

2<sup>nd</sup> June 2006  
DC/sjm

Office of Gas and Electricity Markets  
9 Millbank  
London  
SW1P 3GE

MidCity Place  
71 High Holborn  
London WC1V 6QS

Tel: (0)20 7061 7777  
Fax: (0)20 7061 7009

[www.mottgreenwall.co.uk](http://www.mottgreenwall.co.uk)

Dear Sirs

Regulation of independent electricity distributors: consultation on implications of applications from affiliates of existing licensees.

I am replying in response to your letter dated April 13th seeking comment to matters addressed in the letter.

Davis Langdon Mott Green Wall represents many clients who as a necessity have to make connection applications to every DNO in whose area they operate. Over countless years, delays in responding to enquiries and the quality of response when it is received feature as one of the major complaints levied against the DNOs, whether this is an initial enquiry or a request for some physical work on site. The introduction of competition in connections was thought to ease the difficulty our clients experience and to that end we have actively promoted this route to our clients.

We have ourselves been closer to the interface by relieving our clients of the difficulties through our understanding of the developing market and the experienced resources at our disposal. We have sought to take advantage of the emergence of IDNO as a real alternative to the DNO but continue to see obstruction and delay on progressing with inset networks owned by IDNO and constructed by independent connection providers (ICP). This is no more prevalent than in the EdF area.

Your letter states that Multi Utility Joint Ventures Ltd., a JV involving EdF, have approached Ofgem with a view to becoming a licensed distribution electricity operator and build and operate networks within EdF services area.

Two questions spring to mind

Why?

To whose benefit?

The EdF distribution service area is the least competitive market we have experienced. In partly answering the second question, it is unlikely to be for the benefit of customers, i.e. our clients. Why would EdF, or for that matter any DNO, need to acquire a second licence unless it is because they are unwilling to compete on the terms of their current licence. DNOs maintain a monopoly business in both asset ownership and new asset construction. The framework for a competitive market has been developed but the DNOs are not prepared to engage in that market under the same terms as ICPs or allow IDNOs ready access to the monopoly wires business. It is hard to conceive that affiliated licensed businesses will find it as difficult to engage with their parent DNO as the IDNO currently do.

Project Management | Cost Management | Management Consulting | Legal Support | Specification Consulting | Engineering Services | Property Tax & Finance

*Davis Langdon Mott Green Wall is a trading name of Davis Langdon LLP, a limited liability partnership registered in England and Wales with registered number OC306911. A list of members' names is available for inspection at MidCity Place, 71 High Holborn, London WC1V 6QS, the firm's principal place of business and registered office.*

*Davis Langdon LLP is a member firm of Davis Langdon & Seah International, with offices in: England, Scotland, Wales, Ireland, France, Spain, Poland, Lebanon, Bahrain, UAE, Qatar, Saudi Arabia, Egypt, Brunei, China, Hong Kong, India, Indonesia, Korea, Malaysia, Philippines, Singapore, Thailand, Vietnam, Australia, New Zealand, South Africa, Botswana and the USA*

Unless there is a radical change in the way a DNO has to behave, the prospect of an affiliated licensed business gaining competitive advantage over the IDNO will loom closer. The end result will be a dominant market place made even more so as DNOs set up licensed special purpose vehicles for the sole purpose of squeezing out competition on high value low cost operation networks. Once a network is fully constructed and fully operational, what realistically prevents the affiliate transferring network to another licensed operator (the parent DNO) and closing down the affiliate-licensed business?

Until a DNO can show a developed competitive market in their distribution service area, they should be prevented setting up affiliate-licensed businesses. The separation of electricity distribution and supply was a good thing as it created many competitors and a market where customers had choice. Allowing DNOs to become multiple license operators will be a retrograde step. DNOs should take other steps to create a market such as competing themselves for out of area network or separation of asset owning and asset building otherwise they will stand accused of oppressing competition. The detail contained in your letter leading to the four options does appear to need further wider debate that the industry is best placed to have. If Ofgem is minded to award a licence to an affiliate then a wider more detailed consultation is warranted. As a customer, it just does not feel right that a DNO who does nothing to facilitate competition should propose that an affiliate business be considered for a distribution licence. We rely on the licensing regime to protect our interests and there appears to be no further benefits in licensing an affiliate to any benefits that the DNO could not provide customers now under their existing licence.

We would encourage Ofgem to consider amending the licence conditions in order to create a more competitive market than that which exists today. In time, an affiliate DNO may have a place but we do not believe that is today without compromising the IDNO and ICP framework.

Yours faithfully

David Clare  
Consultant  
David Langdon LLP