

**Competition in connections to electricity
distribution systems**

Decisions Document – Part A

November 2004 252/04

Summary

This document follows Ofgem's 'Competition in connections to electricity distribution systems – Consultation document' of June 2004. The June 2004 consultation document set out proposals developed by the Energy Networks Association (ENA)¹ following the Ofgem connections workshop held in July 2003. At the workshop it was agreed that work was required to reflect the introduction of the Electricity, Safety, Quality and Continuity Regulations (ESQCR) 2002 and experience of initiatives such as the live jointing trials in United Utilities and SP Distribution/SP Manweb. The ENA's proposals covered various areas of work including a national consent to connect process (live jointing), adoption agreements, the national technical framework documents (G81), national inspection regimes and a national service level agreement for unmetered connections. The proposals were submitted to the Electricity Connections Steering Group (ECSG) for comment and input from the Metered Connections Customer Group (MCCG) and the Unmetered Connections Customer Group (UCCG) which represent the interests of commercial and Local Authority (LA) customers of Distribution Network Operators (DNOs). In some cases the customer groups were able to confirm agreement with the ENA proposals and in others the groups provided an alternative view. In addition, Ofgem used the June 2004 document², to highlight other issues not addressed by the ENA's proposals.

This document outlines Ofgem's decisions with regard to the majority of the policies and initiatives contained within the June 2004 consultation. Ofgem's policy decisions within this document relate to:

- Consent to Connect (live jointing) process;
- Adoption Agreements;
- Memorandum of Understanding with Lloyds Register;
- G81 Framework Documents – extension to cover Brownfield/ I & C;
- Records Information – Greenfield Housing Estates;

¹ The ENA (formerly the Electricity Association) represents the licensed gas and electricity transmission and distribution companies within the United Kingdom.

² Competition in Connections to Electricity Distribution Systems – Consultation Document (June 2004 124/04a) can be located on the Ofgem website www.ofgem.gov.uk

- Contestable and Non Contestable Quotation Split - extension to cover Brownfield/ I & C;
- Standards of Service;
- Licence Condition 4 Modification;
- Unmetered Connections Service Level Agreement;
- Unmetered Connections Triangular Contracts; and
- Rent-a-Jointer

An additional Part B document, relating to the remaining policies and initiatives, will be issued in early 2005. This will set out Ofgem's decisions regarding:

- Audit and Inspection Regime; and
- Point of Connection (POC) charges.

Wherever possible the decisions are the result of consensus reached after significant consultation with and work by the above groups. In some areas it has not been possible to achieve full consensus and Ofgem has had to make decisions on the basis of the information available and in accordance with its duty to protect and advance the interests of consumers by promoting competition where possible, and through regulation only where necessary. Timescales will be included within each document so that stakeholders are aware of when Ofgem considers policies and initiatives should be implemented.

While the ENA has attempted to achieve a broad DNO consensus in relation to the best way to develop competition in connections it should be noted that in some areas of work this has not been possible.

Ofgem has written to all DNOs individually highlighting the decisions contained within this document and stating Ofgem's belief that these decisions are reasonable in terms of scope and timing. In particular Ofgem has highlighted the regular statements by DNOs of their support for competition since the process began in July 2000. Ofgem considers that the necessary framework to enable DNOs to commit to moving forward on the basis of the decisions in this document is largely in place and should be completed by early in 2005.

Table of contents

1. Introduction.....	1
Rationale.....	5
Purpose of this document	5
2. Ofgem Decisions – Metered Connections.....	7
Consent to Connect.....	7
Adoption Agreements (inc Unmetered).....	10
Memorandum of Understanding with Lloyds Register	13
G81 Framework Documents.....	15
Records Information – Greenfield Housing Estates.....	16
Live LV Jointing High Level Proposals.....	17
Contestable and Non Contestable Quotation Split	19
Standards of Service	20
Licence Condition 4 Modification.....	22
3. Ofgem Conclusions – Unmetered Connections	24
Unmetered Connections Service Level Agreement.....	24
Triangular Contract.....	28
4. Additional Issues.....	31
Dispute Resolution Process	31
Rent-a-jointer scheme	33
5. Timescales	32

1. Introduction

- 1.1. In December 1998, OFFER³ issued a consultation document concerning the potential benefits of competition within connections. This consultation generated over 100 responses, the majority of which requested that the regulator introduce competition to combat what customers perceived as high prices and poor levels of service being provided by DNOs. Local Authorities (LAs) were particularly vocal in their support for competition and complaints of poor service and high charges. A consultation undertaken by Ofgem in July 2000 entitled 'Competition in connections to electricity distribution systems: Ofgem's proposals', also received numerous responses which broadly echoed the comments previously made. In light of these responses the Electricity Connections Steering Group (ECSG) and Unmetered Connections Steering Group (UCSG) were formed by Ofgem in October 2000. The task of these groups was to assist Ofgem to develop detailed proposals for policies and procedures to facilitate the development of competition in the provision of electricity connections.
- 1.2. In August 2002, Ofgem published a document entitled 'Competition in connections to electricity distribution systems – Final proposals'.⁴ This document set out Ofgem's views on a suite of policies and procedures developed by the ECSG and UCSG to facilitate competition in the provision of connections, initially in respect of new HV/LV housing on Greenfield sites and for LV unmetered connections, such as streetlighting. The document highlighted that a number of policies and procedures could not be finalised at that time due to the delayed enactment of the Electricity, Safety, Quality and Continuity Regulations (ESQC) 2002. These regulations came into effect on 31 January 2003. It should be noted that when drafting the new regulations the DTI Safety Inspectorate took account of the need to accommodate competition in connections and recognises the use of an independent registration scheme to assess contractor competence.
- 1.3. A number of the August 2002 document proposals have been implemented by the majority of DNOs. These initiatives and procedures include:

³ OFFER was the Office for Electricity Regulation prior to merging with OFGAS (the Office of Gas Regulation) to form Ofgem in June 1999.

⁴ Competition in connections to electricity distribution systems – Final proposal (August 2002 54/02) can be located on the Ofgem website (www.ofgem.gov.uk)

- National Electricity Registration Scheme (NERS) – since October 2003, Lloyds Register has performed assessments of 17 contractors wishing to be assessed for national accreditation for elements of contestable works associated with the installation of new electrical connections. With regard to unmetered connections Lloyds Register has produced separate module which requires final approval by the National Electricity Registration Scheme Advisory Panel (NERSAP). All DNOs recognise NERS as an appropriate method to assess ICP competence and are either represented on the NERSAP or have indicated their support for its decisions.
- Standards of Service – all DNOs have voluntarily implemented three standards of service which were highlighted by Independent Connections Providers (ICPs) as essential in order to develop competition. These standards can be viewed on the Ofgem website (www.ofgem.gov.uk) and are measured and published on a yearly basis via Ofgem’s Connection Industry Review (CIR).⁵
- Adoption Agreements – all but one DNO has introduced a tri-partite agreement. The DNO which has not introduced a tri-partite agreement operates a bi-lateral agreement whereby either the developer or their contractor may be signatories to that document. Ofgem considers that the other guidance contained in the 2002 document is still appropriate. Ofgem is able to impose a formal settlement where required in the event of a dispute about terms of connection.
- Contestable and Non-Contestable Quotation Splits for Greenfield housing sites – DNOs should automatically provide, upon request, a quotation split between contestable and non-contestable elements. DNOs are required to provide this split in accordance with the Ofgem template which can be located on the Ofgem website (www.ofgem.gov.uk).
- Live LV Jointing Trials – within three DNO areas, SP Distribution/SP Manweb and United Utilities, live LV jointing trials with regard to new housing connections on Greenfield sites are currently in

⁵ The ‘Gas and Electricity Connections Industry Review Results 2004’ can be located on the Ofgem website

operation. While the details of the schemes vary (primarily in relation to safety management) the trials have been in operation for a sustained period of time, for instance the trials within the SP Distribution/SP Manweb areas commenced on 16 December 2002. No insurmountable technical difficulties or other problems have been identified. SP Distribution/SP Manweb have circulated details of the operational procedures that have been successfully trialled with all other DNOs via their representatives on the working group, in order to facilitate the extension of competition in this sector.

- Rent-a-jointer – all but one DNO offers a version of the rent-a-jointer scheme. However, take up by customers has been limited and the service generally appears to only be cost effective where larger volumes of work, such as those generated under Private Finance Initiatives (PFI) arrangements, are involved. In addition some LAs have reported a lack of enthusiasm on the part of some DNOs. At the same time some DNOs have reported a lack of interest from LAs.

1.4. Ofgem chaired a Connection Workshop in July 2003 to identify further initiatives which would assist in the development of competition within the connections sector. Over thirty stakeholders took part in this workshop and the following way forward was agreed:

- the proposals outlined within the August 2002 document should form the foundation of any further initiatives designed to develop competition in the connections sector;
- the ENA would create a workstream to produce a report, taking into account the impact of the recently enacted ESQC Regulations, which would further develop the initiatives in the August 2002 document to ensure they were workable for all stakeholders. The areas of work which the ENA undertook to report upon were:
 - consent to connect (live jointing) process;
 - adoption agreements;
 - national inspection regime;

- extending the technical framework documents (G81) to cover Brownfield sites and up to 11kV connected Industrial and Commercial (I&C) loads;
- live jointing on Greenfield HV/LV Housing Developments and transfers;
- formulation of a national service level agreement with regard to unmetered connections.

Further proposals made by Ofgem included the formation of:

- a Metered Connections Customer Group (MCCG), consisting of ICPs and customer representatives/ customer agents. This group would feed comments into relevant workstrands the ENA were taking forward;
- an Unmetered Connections Customer Group (UCCG), comprising of Local Authorities (LAs), contractors and the Association of Street Lighting and Electrical Contractors (ASLEC). This group would feed comments into relevant workstrands the ENA were taking forward; and
- representatives from the ENA, MCCG and UCCG forming the membership of a new ECSG.⁶

- 1.5. The results of the work by the ENA, MCCG and UCCG were set out within Ofgem's June 2004 document entitled 'Competition in connections to electricity distribution systems – Consultation document'.⁷ Section A of this document outlined the initiatives and processes proposed by the ENA Group and the views of the MCCG and UCCG jointing groups on the ENA proposals.
- 1.6. Section B of the June 2004 document outlined additional issues raised by Ofgem on issues which had not been considered by the ENA Group.
- 1.7. The consultation period for the June 2004 document concluded on 30 July 2004. Ofgem received over 120 responses from various stakeholders.

⁶ The minutes of the ECSG can be found on the Ofgem website www.ofgem.gov.uk

⁷ Competition in connections to electricity distribution systems – Consultation document (June 2004 124/04a) can be located on the Ofgem website (www.ofgem.gov.uk)

Rationale

- 1.8. Ofgem has worked closely with stakeholders over a significant period of time to develop competition and improve DNOs' service delivery within the electricity connections sector. The most recent Connections Industry Review (CIR), published in August 2004, highlights that 11% of Low Voltage (LV) connections were undertaken by ICPs in the period April 2003 to March 2004. This compares to 4% of LV connections undertaken by ICPs in the period April 2002 to April 2003. While existing policies and initiatives have resulted in the number of connections undertaken by ICPs in the LV sector increasing, the CIR also illustrates that this increase is relatively small. Consequently, this document outlines Ofgem's decisions on the appropriate way to further develop competition and improve DNOs' service delivery.

Purpose of this document

- 1.9. This document set out Ofgem's decisions as to the policies and procedures needed to enable effective competition in the provision of connections.
- 1.10. Chapter 2 of this document contains Ofgem's decisions in respect of the initiatives and processes proposed by the ENA Group for metered connections. The views of respondents to the June 2004 consultation document have been taken into account when reaching these decisions.
- 1.11. Chapter 3 of this document contains Ofgem's decisions in respect of initiatives and processes proposed by the ENA Group for unmetered connections. The views of respondents to the June 2004 consultation document have been taken into account when reaching these decisions.
- 1.12. Chapter 4 of this document contains Ofgem's decisions in respect of additional issues not covered by the June 2004 consultation document but which were nevertheless raised by respondents to that document.
- 1.13. Chapter 5 of this document outlines the associated timescales in respect of the various decisions reached by Ofgem concerning the policies and initiatives contained within this document.
- 1.14. This document does not include Ofgem's decisions in relation to all the areas of work which were covered by the June 2004 consultation. A second decision

document, Part B, will be issued in early 2005 outlining Ofgem conclusions in relation to the areas of work not covered within this document.

2. Ofgem Decisions – Metered Connections

- 2.1. Ofgem’s decisions relate to the provision of LV underground cable electricity networks, including their new associated High Voltage (HV)/LV distribution substations, for Greenfield and Brownfield housing developments (excluding reinforcement and diversion of the existing DNO network). Ofgem’s decisions also include LV, 6.6kV and 11 kV underground industrial and commercial connections, including their new associated HV/LV distribution substations (excluding reinforcement and diversion of the existing DNO network).
- 2.2. Outlined below is a summary of Ofgem’s decisions with regard to metered connections, together with a summary of the respondents’ views. A fuller explanation of the policies can be found in the June 2004 consultation document and associated Appendix document⁸ which should be read in conjunction with this paper.

Consent to Connect

ENA Proposals

- 2.3. The detailed ENA proposals concerning this area can be found within Annex 2 of the Appendix document. The ENA considered a number of options under which Consent to Connect might be given:
- Option 1 – General consent given to an ICP across a DNO area;
 - Option 2 – General site-specific consent i.e. consent in relation to all the individual connections on a particular housing development or another list of specific connections. This option would include the facility to remove general consent and move to connections’ specific consent. General consent would be time constrained in addition to project constrained and there would be a process for withdrawal of consent following project completion;
 - Option 3 – Connection specific consent with the option to move to general consent, based for example on number of connections

⁸ Competition in connections to electricity distribution systems – Appendix document (June 2004 124/04b) which can be located on the Ofgem website (www.ofgem.gov.uk)
Competition in Connections to electricity distribution systems – Decision Document
Office of Gas and Electricity Markets

successfully completed over a defined time period/project in a DNO area; and

- Option 4 – Connection specific consent.

2.4. Option 1 was rejected as it was felt that it would result in loss of control and knowledge of where and when ICPs were operating on DNO networks. Option 3 was rejected as it is anticipated that processes and controls will achieve a robust process to facilitate general site specific consent. There would therefore be no additional benefit in further control by implementing a connection specific consent. Option 4 was rejected as it would put the DNO on the critical path for ICP connections and could be seen as being overly bureaucratic and have no added value.

2.5. Consequently, Option 2 was therefore considered to be the most appropriate as it avoids the DNO being on the critical path for new connections but ensures appropriate flows of information between the ICP and DNO.

2.6. In applying for consent for either a specific project or list of individual connections it is envisaged that the ICP would be required to complete an application that will be in two parts, with a third part held by the ICP as record of satisfactory tests having been completed on each connection:

- Part A will be agreed with the DNO prior to any connections being made. It will normally be completed at the time the Adoption Agreement is signed and an outline programme has been established. It will include:
 - confirmation that wayleaves/consents are in place;
 - confirmation of G81 compliance; and
 - confirmation that an Adoption Agreement is in place.
- Part B will be completed by the ICP, typically weekly, with one week's forward notice of a batch of connections, and will be used by the DNO 'for information only', e.g. to know that work on the circuit is taking place and to facilitate inspection and audit etc. The forms have to be submitted prior to making connections and also provide confirmation to the DNO that 'conditions precedent' defined in Part A of the form are still applicable.

- Part C of the form will be completed by the ICP for each connection and provides confirmation that post commissioning tests have been carried out satisfactorily. The completed form is retained by the ICP and available to the DNO on request, e.g. to demonstrate compliance with the requirements of the ESQC Regulations.

Respondents' Views

- 2.7. There was broad support from DNOs and ICPs for the recommendation within the consultation that consent to connect should be granted on a general site specific basis. Twelve respondents supported this measure.
- 2.8. One ICP stated its support for a general consent to be granted to an ICP across a DNO area.
- 2.9. One DNO stated that they felt the proposals outlined within the consultation were not in line with the principles of the ESQC Regulations, and that the concerns of the MCCG could be allayed by stating that consent would not be unreasonably withheld.
- 2.10. While there was broad consensus that Consent to Connect should be granted on a general site specific basis, a number of respondents stated that further work is required in order to address possible areas of ambiguity. One such area highlighted by ICPs concerns how operational incidents that occur on 'newly' adopted networks should be treated. This work will be taken forward by the ECSG.
- 2.11. One ICP considered that the Consent to Connect process should apply not only to Greenfield sites, but also to Brownfield developments. This was in contrast to the view of one DNO who stated that the process should be limited to Greenfield sites only.

Ofgem's Decisions

- 2.12. Having considered respondents' views on the consultation and following discussions within the ECSG, Ofgem has concluded that the proposals developed by the ENA and supported by the ECSG provide a workable model and that accredited parties should in most cases be granted a general site specific consent in line with that outlined within option 2 of the ENA model. In some cases, a connection specific consent (option 3) may be appropriate e.g. where a

new method of jointing is being used for the first time. DNOs should make such a process available from 1 March 2005.

- 2.13. Where an ICP meets the specified competence requirement, for example, relevant accreditation to NERS, the ICP will be deemed to have Consent to Connect on a site-specific basis. This will allow ICPs to make informed decisions regarding their pricing of the job prior to the completion of Part A.
- 2.14. Ofgem considers that brownfield sites that have been cleared of existing electrical infrastructure should also be open to applicants of the consent to connect process.

Adoption Agreements (inc Unmetered)

ENA Proposals

- 2.15. The ENA paper⁹ suggested a list of features that should be included within the adoption agreement(s) between the DNO and other parties, for the DNO to adopt assets constructed by an accredited ICP on behalf of a developer.
- 2.16. The ENA recommended a contractual framework enabling agreements to be flexible and allowing for the needs of all stakeholders to be considered and accommodated wherever possible. Consequently the structure and content of the document would vary. The ENA suggested that bi-partite, multiple bi-partite and tri-partite arrangements are all acceptable with the final choice dependent upon:
- project specific issues; and
 - local circumstances and DNO preference.
- 2.17. The ENA consider that the principles outlined within their paper can be applied for both metered and unmetered connections.

Respondents' Views

- 2.18. Responses to the proposals outlined by the ENA within the consultation document were diverse. DNOs generally considered the ENA proposals to be

⁹ This paper is outlined within Appendix 3 of Competition in connections to electricity distribution systems – Appendix document (June 2004 124/04b) which can be located on the Ofgem website (www.ofgem.gov.uk)

fair and equitable, allowing a degree of flexibility to deal with differing customer circumstances.

- 2.19. Attitudes to whether the adoption agreement should be of a bi-lateral or tri-partite form varied and no consensus was evident. One ICP said that a DNO should not be permitted to choose whether they offered a bi-lateral or tri-partite adoption agreement. One ICP stated that it had no preference as to the form of the agreement. This contrasted with another ICP and one DNO who stated they preferred a bi-lateral agreement. In addition, two DNOs stated that they offered adoption terms in line with proposals outlined within the August 2002 Final proposals document.
- 2.20. Four ICPs highlighted that there was a need for a national adoption agreement to be developed. However, two DNOs stated that it would be inappropriate for the adoption agreement to be a single national standard given that, adoption is a matter of choice for the DNO rather than a requirement of the DNO's licence.
- 2.21. The MCCG stated that DNOs were ignoring the reasonable and balanced requirements set out in the August 2002 Final Proposals document. Alongside this concerns were raised by the MCCG as to long delays in some DNOs actually producing agreements to be signed at this time. Both the ECSG and MCCG considered that an adoption agreement should be agreed and signed prior to site works commencing.

Ofgem's Decisions

- 2.22. Ofgem believes that while the August 2002 Final Proposals document stated that DNOs should offer a tri-partite adoption agreement it is appropriate, in light of subsequent experience, that DNOs should be flexible as to the exact nature of the adoption agreement they offer, and that this flexibility should be focused on customer circumstances. Ofgem believes it is impractical to develop a standard national adoption agreement; however, certain basic principles should be outlined and incorporated within the terms for adoption offered by any DNO. While Ofgem notes that not all the terms of an adoption agreement can be highlighted in advance, key terms and conditions should not change between customers and sites, for example, in relation to warranty and defect periods. Consequently, terms such as these should be outlined on the DNOs website for customers to view in advance of site specific discussions.

2.23. As stated in the August 2002 Final proposals document, Ofgem accepts that there is a need for the terms of an adoption agreement to be balanced between the need for incentives to perform on the ICP/Independent Distribution Network Operators (iDNOs) and protection for the adopting party via reasonable requirements for warranties and insurance. To achieve this balance Ofgem remains of the opinion that the following requirements, which in the 2002 document were broadly based upon the adoption model used by Transco in the gas industry, should be used as a guide by DNOs when producing their adoption agreement:

- £3m insurance of the works;
- £5m employers liability insurance;
- 2 year warranty of the works; and
- 2 year warranty for permanent reinstatement in the highway (3 years for deep excavation > 1.5 metres).

2.24. Ofgem concludes that only in the circumstances outlined below would a requirement for security beyond that provided by Lloyds registration be appropriate, for example, where the credit rating of a contractor is of a very low grade/the contractor does not have a credit rating. However, it must be noted that additional security in the form of a bond requiring up-front payments of monies to the DNO would place ICPs and iDNOs at a significant competitive disadvantage by comparison with DNOs' connections business. Ofgem believes that the Dun and Bradstreet (D&B) assessment scheme for company financial stability or an equivalent system could be used to assess the level of security required by DNOs for adopted assets. It was agreed by the ECSG that, using the D&B model, companies with a risk indicator score of 1 or 2 would not be required to provide additional security beyond Lloyds accreditation. Companies with a 3, 4 or no score rating could be required to provide additional security in the form of suitable insurance payable to the DNO. In relation to financial strength the ECSG agreed that the net worth of a company should be in excess of the exposure the DNO faces.

2.25. Ofgem believes that the principles outlined in paragraphs 2.22, 2.23 and 2.24 above; suitably protect the interests of DNOs while encouraging the development of competition. Ofgem also believes that an adoption agreement should always be in place prior to the commencement of site works in order for

the parties to the agreement to be confident that the correct contractual framework for the construction and adoption phases is to be put in place. Ofgem expects all DNOs to implement the conclusions outlined within this document, with regard to adoption agreements, by 1 February 2005.

- 2.26. In respect of disputes which arise between signatories to an adoption agreement concerning the terms of these agreements, Ofgem accepts that there is no statutory requirement upon a DNO to adopt assets constructed by an ICP or iDNO. However, in 1995 all DNOs¹⁰ agreed with OFFER to operate adoption procedures on a voluntary basis. In the nine years since 1995, the principle of independently constructed assets by DNOs has become firmly established in the electricity industry.
- 2.27. Currently, all DNOs voluntarily enter into Adoption Agreements, and the terms for adoption are included in each DNO's licence condition 4 connection charging statement. This in turn activates standard licence conditions 4(1)(b), 4(3) and 4B(3) with regard to the terms of connection, and Ofgem has the function under standard condition 4C of the electricity distribution licence to settle those terms of any such agreement in dispute 'in such a manner as appears to the Authority to be reasonable'. Ofgem can also settle any dispute relating to variation of the terms. Consequently, Ofgem considers that it can determine connections disputes relating to terms of adoption.

Memorandum of Understanding with Lloyds Register

ENA Proposals

- 2.28. The purpose of the Memorandum of Understanding (MoU) is to set out governance arrangements for the National Electricity Registration Scheme Advisory Panel (NERSAP). The NERSAP has been established to oversee and perform an ongoing review of the performance of the Scheme and the Accreditation Body which owns and operates the Scheme under the terms of the MoU. The MoU is attached at Annex 4 of the Appendix document. The membership of NERSAP includes the majority of DNOs, contractor representatives and Ofgem as an observer.

Respondents' Views

¹⁰ In 1995 DNOs were referred to as Public Electricity Suppliers (PES). This term was amended to DNOs upon the enactment of the Utilities Act 2000.

- 2.29. A number of ICPs concurred with the view of the MCCG that assessment reports of unsatisfactory performance should not contain the identity of the ICP prior to those reports being considered by NERSAP. One ICP highlighted that such access has Data Protection Act implications.
- 2.30. Three DNOs highlighted that they were content with the current format of the MoU and would not welcome additional amendments to the document. One DNO stated that it had signed on to the MoU after thorough debate undertaken on a national level and that further changes were inappropriate at this time. One DNO suggested that safety and standards would be compromised if assessment reports did not include the name of the ICP in question.
- 2.31. One DNO suggested that if a process had been established to certify individuals then the presumption should be that the individual should be allowed to work without the need for further checks. However, a balance needs to be struck in order to develop a system robust enough to ensure rapid notification where an individual has a module withdrawn.
- 2.32. One DNO felt that it was inappropriate to outline the term of office for membership of the NERSAP. One ICP raised concerns with the re-selection process, and stated that this must be defined.
- 2.33. A further DNO highlighted that if the MCCG had concerns with the ENA panel, which had actually been established to assist ICPs, then the DNO would be happy to revert to current individual DNO approval mechanisms. Another DNO stated that there was a need for further information relating to the process for reporting incidents of unsatisfactory work, and where substantiated, the ensuing course of action.

Ofgem's Decisions

- 2.34. Ofgem believes that the MoU currently in operation is acceptable and that no significant modifications to the current arrangements are required. The MoU provides a good framework for the governance arrangements for the NERSAP. It should be noted that since publication of the June document Ofgem has issued distribution licenses to three new independent distributors. There will be a need for the MoU to be able to accommodate the views of these new licensees. If any stakeholder has concerns about the provisions of the MoU, these should be directed to Lloyds Register.

G81 Framework Documents

ENA Proposals

- 2.35. The G81 documents (outlined within Annexes 8-13 of the Appendix document¹¹) sets out the minimum requirements for:
- design of LV underground cable electricity networks (Part 1);¹²
 - materials specification requirements for LV underground cable electricity networks (Part 2);
 - installation and records requirements for LV electricity underground cable networks (Part 3);
 - design of LV 6.6kV and 11kV underground industrial and commercial connections (Part 4);¹³
 - materials specification requirements for LV 6.6kV and 11kV underground industrial and commercial connections (Part 5); and
 - installation and record requirements for LV 6.6kV and 11kV underground industrial and commercial connections (Part 6).

Respondents' Views

- 2.36. The proposal outlined within the June 2004 document to extend this suite of documents to include Brownfield and I & C developments obtained broad approval.
- 2.37. Four DNOs supported the proposal. One DNO noted that for reasons of managing network connectivity some aspects of Brownfield planning and design could really only be undertaken by the DNO. A further DNO stated that there is a need for ease of availability of appropriate specifications to support Competition in Connections. Consequently, this DNO stated they had produced

¹¹ Competition in connections to electricity distribution systems – Appendix document (June 2004 124/04b) which can be located on the Ofgem website (www.ofgem.gov.uk)

¹² For Parts 1-3, the documents also include references to new associated HV/LV distribution substations for housing estates undertaken under the Ofgem Competition in Connections regime.

¹³ For Parts 4-6, the documents also include reference to new associated HV and HV/LV distribution substations. These documents also intend to set out or make reference to design and planning requirements, materials and installation requirements which have to be met for a DNO to adopt contested HV and LV networks and their associated new HV and HV/LV distribution substations supplying industrial and commercial loads connected up to and including 11kV.

a design manual which is issued to ICPs on CD. However, the DNO did note that not all DNOs are as well advanced and this will hamper the creation of a level playing field.

- 2.38. One DNO stated that it was important to note that any further extension of G81 to areas beyond those mentioned in the June 2004 consultation document should relate to high level processes which define the route to be followed by the ICP to the specific requirements.
- 2.39. ICPs were also supportive of the extension of the G81 documents to Brownfield developments. However, some ICPs highlighted that documents referred to in DNO specific G81 modules were not always available when requested.

Ofgem's Decisions

- 2.40. Ofgem concludes that the G81 documents should be extended to Brownfield developments/I & C and these documents should be made available by all DNOs by 1 February 2005.
- 2.41. Ofgem believes that the G81 documents and any documents referred to in the DNO specific modules should be either placed on each DNO website for ICPs and other groups to download, or the website should contain a contact name and address/telephone number where copies of these ancillary documents can be obtained.

Records Information – Greenfield Housing Estates

ENA Proposals

- 2.42. The proposals in this field are outlined within Annex 6 of the Appendix document.¹⁴

Respondents' Views

- 2.43. This area of work drew few comments from respondents. Two DNOs said they concurred with the proposals of the ENA and that they had no further comments.
- 2.44. ICPs were in agreement with the view of the MCCG to accept the proposals put forward by the ENA; however, two ICPs outlined that the quality of information

¹⁴ Competition in connections to electricity distribution systems – Appendix document (June 2004 124/04b) which can be located on the Ofgem website (www.ofgem.gov.uk)
Competition in Connections to electricity distribution systems – Decision Document
Office of Gas and Electricity Markets

varied from one DNO area to another. Another ICP highlighted the need for a robust and generic process plan defining information requirements and timescales in order to avoid confusion which may lead to delay and allegations of abuse.

Ofgem's Decisions

- 2.45. Ofgem concludes that Annex 6 of the Appendix document should be applied and followed by all DNOs by 1 January 2005.
- 2.46. Should ICPs/iDNOs or other groups have concerns in relation to the information required by a DNO these should be raised with the relevant DNO in the first instance.

Live LV Jointing High Level Proposals

ENA Proposals

- 2.47. At the beginning of the process of introducing competition in connections, DNOs stated that the introduction of competition in live jointing would significantly increase the level of risk on the part of the DNO. The creation of the National Electricity Registration Scheme was intended to ensure that risks faced by a DNO that embraced competition would be broadly in line with those faced by a DNO in respect of work undertaken by its own contractors. The ENA proposals are outlined within Annex 7 of the June 2004 Appendix document.

Respondents' Views

- 2.48. DNO responses raised a number of issues. One DNO stated that the ESQC Regulations and discussions undertaken within the jointing group have addressed only certain concerns in relation to live LV jointing; further development work on the proposals is required to develop a workable model. This observation was supported by another DNO.
- 2.49. One DNO fully supported the ENA proposals. Another DNO stated that acceptance of the live jointing proposals rested heavily on a suitable accreditation regime coupled with an acceptable safety management system relevant to design/material employed in an approved joint.
- 2.50. Another DNO outlined that the ENA proposals would only work if the industry were jointly supportive. There was also a requirement for all DNOs to

participate in the assessment of different joint types, to approve them for use on the network and to adopt them.

- 2.51. Two DNOs highlighted a benefit if Ofgem would provide documentation regarding the operation of the two Live Jointing trials that were undertaken by United Utilities and SP Distribution/SP Manweb.
- 2.52. Five ICPs stated that Live LV jointing would be beneficial to competition. Four ICPs concurred with the views of the MCCG, namely that further clarification concerning the function and responsibility of any ENA assessment panel in relation to joint types is required.

Ofgem's Decisions

- 2.53. The ability to engage in live jointing is critical to the development of effective competition in connections. For this reason significant effort has been devoted to the development of the relevant area of the Lloyds Register scheme and the operation of the live jointing trials.
- 2.54. Ofgem considers that in order to engage in live jointing ICPs will have to obtain either appropriate Lloyds Registration in respect of their own electrical safety management system or be able to comply with a DNO's own safety management system. In addition, ICPs will require the appropriate Lloyds Registration live LV jointing modules to enable them to undertake live work on Greenfield sites, on Brownfield sites which have been cleared of pre-existing electricity distribution infrastructure and on underground unmetered single phase services less than 500 watts and greater than one metre along the service cable from the main. In order to facilitate competition in these areas of work it will be necessary for DNOs to put in place arrangements equivalent to those used by SP Distribution/SP Manweb and UU in the live jointing trials. SP Distribution/SP Manweb has circulated details of the operational procedures that have been successfully trialled with all other DNOs via their representatives on the working group, in order to assist in the establishment of further trials. Ofgem considers that all DNOs should aim to be able to put such arrangements in place by 31 March 2005 to enable trials to commence at that time. If DNOs/ICPs consider that the live jointing elements of the Lloyds scheme require further development these issues should be raised directly with Lloyds and NERSAP. In this regard it is important to note that Lloyds Register has confirmed that live jointing (by DNOs' contractors) was a registered scope of work under the old DNO schemes and remains so. This forms the basis of the NERS live jointing

module. The SM, LV, SL modules are awaiting final approval¹⁵ by the NERSAP, with such approval to be agreed in early 2005.

Contestable and Non Contestable Quotation Split

Ofgem's Proposals

- 2.55. The issue of providing a contestable/non-contestable quotation breakdown within a quotation was originally discussed by the first ECSG. The relevant work components were agreed by the ECSG and confirmed by the ENA as an appropriate breakdown and non-contestable costs for the provision of estimates to ICPs and developers for contestable projects. The breakdown template is available on the Ofgem website (www.ofgem.gov.uk).
- 2.56. Currently, these breakdowns are only provided in respect of Greenfield Housing developments. In light of the extension of G81 to Brownfield and I&C sites, Ofgem considered that it might be appropriate that similar breakdowns should be automatically provided for connection works to be undertaken by ICPs at Brownfield and I&C sites. Ofgem has also received representations stating that breakdowns should be provided to all other customers upon request.

Respondents' Views

- 2.57. Both DNO and ICP respondents concurred with the proposal to extend the provision of a contestable/non contestable quotation split to Brownfield and I&C sites. Certain DNOs stated that they already provide this split for Brownfield and I&C sites when requested.
- 2.58. Three ICPs stated that the DNO should be required to provide a breakdown of the non-contestable works automatically. Certain ICPs highlighted continued difficulties obtaining a non-contestable quotation breakdown for LV/Greenfield sites despite requesting such a breakdown from the DNO.

Ofgem's Decisions

- 2.59. Ofgem considers that the contestable/non-contestable quotation split should be extended to Brownfield and I&C sites. The breakdown should be provided automatically where the quotation is requested by an ICP under competition in connections both for LV/Greenfield sites and Brownfield and I&C sites. In

¹⁵ The NERSAP will be considering this issue at their next meeting scheduled for 16 November 2004.
Competition in Connections to electricity distribution systems – Decision Document
Office of Gas and Electricity Markets

addition, DNOs should provide an equivalent breakdown to any other customer if requested to do so. When a breakdown is provided it should conform to the following format:

- Charge for provision of point of connection (POC) information;
- Charge for design approval;
- Inspection and monitoring of contestable works “x” visits @ £ “y”;
- Costs for connection to network – high level detail (i.e.) 2 x HV straight joints;
- Reinforcement – breakdown as above plus DNO contribution, if applicable;
- Diversions – breakdown as above, where they apply to connections;
- Off-site wayleaves and easements;
- Operation and Maintenance (O&M)¹⁶ charges – calculated (basis defined) in accordance with Licence Condition 4 Statement ; and
- Tariff Support Allowance (TSA)¹⁷ – value per connection or load assessment, or other method in line with Licence Condition 4 Connection Charging Statement.

2.60. Ofgem considers that all DNOs should implement the conclusions above by 1 February 2005. All Licence Condition 4 connection charging statements should be amended to state that a quotation split is available upon request from 1 April 2005.

Standards of Service

Ofgem’s Proposals

2.61. The August 2002 document highlighted that central to the establishment of competition is a requirement that DNOs should not favour their own or affiliated connections businesses ahead of an ICP bidding for the same site. Consequently, within the August 2002 document a number of standards of

¹⁶ The O&M elements of the breakdown will be removed from 1 April 2005.

service were proposed. These standards of service, during discussions with ICPs and DNOs, were subsequently agreed to be impractical and consequently three revised voluntary standards were agreed. These can be found on the Ofgem website (www.ofgem.gov.uk).

- 2.62. As in the case of the contestable/non-contestable quotation split, Ofgem suggested it may be appropriate that, in line with the extension of the G81 documents to Brownfield and I&C sites, the existing voluntary standards of service should be developed and extended to cover these additional areas of connections work.

Respondents' Views

- 2.63. Both ICPs and DNOs support the extension of the existing voluntary standards of service to Brownfield and I&C sites. Indeed, a number of DNOs stated that they do not currently differentiate between LV Greenfield and Brownfield and I&C developments when applying the existing standards of service. Only one DNO did not agree with the proposal to extend the standards of service to Brownfield and I&C sites. The DNO argued that unless there was a proven need to do so, no extension should occur and if there was a need, a Regulatory Impact Assessment (RIA) should be undertaken. In addition, one DNO highlighted that although they supported the proposed extension of the standards of service, the current standards in place should be revised for Brownfield and I&C sites to take account of the different characteristics of such sites.
- 2.64. Five ICPs outlined their concerns that existing standards of service were currently not being attained by all DNOs and six ICPs highlighted the need for penalties to be attached to standards of service. The MCCG argued that due to their concern that DNOs were not attaining the standards currently in operation, more rigorous standards were required.

Ofgem's Decisions

- 2.65. Ofgem considers that the standards should be extended to apply to the majority of Brownfield and I&C sites by 31 March 2005. It should be noted that some examples of such schemes have additional complexities and will not be subject to the standards. The types of scheme will be defined in work being undertaken within the ECSG. These standards will have no liabilities attached at this stage.

Attainment of these standards shall be measured through the CIR undertaken by Ofgem on an annual basis. The results for the period 2003/04 can be found on the Ofgem website (www.ofgem.gov.uk). If Ofgem considers that the three standards of service are not delivering an appropriate incentive to perform, then Ofgem will have to consider the possibility of imposing formal obligations to implement the standards. With regard to timescales, Ofgem believes that the revision of current targets is unnecessary at this time. However, the package of targets will be reviewed during 2005 to determine any need for further development.

- 2.66. To assist in the monitoring and measurement of the national standards of service the ECSG will agree detailed rules regarding information to be provided/basis of reporting performance to support the standards of service. The purpose of these rules will be to ensure that all DNOs report performance on a consistent basis. The extension of the standards will not be dependent on the production of these rules but the ECSG will endeavour to agree the new rules as soon as possible.

Licence Condition 4 Modification

Ofgem's Proposals

- 2.67. Within the forum of the original ECSG, some DNOs suggested that it might be appropriate for Ofgem to introduce a licence modification to make it a statutory requirement for DNOs to adopt fit for purpose assets constructed by third parties, although this view was not shared by all DNOs. DNO responses outlined within the August 2002 document highlighted several concerns with regard to such a licence modification.
- 2.68. In light of these responses, Ofgem concluded that as all DNOs have for a considerable period of time offered adoption arrangements on a voluntary basis it was inappropriate at that time to proceed with a licence modification. During 2004 a DNO asked Ofgem to reassess these issues. Ofgem therefore canvassed opinion in the June 2004 document.

Respondents' Views

- 2.69. DNOs expressed differing views as to the necessity of amending licence condition 4 to place an obligation upon the DNO to adopt assets which were fit for purpose. Two DNOs supported such a modification stating that it would

protect the interests of DNOs in the face of increasing pressure to reduce the level of inspection and requirements for surety.

- 2.70. One DNO stated that such a proposal should only be taken forward as part of a stage 2 working group with Ofgem, once initial proposals had been fully defined and sufficiently implemented.
- 2.71. Four DNOs considered that a modification to licence condition 4 was neither necessary or desirable, as it is inappropriate for DNOs to be compelled to take over long term responsibility for an asset constructed by a third party over whom it has no direct control. In addition it was felt by one DNO that it was unnecessary to impose further duties upon them where robust policies and processes to support adoption are already in place.
- 2.72. Most ICPs supported the proposal to place an obligation on DNOs to adopt independently constructed assets; however, one ICP stated that Ofgem should not commence the introduction of such a modification unless there was support for such a measure from the majority of DNOs. A proposal for a licence modification that is subsequently rejected will further delay or even prevent competition developing.

Ofgem's Decisions

- 2.73. While some DNOs and ICPs highlighted the possible benefits of a licence condition 4 modification, a number of DNOs expressed doubts as to the benefit of such a modification. In view of the lack of consensus Ofgem does not intend to pursue this route for the time being particularly since DNOs have voluntarily agreed to adopt assets, as they have since 1995. If this situation were to change Ofgem would have to reconsider the issue of a licence modification. In addition, Ofgem considers that it can formally settle any disputes as to the terms of Adoption Agreements.

3. Ofgem Conclusions – Unmetered Connections

- 3.1. Ofgem's conclusions relate to underground, unmetered single phase 230 volt (less than 500 watts) connections, for example, streetlighting, street furniture etc.
- 3.2. Outlined below is a summary of Ofgem's conclusions with regard to unmetered connections, together with a summary of the respondents' views and Ofgem's decision. A fuller explanation of the policies can be found in the June 2004 consultation document and associated Appendix document which should be read in conjunction with this paper.

Unmetered Connections Service Level Agreement

ENA Proposals

- 3.3. The ENA developed the Service Level Agreement (SLA) as an alternative for Local Authorities (LAs) who do not wish to venture down the path of competition in electricity connections, but who do wish for improved levels of service from their local DNO.
- 3.4. The SLA has been developed with extensive input from the UCCG, and the following principles were agreed:
 - any SLA should only cover unmetered activities;
 - standard service categories would be applied equally across the country;
 - all service standards would have documented, agreed and unambiguous definitions, including trigger points for standards initiation;
 - the SLA may contain penalties for poor performance and these will be applied equally to the DNO and LA as appropriate; and
 - there should be an effective and agreed force majeure process for suspension.

- 3.5. While standard service categories have been identified, based on existing best practice in place around the country, no specific targets have been identified within the document. These targets are to be proposed following assessment of the trial. The data will be used to assess the merits of payments.
- 3.6. As with service levels, no specific penalty payment levels have been identified and again this would be a matter for wider consultation. However, the ENA believe that penalty payments outlined within the SLA should be proportionate to the level of Distribution Use of System (DUoS) income derived from a typical lighting installation annually. Based upon an initial survey of five DNO DUoS charging regimes, annual DUoS charges range between £2.29 and £3.77.
- 3.7. The ENA also proposed that before any actual penalties are applied to either party, there should be a 12 month shadow period during which the SLA is implemented. This is in order to allow all parties to gain an understanding of the potential liabilities from the operation of the SLA. It would also allow DNOs and LAs to establish auditable performance monitoring systems. The ENA stated that the 'targets without penalties' regime established for Greenfield HV/LV Housing developments has provided an effective incentive and resulted in a real and tangible improvement in performance. The ENA highlighted there is no reason to believe this would not be the case for unmetered connections. The ENA added that if a 12 month shadow period were to highlight unsatisfactory DNO performance, it would be more likely that Ofgem would be minded to take a more robust approach by enforcing minimum standards of performance via the statutory route. DNOs would therefore have significant incentives to perform during any shadow period.
- 3.8. If necessary, service targets would need to be amended to take account of experience and auditable performance data available, gained during this period, and after consultation with the ECSG.
- 3.9. With regard to the content of the SLA the ENA stated that the issue of defining the working day has been discussed at length with the UCCG. DNOs are not prepared to define a working day that would create an increase in costs, via the imposition of overtime costs, unless Ofgem have agreed the method of cost recovery. Consequently, the proposed definition gives the typical working day across the DNO community.

- 3.10. In relation to the force majeure clause, the ENA believes an acceptable definition already exists within the Electricity (Standards of Performance Regulations) 2001 as amended in 2002.¹⁸¹⁹
- 3.11. The ENA also recommend that a termination clause is necessary to protect the interests of all parties. The ENA stated that it is unlikely that parties to a SLA would wish for the arrangement to run indefinitely and consequently the parties should have the right to terminate if the agreement is not meeting their requirements.

Respondents' Views

- 3.12. The overall response regarding the introduction of the SLA was positive with a large number of LAs explicitly stating they wish to see an SLA implemented as soon as possible to deal with poor performance by some DNOs.
- 3.13. Four DNOs outlined their support for the introduction of a SLA, although two of these DNOs did state that any effective implementation of an SLA would require the majority of LAs to sign up to the agreement. If this was not the case then the administrative costs of operating dual arrangements would be an unjustifiable burden upon the DNO. A further DNO stated that it believed the SLA should form one of a range of tools, such as rent-a-jointer, offered to unmetered customers.
- 3.14. One DNO stated that any creation of a SLA should follow the approach which was adopted for the development of service levels for the provision of supplies to Greenfield Housing sites. Another DNO did not support a 'blanket' application of a SLA. Consequently, DNO specific working arrangements that support the diverse mix of large city lighting authorities and rural authorities within each DNO's area should be adopted.
- 3.15. In relation to penalties contained with the SLA, one DNO stated that there had to be penalties and incentives on both parties to the agreement. In addition, three DNOs stated that any penalties should relate to distribution use of system (DUoS) revenue that a DNO received from the unmetered asset.

¹⁸ SI 2001/3263

¹⁹ Under s64 of the Electricity Act 1989 (as amended) working day is defined as any day other than Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday within the meaning of the Banking and Financial Dealings Act 1971

- 3.16. In order for DNOs to be motivated to achieve, thirty nine LA respondents believed that it was imperative there be large penalties which increase over time if performance does not improve. Twenty four LAs stated that national benchmarks should be put in place.
- 3.17. Two DNOs outlined their support for the ENA proposal that a SLA should operate for a period of 12 months before penalties applied. Both DNOs felt that this would assist in identifying any 'teething problems' without penalising both parties to the agreement. Contrary to this twenty six LAs stated their dislike for the 12 month shadow period, believing that DNO should not be able to get away with any more periods of inadequate performance.
- 3.18. With regard to the issue of the SLA applying to working days instead of calendar days there were diverse views from DNOs and LAs. Two DNOs stated that the SLA should apply to working days, with one DNO stating that the application of calendar days would lead to an increase in DNO costs. The same DNO stated that the Electricity (Standards of Performance Regulations) 2001, SI 2001:3263 also refers exclusively to 'working days'. Thirteen LAs took an opposing view to this with the feeling that response times should be calculated using calendar and not working days.
- 3.19. The proposed force majeure clause contained within the consultation document drew a number of differing views from DNOs and LAs. Two DNOs stated that the current clause was reasonable and consistent with similar provisions within other industry documents. In contrast, forty one of the LAs felt that it gave DNOs the opportunity to use the clause when delays are caused by minor weather conditions or through poor performance. Several expressed a desire for additional clarification on this issue.

Ofgem's Decisions

- 3.20. Ofgem considers that a national SLA will be the most effective solution to address issues of performance in relation to both the DNO and LA. The implementation of a national SLA will also assist Ofgem's monitoring of DNO performance across regions. Consequently, all DNOs will be expected to implement the SLA developed by the UCCG and ENA and as agreed by the ECSG from 1 April 2005. Further work by the ENA and the UCCG to finalise the SLA should be completed during November 2004. Ofgem will undertake a review of the operation/impact of the SLA after it has been in operation for six months.

- 3.21. Ofgem has no powers to oblige a LA to sign up to an SLA, however, Ofgem believes that it is in the best interests of LAs to enter into these agreements. For the purposes of monitoring DNO performance, Ofgem will only be formally requesting performance data from DNOs with regard to SLAs entered into with LAs. However, Ofgem will be asking LAs to submit their own data regarding performance under the SLA.
- 3.22. In order to assist both parties to the SLA to identify the operation requirements of the SLA, Ofgem concludes that for the first 6 months operation of the SLA there should be no penalty payments. Ofgem also concludes that it is appropriate for the SLA to include a force majeure clause and be based around working days rather than calendar days. Ofgem considers there are benefits associated with consistency with definitions used in the Electricity (Standards of Performance Regulations) 2001 and/or other longstanding industry documents.
- 3.23. Ofgem concludes that the national SLA should apply to all relevant transactions within DNO areas. An assessment of DNO performance will be made after an initial six month period from 1 April 2005. Ofgem will, at that time, decide upon whether and at what level appropriate penalties should be levied.
- 3.24. If the review indicates that the SLA has not been successful Ofgem will have to consider placing formal obligations upon DNOs via an amendment to the Electricity (Standards of Performance Regulations) 2001 in order to encompass unmetered connections. In the event that financial payments for poor performance are considered necessary, Ofgem would have to assess whether financial payments should be based upon reference to DUoS income or whether payments should reflect the cost of the work being charged for.

Triangular Contract

ENA Proposals

- 3.25. The ENA highlighted that this proposal had been developed to facilitate competition in the provision of unmetered connections, while at the same time mitigating the liability issues associated with Highway Authorities contracting directly with ICPs.
- 3.26. It is envisaged by the ENA that these arrangements will only apply to work on the service cable and that work on mains cables will still be classed as non-contestable and undertaken by the DNO. For the purposes of live jointing the

successful contractor will be under the operational control of the DNO, this is consistent with the initial proposal discussed by the ECSG. The ENA state that fundamental to this process is the requirement for physical work to be carried out by a competent workforce in a safe manner to agreed standards and specifications and not to the detriment of other users of the DNO's distribution network.

- 3.27. The ENA expects that, at least, initially ICPs involved will be those that are currently employed as contractors to DNOs. This will need to be reviewed when the form of the arrangements are developed as additional services may be required, for example, project and work management may not be provided by contractors currently working for some DNOs. However, there will be no constraint on the number of contractors that will be allowed to compete in this market subject to them meeting the agreed criteria.
- 3.28. The ENA highlighted that the ESQC Regulations clearly place liabilities on Network Operators/Owners (i.e. the DNO). There is currently no incentive upon a DNO to increase risk exposure. Consequently, the ENA believes that the proposed live working arrangements represent a pragmatic and significant first step forward toward the introduction of competition in unmetered connections whilst managing DNO exposure to increased risk. The ENA believe it is important to appreciate that some DNOs do not even allow their own contractors to undertake live LV jointing. The proposals therefore represent a significant change in working practices.
- 3.29. The ENA states that the 1 metre from the main restriction was introduced to take account of the complexity of mains cable identification and operational issues arising from the wide variety of mains cables in use by DNOs. Only a very limited number of contractors have the necessary skills and expertise to undertake work on mains cables and only then under the close supervision of the DNO. There are currently no accreditation modules to cover the wide range of cable types and HV/LV main cable identification. It is anticipated that a much larger number of contractors will have the skills and expertise necessary to work on service cables, thereby creating a more competitive market for Highway Authorities to procure services. To seek to incorporate identification of HV/LV mains cables and all of the many permutations of service/main joints and live jointing techniques into the accreditation process will substantially add to the complexity, time to develop and cost of obtaining accreditation. The ENA, however, understand from LAs that the proposed 1 metre length of cable from

the main restriction will still open up in excess of fifty per cent of unmetered connections work to competition.

Respondents' Views

- 3.30. There was broad consensus among LAs that the triangular contracts is a necessary measure in order for LAs to gain more say in negotiating price/levels of service on a competitive basis. Although forty six LAs welcomed using a third party contractor to carry out different connections there was concern regarding their operational control by a DNO. Forty five LAs also felt that limiting LV live jointing work to the service cable is overly restrictive.
- 3.31. The responses displayed a marked difference in opinion between LAs and the DNOs, with several DNOs feeling that the safety concerns and liability issues outweighed any benefits. One DNO stated that safety requirements dictated that work should be limited to the service cable. Some DNOs expressed apprehension at the introduction of a triangular contract, citing issues such as complexity to explain their concern.

Ofgem's Decisions

- 3.32. Having reviewed the views of respondents to the June 2004 consultation and discussed the matter within the ECSG, Ofgem considers that the triangular contract should be a viable way forward to increase the choice of connection service provider available to LAs. In particular Ofgem has given weight to the consistently strong emphasis placed by DNOs, since the ECSG began work on the issue, that their principal concern about competition related to the perceived 'loss of control' that results if a DNO does not have a contractual ability to effectively control and monitor a contractor's operations. The triangular contract are is an obvious solution to that concern although Ofgem accepts that it may not be practical for DNOs to be expected to enter into an unlimited number of such contracts.
- 3.33. In light of this, Ofgem concludes that DNOs should be willing to enter into discussions with interested parties in order to develop the ENA's proposals into workable arrangements. By March 2005, Ofgem would expect all DNOs to be able to offer a triangular model contract on at least a trial basis. Ofgem will review the lessons learned from the operation of the triangular contract in March 2006. This will include consideration of issues such as minimum volumes of work that can be undertaken using the triangular contract.

4. Additional Issues

- 4.1. In light of responses received by Ofgem to the June 2004 consultation document, a number of additional issues arose that required consideration. These issues relate to the dispute resolution process and the 'rent-a-jointer' scheme. Consequently, Ofgem has taken the opportunity to outline its conclusions on these issues in chapter 4 of this document.

Dispute Resolution Process

- 4.2. Complaints about problems associated with the conduct of a licensee, should be raised with that licensee in the first instance via its formal complaint handling procedures. This course is recommended as the licensee is in the best position to resolve any problems in a timely and effective manner. If contact with licensee has failed to resolve the matter to the customer's satisfaction, the customer, or their agent (with the customer's authorisation), may take the matter further in the following ways.
- 4.3. Following the passage of the Utilities Act 2000 it has become the responsibility of the Gas and Electricity Consumer Council (energywatch) to offer free information and advice and investigate and resolve complaints on behalf of energy consumers. energywatch also has an advocacy role in representing the views of consumers to Ofgem and the energy industry.
- 4.4. Complaints submitted to energywatch would typically have the following characteristics (this list is not exhaustive):
- disputed pricing, for example, the quoted/paid price is regarded as excessive;
 - failure to commence/complete work at the agreed time;
 - carrying out work different to that requested;
 - damage to the customer's property/livelihood;
 - inappropriate behaviour by licensee's staff; and
 - instances where a customer believes they are entitled to compensation for poor performance.

- 4.5. energywatch will investigate the circumstances of the customer's complaint and attempt to resolve the matters in dispute between the customer and the licensee. If necessary, energywatch can request technical/ policy advice from Ofgem. Where resolution is not achieved the matter can be referred, in some cases, to Ofgem for a formal determination. For example, Ofgem can determine a connection dispute or terms of a connection agreement in dispute.
- 4.6. Ofgem does not investigate individual complaints or attempt to resolve disputes between customers and licensees on a case specific basis, unless formal determinations are appropriate. Generally, Ofgem will commence enforcement action on the basis of a body of evidence that indicated a pattern of behaviour over a period of time. This evidence would typically concern allegations that the licensee was engaging in behaviour that potentially constituted a breach of provisions of:
- its licence;
 - the Electricity Act;
 - the Competition Act; or
 - other statutory enactments within Ofgem's remit.
- 4.7. In accordance with the examples given at 4.6, some individual complaints may contain elements that will be of interest to Ofgem. In such cases the customer, when submitting the matter to energywatch, is at liberty to copy correspondence to Ofgem for information and consideration. energywatch and Ofgem may also share information with each other where they consider it appropriate. energywatch can refer matters to Ofgem where it believes Ofgem may be able to use its powers of licence enforcement.
- 4.8. When safety related matters are raised with energywatch and Ofgem, each has a Memorandum of Understanding with the Health and Safety Executive (HSE), to whom such cases would be referred.

Respondents' Views

- 4.9. A number of ICPs highlighted concerns that the current dispute resolution process did not provide an effective means of resolving disputes in a timely manner. Respondents urged Ofgem to undertake a review of the current

procedures in order to provide an effective forum for ICP disputes to be assessed.

Ofgem's Decisions

- 4.10. Ofgem trusts that the procedure outlined above will provide respondents with the clarity they require to understand each organisations role and responsibilities. However, Ofgem has no powers to resolve respondents' concerns regarding the investigation of their complaint as this does not fall within its remit. These should be addressed via energywatch's internal channels.

Rent-a-jointer scheme

- 4.11. The rent-a-jointer scheme enables ICPs and LAs to hire a DNO jointer for a set period of time to carry out live working (including jointing on the DNO's main) associated with unmetered connections. The DNO remains responsible for all live unmetered connections work while the contractor undertaking contestable work, such as excavation, will be responsible for its work.

Respondents' Views

- 4.12. Twenty eight respondents offered support for the rent-a-jointer scheme. Twenty six of the respondents expressed concern that the terms offered by a DNO are too restrictive and prevent the LA from gaining benefit from the general principles of such a scheme.
- 4.13. In addition, some DNOs believe that the creation of the triangular contract model will reduce the need to offer such schemes.

Ofgem's Decisions

- 4.14. Ofgem believes that the rent-a-jointer scheme is of value and would be interested to hear views on the components of successful schemes. Ofgem is also interested to hear the reasons why certain schemes have been unworkable. Ofgem acknowledges that a limitation of the scheme is that it does not address the issue of availability of resources. If an LA wishes to pursue the rent-a-jointer option DNOs should offer reasonable terms. If an LA considers that the terms offered by an DNO are unreasonable they should raise this matter with Ofgem.

5. Timescales

5.1. Outlined below, is a brief summary of when Ofgem expects the conclusions of this document to be implemented by DNOs:

	Stage One	Stage Two	Stage Three
	February 2005	March 2005	April 2005
Consent to Connect		1 March 2005	
Adoption Agreement	1 February 2005		
G81 Documents	1 February 2005		
Records Information	1 February 2005		
Live LV Jointing		31 March 2005	
Contestable and Non-Contestable Quotation Split	1 February 2005		Amendments to LC4 Statements by 1 April 2005
Standard of Service		31 March 2005	
Unmetered SLA			1 April 2005
Triangular Contract		March 2005	