Services as:

"those services which, in accordance with the Connection Charging Statement prepared by the licensee under standard condition 14 (Charges for Use of System and connection), cannot be provided by a person other than the licensee."

If contestability is extended to activities that are currently Non-Contestable Connection Services those activities will be open to provision by parties other than the licensee. Licensees will then reclassify the activity as a contestable connection service in their Connection Charging Statement, with Ofgem's approval and SLC15 will cease to apply to these contestable services. Therefore, the timescales in SLC15 would not apply.

A licence change would be required in order to make SLC15 timescales applicable to work that is contestable. Such a change might be contentious and the delays would not be conducive to certainty and predictability for customers.

However, there is a more fundamental objection to any proposal that involves applying regulated performance standards to contestable activities. In the past, Ofgem has rightly observed that competitive markets are distorted when they are also subject to the imposition of regulatory performance standards. Once an activity moves from the non-contestable to the contestable category, we think that there should be a strong presumption that the regulatory performance standards should cease to apply to that activity.

- (b) Do you consider that Ofgem should set a deadline by when it expects DNOs to amend their charging methodologies, or should it rely on the Competition Test to incentivise DNOs to extend contestability?

The competition test was introduced ultimately as the vehicle to develop competition. A separate incentive (or imperative) with another deadline would undermine the purpose and the significance of the competition test. The competition test should be strong enough to drive the timescales for extension of contestability and subsequent modifications to charging methodologies.

(c) Do you consider that there is scope to extend contestability further in the future? If so how?

We believe there is scope to extend contestability into activities such as self-selection of point of connection and self-connection at low voltage. We think there is much to be considered and resolved before contestability can be extended to high-voltage connections and operational activities. In each case, consideration must be given to what the benefit will be to the end-user and whether the amount of effort and costs expended on extending contestability is balanced by the benefit to the end-customer.

We intend to continue working to resolve these issues and progressing the extension of contestability where adequate risk assessment and quality assurance mechanisms can be implemented.

Yours sincerely

A handwritten signature in black ink, appearing to read 'S. Wilkinson', with a long horizontal flourish extending to the right.

Sarah Wilkinson

Regulation Performance Analyst