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Consultation on the proposal to review competition in the electricity connections market for RIIO-ED2

Dear Kieran,

I am writing on behalf of ESP Electricity, a licensed Independent Distribution Network Operator ("IDNO") operating in Great Britain. We welcome the opportunity to respond to Ofgem's Consultation on the proposal to review competition in the electricity connections market for RIIO-ED2, dated 18th June 2021.

In summary, we support the proposal to review the level of competition in various parts of the connections market which have historically displayed a lack of competition. As an IDNO, ourselves and our clients, Infrastructure Connection Providers ("ICPs"), rely heavily on the incumbent Distribution Network Operators ("DNOs") to facilitate competition to provide a better landscape for the connections market to deliver better services for customers wishing to connect to the distribution network.

We have provided our response to relevant questions in Appendix 1 but separately would like to draw attention to aspects of the consultation that have not been considered at this time or which we think would benefit this review if included in consideration. These are currently categorized in three key areas.

1) Broader competition concerns

There is a large variance between DNOs' behaviours that affect relationships and eases or restricts competition in general within their respective regions but there are also more direct issues, e.g., capacity ramping and subsequent DNO claw-back issues which impedes competition and contravenes the intent of the Second Comer Regulations. Some of these issues have been raised previously but our experience of these activities has largely remained the same given the lack of decisive action taken to limit the issues.

Additionally, we would question how competition has improved since the establishment of an Affiliate IDNO ("AIDNO") in the host DNO's region. DNOs should not be incentivised to obtain an AIDNO license if competition has not developed or been effective in their regions and where this might be the case, it would result in an anti-competitive market as the DNO bypasses the competition issues within the hosts area and operates in more favourable regions and market segments.

3) Reinforcement

Though reinforcement is a non-contestable activity, connections in particular parts of the country will inevitably require reinforcement of the existing network. This has significant cost implications, but third parties are unable to assess the costs that feed into reinforcement to judge the accuracy of such quotes. This results in parties having to make uninformed decisions with large cost implications and often comes with little to no justification as to how these costs are calculated or whether they are consistently applied.

We are aware that these views are likely to be iterated by other parties in the connections market and would welcome Ofgem taking these concerns into consideration for this review of the market in advance of ED2. We are entering a phase of increased activity for electricity connections given the phase-out of natural gas and improving competition across the market will result in better outcomes for customers in both choice and price.

If you wish to discuss any of the issues raised in our response or have any queries, please contact us at Regulation@espug.com or on 01372 587507.

I can confirm that our response is non-confidential with the exception of the material noted as confidential above.

Yours sincerely,

Brandon Rodrigues
Regulatory and Policy Analyst

Appendix 1: Responses to consultation questions

Q3. Do you agree with our proposal not to consider the level of effective competition in the RMS that previously passed the Competition Test? Please provide reasons for your views. Please also provide any information or evidence that you have, which may suggest that competitive conditions have materially changed (in particular if such changes have not been positive) in these RMS since we conducted the Competition Test.

We broadly agree but question whether there exists any mechanism or reporting to ensure competition has not or does not worsen in these segments. There should also be a mechanism for parties to report on worsening conditions for those segments that recently passed the competition test and which have previously failed.

Q4. Do you agree with our proposal to assess whether effective competition exists by only considering the key indicators for competition set out in Section 5? Please state why if you disagree, and consider that there are other factors we should take into account, such as DNO behaviour, processes, and customer awareness.

We disagree and propose that DNO behaviour should also be included as a key indicator. DNO behaviour often drives the ease of processes and better customer awareness and creates a better market for new connections in their incumbent areas. We have noticed significant variances between DNOs and even within the same DNO company for different GSPs.

For an RMS that does not pass the competition review, but we consider there to be a prospect of competition developing.

Q5. Do you think we should apply price control incentives on DNO performance? If so, should these be only penalties on poor performance, or should we consider rewarding DNOs that provide a higher quality of service? Please state what impact you consider this might have on competition.

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Q6. Should we maintain the regulated margin? If you think it should be maintained, please explain why and whether you consider there should be a change in the 4% level of margin that is currently applied.

Economically, Price Control Incentives for poor performance (penalties) and good quality of service (bonuses) should both serve to improve competition and we would strongly support this. Additionally, we support maintaining the regulated margin and note that this may be lowered in subsequent years if there is sufficient evidence that competition could develop or is developing.

For an RMS that does not pass the competition review, and we consider there to be no prospect of competition developing.

Q7. Do you think we should apply price control incentives on DNO performance? If so, should these just be penalties on poor performance, or should we consider rewarding DNOs that provide a higher quality of service? Please state what impact you consider this might have on competition.

&

Q8. Should we remove the regulated margin? If you think it should be maintained, please explain why and whether you consider there should be a change in the 4% level of margin that is currently applied.

It is not clear whether the prospect of competition not developing is considered post implementation of Price Control Incentives. Application of incentives to improve DNO behaviour could encourage third parties to explore these Relevant Market Segments.

We would also question why the status quo of no competition should be maintained or is being maintained. Where Relevant Market Segments are primarily not an area of interest for third parties, it should be understood whether this is due to competition concerns or economic concerns.

For an RMS that passes the competition review.

Q9. Should we limit the application of price control incentives? If you think we should apply price control incentives, please explain why and what type of incentives would be appropriate.

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Q10. Should we permit DNOs to charge an unregulated margin? If you think the regulated margin should be maintained, please explain why and whether you consider there should be a change in the 4% level of margin that is currently applied.

We note that limiting the application of Price Control Incentives and enabling DNOs to charge an unregulated margin may have the consequence of restricting competition i.e., the Relevant Market Segments passed the test purely because of the Price Control Incentives/regulated margin. Sufficient, robust evidence should guide any decision making to remove either Price Control Incentives or the regulated margin.

Q11. Do you agree that our assessment criteria successfully captures the key market indicators that would inform us of whether third party presence has expanded or decreased over time? If not, please specify if there is other information we should consider, in determining whether effective competition exists and why.

As noted above, we would support the inclusion of criteria that records DNO behaviour towards third parties as this is an area that directly affects competition in the market but may not be fully captured in the assessment criteria listed in section 5.

