Promoting choice and value for all gas and electricity customers

Review of Competition in Gas and Electricity Connections Proposals Document - Supplementary Appendices

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Target audience: Distribution network licensees, parties seeking new connections and their representatives, Independent Connection Providers, local authorities and other interested parties.

Overview:

We have reviewed the regulatory arrangements for gas and electricity connections. This document sets out our proposals.

We consider that changes to the electricity connections market in particular are needed. In gas, connections issues will be taken forward through the gas distribution price control review.

Our proposals involve strengthening the requirements on electricity distributors regarding the key monopoly services they provide via a licence modification. We also propose to improve the performance of electricity distributors in parts of the market that are not competitive and have developed a package of reporting requirements to assess improvements and whether further action is required, perhaps through the next distribution price control review.

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Context

In Ofgem's Corporate Strategy and Plan 2006-2011, we undertook to consult on the development of competition in connections and the options to increase its effectiveness.

This proposals document follows Ofgem's August consultation document[1] and sets out for consultation (which includes an impact assessment) a package of measures that are designed to improve the electricity connections regulatory framework.

Associated Documents

- Review of Competition in Gas and Electricity Connections, (August 2006) Ref 159/06
  http://www.ofgem.gov.uk/ofgem/work/index.jsp?section=/areasofwork/connections

- Open Consultation letter: Review of Competition in Gas and Electricity Connections, (May 2006) Ref 81/06
  http://www.ofgem.gov.uk/ofgem/work/index.jsp?section=/areasofwork/connections/connelec

- Decision letter - Proposal for extending the scope of contestable works in relation to competition in electricity connections Ref (April 2006) 69/06
  http://www.ofgem.gov.uk/ofgem/work/index.jsp?section=/areasofwork/connections/connelec

- Competition in connections to electricity distribution systems - Decision Document - Part A (November 2004) Ref 252/04
  http://www.ofgem.gov.uk/ofgem/work/index.jsp?section=/areasofwork/connections/connelec

- Competition in connections to electricity distribution systems - Decision Document - Part B (February 2005) Ref 60/05
  http://www.ofgem.gov.uk/ofgem/work/index.jsp?section=/areasofwork/connections/connelec

- Connections Industry Review results 2005/06 (August 2006)
  www.ofgem.gov.uk

[1] Review of Competition in Gas and Electricity Connections (31 August 2006) Ref: 159/06

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Appendix 5 – Summary of Responses

1.1. This appendix summarises the responses received from Gas Distribution Networks (GDNs), Distribution Network Operators (DNOs), and independent connection providers (ICPs) and other interested parties to questions posed in the consultation document published in August 2006. This consultation document discussed a range of options that are designed to improve the electricity connections regulatory regime and the appropriateness to extend competition in certain gas connections market segments.

1.2. We received 48 responses from the following organisations:

Alan Guiver	Longma Biofuels
Amey	Metered Customers Connection Group (MCCG)
Association of Street Lighting and Electrical Contractors (ASLEC)	Mott Green Wall (MGW)
Bethell Power Services	National Grid Electricity Transmission
Betthel Lighting Services	National Grid Gas (NGG)
Buckinghamshire CC	Northamptonshire CC
Camden CC	Northern Gas Networks (NGN)
CE Electric	P N Daly
Central Networks (CN)	PowerOn Connections (PonC)
Centrica	RWE N power
CoCal	Scottish and Southern Energy (SSE)
Derbyshire CC	Shropshire CC
Dudley MBC	Southampton CC
East Sussex CC	Scottish Power Transmission (SPT)
EDF Energy	Surrey CC PFI Lighting Division
Energywatch	Surrey CC Traffic Division
Gas Transportation Company (GTC)	Utility Customer Service Management (UCSM)
Hampshire CC	UK Lighting Board (UKLB)
Home Builders Federation (HBF)	United Utilities (UU)
Inexus	VBC Associates
Kent Highway Services	Wales and West Utilities (WWU)
Laing O' Rourke	Wigan CC
Leicestershire CC	Western Power Distribution (WPD)
Lincolnshire CC	Yorkshire Electricity Distribution (YEDL)/Public Lighting Authority (PLA)

1.3. Responses are available on the following website (http://www.ofgem.gov.uk/ofgem/work/index.jsp?section=/areasofwork/connections&levelids=,1_15297#top15297)

Responses to chapter 1 – The connections market

1.4. Chapter 1 of this consultation looked at an overview of the connections market and the current review, whilst setting out the next steps for the remainder of the project. We asked respondents the following question:

What are the lessons from developments in the gas connections market for regulation of electricity connections?

Views of Respondents

1.5. Two DNO respondents suggested that lessons derived from the gas connections market cannot be used in electricity due to differing legal obligations, safety concerns, and different levels of interest from ICPs. A DNO stated that it was fundamental to protect the end customer's interests whilst developing changes to current regulation. Two other respondents stated that the development of gas and electricity markets has led to customer confusion, and that a transparent system would counter this.

1.6. Seven respondents suggested that developments in gas were due to the statutory standards of performance compared to voluntary standards in electricity. Two of these respondents considered that these developments should be mirrored in electricity, and that these companies should be regulated in a similar way. Two other respondents considered tighter regulation as a way to encourage competition and reduce costs. One respondent added that the processes in gas were simpler than those in electricity.

1.7. One respondent believed opposing market conditions would not develop competition in electricity connections. The respondent added that ICPs have an advantage of being able to realise an asset value, however, for various reasons, the asset values available are at such a low level that there is little commercial advantage to be gained by an ICP transferring the asset to an independent DNO. They also pointed out barriers preventing ICPs from competing, such as: complex non-contestable administration, increased inspection and connection charges, and DNOs' continued non compliance with the voluntary standards. Another respondent stated that the gas connections market has been driven by Independent Gas Transporters (IGTs) and GDNs, rather than by competition between ICPs.

Responses to chapter 2 – Gas connections issues

1.8. Chapter 2 of the consultation considered the gas connection issues which focused on one-off connections (particularly the 10 metre rule) and gas pipe diversions. We asked respondents the following questions:

If the 10 metre subsidy were removed, would ICPs offer one-off gas connections to customers as an effective alternative to a GDN?

Views of Respondents

1.9. Three respondents did not see removal of the 10m rule as a beneficial way forward and suggested that limited competition in this area was due to the unappealing nature of the work. Another respondent stated that it would increase overall connection charges on domestic customers. In contrast, five respondents welcomed removal of the 10m rule, suggesting that it would give customers the choice between an ICP and their GDN. One of the respondents added that it would be dependent on the commercial attractiveness of the market, whilst another respondent stated that removal of the rule could make the UK gas market one of the most competitive in the world.

1.10. Five respondents believed that one-off connections were not competitive for ICPs on a cost basis and that issues surrounding streetworks would need to be addressed in order to draw ICPs towards one off connections. Three respondents believed that the 10 metre subsidy should be replaced with either a fixed sum or job specific allowance, which would also be available to ICPs.

What steps should be taken to address the constraints of the streetworks regime on extending competition into this area of connections works?

Views of Respondents

1.11. One DNO suggested removal of the entire New Road and Streetworks Act (NRSWA) despite the reluctance of the local Highway Authorities (HAs). Another DNO suggested that Section 50 procedure would add cost and time delays to service provision and so restrict competition to IGTs. Another respondent believed there was no level playing field and suggested that charges for Section 50 opening notices should be compared with and levied on the same basis as Section 74 charges to which the DNOs are exposed to.

1.12. One DNO raised concerns about different interpretations of streetworks legislation by some HAs such as some HAs' refusal to issue streetworks licences to third parties wishing to undertake trenching and reinstatement works. Three respondents identified the legislative constraints in respect to streetworks and the Traffic Management Act (TMA), noting that these were unlikely to support proposals to relax existing planning restrictions: two of these respondents were eager to see changes to the TMA, but were sceptical it would happen.

1.13. Two respondents suggested that arrangements need to be in place to allow ICPs to obtain licenses to undertake streetworks and manage the issuing of relevant notices. One suggested that GDNs' NRSWA rights should be made available to accredited ICPs.

1.14. Other issues raised by respondents included:

- Gas Transporters (GTs) and DNOs (including IGTs and IDNOs) should be required not to exclude connections that they are to adopt from non-affiliates if the non-affiliate does not have statutory undertaking status.
- Legal issues between Utility Infrastructure Providers (UIPs) and HAs should be resolved under Section 50 of NRSWA.
- Standardisation of streetworks licenses issued to HAs under NRSWA.
-

What are the impacts and costs on GDNs arising from opening domestic one-offs to competition?

Views of Respondents

1.15. One DNO identified issues with inspection, recording, and maintenance of the assets as impacts of opening this aspect of the market to competition. They suggested that costs will be associated with the maintenance of current robust safety standards. Another respondent considered possible prosecution for safety breaches and suggested the risk should be covered in personnel authorisations, Gas Industry Registration Scheme (GIRS) accreditation and processes imposed by the GDN. Two other respondents identified disputes between UIPs, due to their incomplete understanding of the customer groups entitled to allowance payments, as a possible problem in opening up the market.

1.16. Two respondents agreed that any reduction in the volume of one-off connections would result in a significant increase in unit costs for the remaining works. One respondent suggested that their statutory and regulatory obligations should be removed if competition does not develop in this market. Another respondent believed that increased costs would occur as a result of new entrants choosing to undertake only the easier and higher value connections. In contrast, one respondent suggested that there should be no cost increases due to market forces improving efficiency in the long term.

What is the level of demand for competitive gas diversionary works and do third parties currently exist with the necessary skills to offer these works on a competitive basis?

Views of Respondents

1.17. Four respondents considered demand for diversionary works to be low. Four respondents suggested that diversionary works could be opened to further competition, another was surprised that it was not already contestable. One respondent added that demand for work on Brownfield sites and Local Authority (LA) housing estate refurbishments were particularly high. Another respondent stated that customer (both developers and HAs) demand was associated with the efficiency of the works.

1.18. Eleven respondents, three of which were DNOs, suggested that third parties exist with the necessary skills to undertake this work, although, one DNO believed that this was only the case for simple diversionary works. Two respondents added that GIRS registered ICPs already construct diversionary works and that no additional skills are required. Two respondents added that third parties are unable to complete some activities, such as the abandonment of mains. Two other respondents suggested that all diversions were complex and required significant GDN involvement to ensure existing customers remain unaffected.

What process, operational and commercial changes would be required to develop a framework that supports competitive gas diversionary works?

Views of Respondents

1.19. DNOs recommended the following changes:

- Development of commercial arrangements, streamlining of design authorisation and adoption of network procedures, to ensure all assets are adopted by the GDN and that service to existing customers is maintained
- Final connections to the existing network should remain non contestable
- A more integrated approach from GDNs and ICPs to manage the process and develop a robust set of operational procedures and timings, whilst working with the customer to achieve proposed timescales in order to reduce costs.

1.20. Three respondents supported opening up diversionary works to competition, with one adding that developers should fully fund the work and that diversions involving disconnection/reconnection of meters should remain with the GDN. Another respondent suggested that if diversionary works remain under monopoly control, it should be subject to regulations with measurable formal standards of performance to protect customer's interests. Another respondent suggested grouping diversionary works by: construction, pre-construction, and connections/disconnections.

1.21. One respondent suggested the development of a commercial framework between parties whilst another suggested minor changes to the current arrangements. Another respondent suggested that process, operational and commercial changes are theoretically the same as those for the electricity market.

1.22. One respondent suggested that support is needed for the design, connection and commissioning process for the works. They recommended the following:

- Designs to be checked and approved against all safety conditions
- Close operation on site in terms of timing and co-ordination
- Transporters to charge for all support activities and provide them in a fair and equitable manner, with charges including suitable margins and risk premiums (if fixed price quotes are needed) to reflect what is expected in competitive markets

- Issues associated with operational activities to centre on authorisations of routine and non-routine operations, including people competence and responsibility for developing and implementing contingency plans.

1.23. Two respondents recommended the following changes:

- Develop processes and contracts to enable GDNs and third parties to work effectively, and determine liabilities where necessary
- Identify service demand and third party settlement of the full costs of developing and supporting such work
- Phase the works to avoid disruption on site and lay apparatus in accordance with National Joint Utilities Group guidelines
- UIPs will be responsible for: identifying and notify customers (including vulnerable customers) affected by the works, ensuring routine and non-routine operation notices are provided to GDN's network controller on requirement, and to have adequate resources to restore customers supplies
- A revision of the UIP/IGT Final Connection Agreement, with GDNs to accept the consequential impact on customer satisfaction.

What are the potential risks and costs associated with developing arrangements to support competitive diversionary works?

Views of Respondents

1.24. Four respondents, including two DNOs, identified safety as a potential risk, with three of the respondents also seeing security of supply and contingencies for unplanned events as a potential risk. The two DNOs also noted activity coordination as a possible risk.

1.25. One respondent was of the view that diversionary works could have a major impact on the gas supply system, such as system failure or poor pressure. One respondent stated that transporters' costs are associated with the checking and approval of designs, provision of network analysis and co-ordination/operational support. Operational unit costs would increase with work undertaken by other parties. Another respondent expressed concern over possible contestable diversionary works restrictions, such as to exclude the diversion of high pressure networks.

1.26. One respondent expected there to be additional administration costs with the works. They suggested that consideration should be given to the impacts of: betterment (GTs investing in increasing their scope of works to facilitate future growth), and NRSWA cost sharing / the deferment of renewal allowances (the non applicability of the allowance to third parties affects the ability to make diversionary works a fully competitive activity). Another respondent believed that costs would increase relative to the resources needed to deal with such works, whilst another respondent believed that the risks and costs were the same in principle as for the electricity market.

1.27. One respondent considered a risk to the GDNs financial position and reputation. They suggested a comprehensive risk management strategy to cover planning, procedures, communication, control, inspections and audits. They also identified regulatory reporting as a risk, with GDNs' possible inability to comply with its regulatory reporting and compliance obligations.

Will specific accreditation arrangements be required to support competition in this respect?

Views of the Respondents

1.28. Four respondents were of the view that the existing GIRS accreditation was sufficient to support competition in diversionary works. Three DNO respondents added that it was only sufficient where the work was simple. Two other respondents suggested extending GIRS to cover operational and technical qualifications and the ability and experience of operatives, supervisors and managers. Another respondent stated that GIRS must cover all skills required for diversionary works to ensure that accredited third parties are able to cope with unexpected occurrences.

1.29. Eight respondents believed that accreditation arrangements were needed to stimulate competition, with two respondents suggesting that GDNs should evaluate any additional requirements they feel should be added to these competencies, and implement them in conjunction with Lloyds. One respondent added that third parties should prove their competency before being allowed to tender for work. Another respondent was of the view that the accreditation arrangements required were fundamentally the same as those in the electricity market.

Responses to Chapter 3 – Promoting competition in electricity connections

1.30. Chapter three of the consultation looked at improvements which could promote competition in electricity connections. It considered the development of formal standards for provision and charges of non-contestable services, whether the process for connections application can be improved and/or the organisation of the DNO needs to change, and finally the scope of contestability. We asked respondents the following questions:

What are the potential costs and benefits to industry participants of implementing formal standards of performance regime?

Views of Respondents

1.31. Five respondents, two of which were DNOs, considered the current set of voluntary standards to be sufficient to facilitate competition, if all parties comply. One of the five respondents suggested that increased transparency and reporting of

the voluntary standards would improve overall performance. Three respondents disagreed, considering the standards to be completely inadequate. Another respondent believed that the DNOs' non-compliance forces ICPs to incur costs relating to: re-tendering due to erroneous Point of Connection (POC) information, reduced overhead recovery due to delays in the provision of POC, cost of re-opening highways, and the competitive disadvantage faced by non affiliated ICPs due to a DNO's ability to bulk buy.

1.32. One respondent believed that the introduction of DNO penalties for performance failure would remove any inaccuracies associated with the voluntary standards. Two respondents disagreed, with one stating that the cost to the DNOs would be minimal when compared to the commercial losses already incurred due to poor performance standards, whilst the other considered that the introduction of a penalty scheme would be premature, considering the standards were still new.

1.33. Three respondents believed that DNOs should be allowed to recover costs associated with administering a formal scheme and costs regarding the loss of flexibility (costs incurred by third party). One of the respondents added the condition of a nominal admin fee, of no more than £100. Two respondents saw little difference in the costs incurred by DNOs whilst operating a formal standard regime compared to a voluntary standard regime. One of them added that the costs would be self-funding, forcing efficiencies into the DNO's operations which in turn would fund compliance with the standards.

1.34. The majority of respondents supported the introduction of formal standards. Nine respondents considered formal standards to be fundamental in the establishment of a competitive electricity connections market, stating it would enable DNOs to be judged on their performance and penalised for underperformance, with compensation covering third party losses. One respondent believed it would lead to a reduction in an ICP's operating cost base, along with an ICPs long awaited ability to offer programme certainty to customers which is impossible under the current arrangements. Another respondent suggested that it would allow ICPs to get non-contestable information in a timely manner. One of the respondents added that the standards needed to be comprehensive and consistent across DNOs and allow for quotations to be sufficiently detailed whilst also being dealt with in a timely manner.

1.35. Two respondents were of the view that formal standards should be supported by clear definitions (Regulatory Instructions and Guidance (RIGS)). One respondent believed that the implementation of formal standards would ensure a minimum service level for provision of POC, design approval and final connection. Another respondent added that the costs / benefits of formal implementation would be dependant on its content, adding that a slight system change would be required. One respondent added that the voluntary standards regime should be formalised either via a guaranteed route or with an overall standards regime.

Are the existing voluntary standards of service appropriate performance targets, if not what would be appropriate or how should this be determined? What payments are appropriate for failure in each case?

Views of Respondents

1.36. Seven respondents, including four DNOs, believed that the existing standards of service were appropriate. One of the respondents added that they considered the standards to work well for simple and complex quotations and for design approval, although the dates for the supply of final connections were provided too far in the future.

1.37. Three respondents, including two DNOs, were of the view that if the standards were formalised it should be via the guaranteed standards route with appropriate levels of compensation. One of the DNO respondents added that they needed to be proportionate and non discriminatory against customers seeking s16 connections.

1.38. One respondent considered the standards to be unhelpful during the design phase. Another respondent was of the view that the existing standards have not worked and that compulsory standards were required. They picked up on delays in processing POCs and the DNOs' refusal to acknowledge that voluntary standards apply to embedded networks. Another three respondents suggested that the definitions of the targets should be refined and clarified regardless of whether the standards are formalised. Two of these respondents added that the standards should cover an agreed date for POC provision and timescales for approval/rejection of designs and physical completion of connections. One respondent suggested league tables as a performance incentive for DNOs.

1.39. One respondent considered that existing standards need to be revised and that schemes should be placed into simple and complex categories. They further suggested that important information needs to be communicated from the DNO to the applicant in a timely manner. One Independent Distribution Network Operator (IDNO) respondent suggested widening the scope of contestable activity over time. They believe that the current standards need to work within the entire scope of contestable activity. They also mentioned DNO data validity by ICPs and IDNOs and reporting against categories such as domestic connections and generation in an attempt to identify discrepancies.

1.40. Three respondents were of the view that penalty failure should be reflective of the scheme's complexity. One of the respondents added that there was no case for consequential damages. Another three respondents considered that penalties should reflect a minimum payment for poor performance, suggesting Ofgem enforce a penalty mechanism on incurred applicant costs. Another respondent considered that payment failure should be broadly associated with those in the gas market, where appropriate. Two other respondents were of the view that target failure should result in £100 compensation supported by a licence condition of a 90% performance target. Two respondents considered financial penalties to be inappropriate and suggested

that greater transparency and improved reporting would improve DNO performance. One respondent added that the costs involved in the set up and administration of a compulsory standards regime with financial penalties would outweigh the benefits to the customer.

Is the three month timeframe contained in standard condition 4D 6(b) of the electricity distribution licence for the provision of terms for connection an appropriate backstop for complicated schemes?

Views of Respondents

1.41. Nine respondents, six of which were DNOs supported the view that the 3 month timeframe is appropriate for complicated schemes. Five of these respondents, two of which were DNOs, believed the timeframes were appropriate as the work involved network reinforcement, detailed assessments and approval. One respondent added that most of the DNO information could be produced within 1 month. Another respondent suggested that the timeframe was only appropriate in the case of large distribution generation schemes. Six other respondents completely supported the view that the 3 month timeframe was appropriate for complicated schemes.

1.42. Two respondents considered that the 3 month timeframe was appropriate on condition that it is observed and the classifications for complicated schemes are transparently reached on objective grounds. Another respondent suggested it would be appropriate for works commissioned under s16, but inappropriate for work under Competition in Connections (CiC). Five respondents believed the current 3 month timescale was inappropriate.

1.43. Three DNO respondents believed that the timeframe was a challenge for schemes above 33kV. Five DNOs suggested that it is impractical to provide some connections, including complicated schemes, within 3 months while one DNO believed the timeframe was not appropriate for connections requiring changes to the transmission system. One DNO was prepared to consider shorter timescales where no reinforcement is needed.

1.44. Three respondents suggested that the timeframe should be reduced to 40 days. One respondent challenged the validity of the 3 month timeframe to meet current connection market requirements. Another respondent believed that the timeframe should be no longer than 40 days, except in exceptional circumstances the DNO should inform the applicant within 10 days. Another respondent was of the view that the timeframe should be reduced to 2 months. They suggested a maximum of 4 weeks for network design, 5 weeks for confirmation of POC, and 8 weeks for a formal connection offer.

What other categories of standards and exemptions should be considered?

Views of Respondents

1.45. Eleven respondents, four of which were DNOs, suggested that the 3 current standards were adequate and provided a sufficient number of categories, adding that no other standards should be considered. Two of these respondents added that complicated timescales should be agreed upon receipt of the connection offer. Another respondent believed transmission works should be exempt from the timescale. One DNO respondent suggested that all applications under s22 should fall outside of any formal performance standards scheme, whilst another respondent believed that any new categories or exemptions should seek to reduce: cost confusion, conflict, and scheme variation.

1.46. One respondent believed that the current standards need tighter definitions and that there should be a greater DNO compliance level with the ICPs. Another respondent suggested that POC offers be provided in a standard format, and they added that quotations should require consistent information, and an appropriate level of detail.

1.47. One respondent suggested a new standard, whereby DNOs have a maximum of two days to provide technical information for an ICP's request. They also suggested a detailed agreement, outlining the minimum level of information to be provided for a POC request, and for Ofgem to insist that all DNOs produce non-contestable charges at the POC stage. Another respondent suggested the development of a framework based on scheme classification headings, and the measurement of DNO compliance for each individual timescale. They added that DNO performance should be measured from procurement, to asset adoption.

Do the levels of non-contestable charges levied by DNOs affect the ability of ICPs to compete for contestable connections work?

Views of Respondents

1.48. Two DNO respondents believed that the charges should be applied consistently and should be cost reflective of the activities undertaken by the DNO. Both of these DNOs agreed that ICP/IDNO quotations are different to statutory quotations and may sometimes require more costly and detailed processes, thus justifying the difference in charges. Seven other respondents, four of which were DNOs, identified the three major issues as: information transparency, cost reflectivity and charge consistency. Two of these respondents warned against price capping, whilst one of the respondents suggested that a national template may lead to a convergence in DNO's charges. One respondent suggested that timing played a crucial part in the process and was more important than the charge itself. They also commented on the need for DNOs to share charges between applicants when more than one party was requesting information for the same site.

1.49. Two respondents suggested that charges are making it difficult for ICPs to compete. One respondent believed the charges were unreasonable and not cost reflective. They suggested that the money received, represents an income stream for some DNOs. They stated that most ICPs considered the entire charge as a sunk cost.

Is there justification for an inconsistent approach from DNOs to charging for non-contestable information and services?

Views of Respondents

1.50. Three respondents suggested that charges should be cost reflective to allow DNOs to fully recover all costs incurred, and that price capping was inappropriate and over restrictive due to the uniqueness of each quote. One of these respondents further commented on the lack of clear guidance as a problem and suggested RIGs type guidance on chargeable activities, treatment of overheads, abortive costs on parallel or un-pursued schemes, and the establishment of standard size/type charging bands. One of the respondents believed that performance indicators may act as a stimulus to some DNOs to improve their efficiencies, thus generating internal cost savings through improved productivity.

1.51. Ten respondents believed that there was no justification for variations of charges. Two of these respondents considered there to be no reason for inconsistency on the grounds of labour, overheads or region variations and added that these charges should have minimal variations considering the level of work undertaken. Five of the ten respondents, four of which were DNOs, agreed that a national template may be beneficial in encouraging a consistent approach to charging for such services, with one suggesting that it may encourage ICP entry into the market. Another one of the respondents suggested that DNOs should only recover costs from successful applications and not speculative requests, whilst another suggested benchmarks to which DNOs would have to adhere to closely.

What would be the costs and benefits of more consistent charging?

Views of Respondents

1.52. Three respondents, two of which were DNOs, believed that only small costs would be incurred by DNOs in setting up a consistent charging regime. Two of the respondents, including one DNO, added that this approach would be simpler and would remove an area of potential dispute whilst also encouraging competition. Another respondent added that the increased transparency of charges would not be too costly for all parties involved. They also added that price capping could be an option, as guidance on consistent charging failed.

1.53. One DNO considered the importance of recovering all their costs through complete cost reflectivity. They also considered that there would always be slight inconsistencies between DNOs due to the varying cost bases. Five other respondents

suggested that the charges incurred should be made transparent to encourage competition. One respondent added that it would be difficult to judge the long term benefits without a specific proposal in place. One respondent added that it would increase customer's knowledge and clarity of acceptable levels of charges for non-contestable activities. Another respondent suggested that the introduction of a more consistent charging regime would level the playing field, and in turn reduce costs and focus the DNOs on process improvements and cost reductions.

Should the connections application process be streamlined for statutory and competition in connections customers? If so, how?

Views of Respondents

1.54. Nineteen respondents, two of which were DNOs, supported the streamlining of the application process. One DNO respondent stated that apart from minimal variations, the two processes were already identical in its Distribution Service Areas (DSAs). Four respondents welcomed the introduction of an agreed template. Contrastingly, four DNO respondents favoured the continuation of a differentiated application process with three DNOs stating that it was due to differing applicant needs. One respondent considered that current parallel processes were working satisfactorily, providing that customers deliver sufficient information.

1.55. One respondent noted that the proposal (in the CiC Review) to start the application process, preceding receipt of planning consent, may help ICPs/IDNOs by opening time windows, but funding of (likely increased) abortive works should be discussed with Ofgem. Contrastingly, another respondent accepted that the CiC application process begins only after receipt of planning consent. Two other respondents argued that the same department within DNO organisations should deal with both s16 and CiC applications. One respondent added that ICPs should be allowed to carry out the same works as affiliated or s16 connection providers.

1.56. Two respondents stated that the information requirements for a streamlined application process should be consistent. One respondent considered the possibility for the introduction of standard regulated charges, whilst another respondent proposed the introduction of self-quotation and a POC process as in the gas industry. Another respondent proposed that the developers pay for the DNO to undertake s16 design, with the design costs being passed on to ICPs at a later stage. They recognised that multi-utility providers may need alternative routes and POCs.

1.57. Two respondents proposed that DNOs provide all applicants a POC, and non-contestable quotation, within the existing voluntary timescales. Customers should then have a 90 day statutory quotation request period, which the DNO must respond to within 3 months. Customers would be able to source a contestable quote within this period. DNOs should continue to provide statutory quotations for all connection applications of 15 domestic properties or less, or for loads of 100kVA or less.

Are there aspects of either process that should apply to both such as the non-contestable breakdown and the provision of POC information?

Views of respondents

1.58. Nine respondents, two of which were DNOs, expressed support for POC information to be included in all applications. One of the DNO respondents suggested that this should be accompanied by the introduction of a GB template, whilst the other DNO respondent opposed such a view due to excessive complexity. Contrastingly, three DNO respondents opposed the breakdown of charges for s16 quotations due to various reasons, including the potential increase in customer confusion, which could lead to queries, delays and determinations, along with the additional costs being passed on to the customers. While another DNO suggested the benefits of a mandatory provision were not clear, since CiC applications were available to customers interested in the breakdown.

1.59. One respondent was of the view that a CiC team should still be available, although s16 quotations already contain POC information. One respondent emphasised the need for consistency in the determination of "fair" charges to developers. Another respondent believed that CiC quotations should be received before planning consent has been granted, whilst another respondent argued for the promotion of CiC awareness among customers. One respondent was of the view that separate design teams for s16 and CiC applications may lead to different but equally valid designs, due to engineering discretion. Another respondent recognised that under the current application process customers require more detail in s16 quotations.

What would be the costs and benefits of developing alternative arrangements for ICP/DNO disputes? Who should lead any work required?

Views of respondents

1.60. A large number of respondents were supportive of alternative arrangements for ICP/DNO dispute resolutions. One respondent supported the establishment of a dispute resolution process run by the Energy Networks Association (ENA), provided that related costs could be recoverable. One respondent favoured a dispute process similar to that at the BSC Trading Dispute Committee, with a role for Ofgem in ensuring that arrangements proposed by DNOs meet wider goals. Three respondents suggested that Ofgem should provide an informal hearing first and a formal determination as a last resort. Five respondents favoured an interim arbitration process before escalation to a formal determination by Ofgem. Contrastingly, seven respondents explicitly expressed their dissatisfaction with the current dispute process.

1.61. Nineteen respondents, seven of which were DNOs argued in favour of an internal dispute resolution mechanism published by each DNO on their website and the potential for an escalation procedure to Ofgem, with only minor qualifications

and specifications in some responses. Although one respondent contested that other alternative arrangements were needed. One respondent proposed a two-stage internal process, first at a local level and if needed at the head-quarter level. Two respondents specified that the internal dispute mechanism should include a single contact point (likely a Senior Manager), while one respondent suggested that an internal process may simply entail dispute settlement by a manager from another DNO division.

Is it appropriate to introduce reporting arrangements and transparent business processes to ensure that DNOs with affiliated businesses do not gain a commercial advantage over non-affiliated ICPs?

Views of respondents

1.62. Fourteen respondents supported the introduction of reporting arrangements and transparent business processes. Two respondents believed tighter transparency requirements were needed, with one suggesting the full transparency of affiliate's procurement of material to avoid DNOs exploitation of bulk buying. Contrastingly, five DNO respondents opposed, of which four argued that the current framework already provides several provisions that satisfactorily ensure transparency and equal treatment, ie licence obligations. Another respondent argued that Ofgem should not impose business structures or organisational designs, since these are developed by DNOs to improve efficiency, whilst in observance of licence requirements for non discrimination.

1.63. One respondent agreed that some improvements to the current reporting arrangements, ie more transparent quarterly reporting, may be required and likely to address many of the competitive concerns from IDNOs, ICPs and DNOs operating out of area. Another respondent suggested the inclusion of affiliated businesses within a DNOs' reporting pack to ensure fair comparison among DNOs at the time of the price control review. Another respondent suggested that appropriate proportional controls may span across all utility works.

1.64. Two respondents believed that affiliates have commercial advantages over non-affiliated ICPs, which include: access to information, processes, systems or resources that are not available to ICPs/IDNOs, savings arising from the possibility of carrying-out non-contestable works instead of paying charges, different classification of non-contestable works, possibility to determine their own POC information, and potential cross-subsidy in situations where street lighting works without competitive tendering. Two respondents suggested that Scottish Power Manweb commitments should be formalised if they are to be deemed appropriate. Another respondent suggested that DNOs should already have processes and arrangements which ensure equal treatment, as required by the licence. Three respondents proposed more radical solutions, of which two supported the prohibition of in-area operation by affiliated businesses, while another believed that DNOs and affiliates should be legally separated, with no other link beyond financial investment.

What are the likely costs and impacts of introducing business process and reporting arrangements?

Views of respondents

1.65. Two respondents were of the view that imposing changes on business structure and process would entail substantial costs. Contrastingly, five other respondents suggested that the costs would be minimal. Three of these respondents believed that the business process and reporting management system currently in place should already meet licence conditions, making any additional investment a surplus to requirement. Another respondent believed that the cost would be recovered on the competitive market.

1.66. Five respondents, including three DNOs, expressed uncertainty about the potential impacts and benefits of introducing business process and reporting arrangements. Two of these respondents expressed uncertainty about the potential impacts and benefits of introducing business process and reporting arrangements. They expected implementation costs to vary across DNOs, according to the degree of compliance of the arrangements and processes currently in existence. One of the respondents added that DNOs need to demonstrate that effective separation is implemented and maintained. Two of the DNO respondents maintained that proposed changes should be better specified. Five other respondents suggested that the competitive benefits stemming from a level playing field would more than compensate for the costs on DNOs.

Should Ofgem separate out and ring fence contestable and non-contestable services?

Views of respondents

1.67. Twelve respondents supported the separation and ring-fencing of contestable and non-contestable services, whilst seven respondents, four of which were DNOs, were against it. Four of them, two of which were DNOs, stated that it was due to the entailed loss of customer value (single point of contact and simplicity) and loss of synergies and economies of scale. They considered that it would create uncertainties, conflicting designs and commercial offers, duplications and inefficiencies, and further regulatory costs and burdens. The other three respondents, two of which were DNOs, suggested that DNOs should be able to establish their own organisational structure, as long as they can demonstrate regulatory compliance.

What are the likely costs and impacts of separating contestable and non-contestable services?

Views of respondents

1.68. Five DNO respondents were of the view that the costs for separating contestable and non-contestable services would be substantial. Another respondent stated that any additional costs would be passed on to end customers. Contrastingly, three respondents maintained that such costs would not be significant and in any case only proportionate to the advantages affiliated DNOs were enjoying. One respondent added that effective separation could lead to non contestable charges being at the mid/lower end of the table.

1.69. Six respondents commented on the type of costs that the separation would entail. These costs included: loss of single contact point for customers, duplication of physical premises, confidentiality obligations, risks of errors and delays at hand-off points between separated processes, impact on achievement of DPCR4 Opex target, duplication of management structures, separate IT systems and support, increase (or duplication) and movement of office staff, increase (or duplication) of field staff, separation of accounts, ledgers and reports, separate bank accounts, further compliance works, risks of queries and determinations due to engineering discretion, and lower flexibility for complex schemes. Contrastingly, four respondents identified the potential benefits, they included: increased transparency, level playing fields, an increased likelihood of entry and hence consumer choice, and increased levels of competition.

Are there other options that we should consider?

Views of respondents

1.70. Two DNO respondents suggested reliance on the adoption of RIGs as well as on Ofgem's investigatory powers in monitoring standards and resolving determinations. Two other respondents were of the view that increased transparency and standardisation would improve communication between parties and consistency across DNOs, whilst another two respondents suggested renouncing the obligation on DNOs to provide statutory quotations to all but vulnerable customers. Two respondents supported the prohibition of in-area operation by affiliated businesses. Another respondent suggested focusing on regulating DNOs' areas of natural monopoly to mimic competitive outcomes as opposed to pursuing an artificial and highly regulated market.

What is the level of industry demand for contestability in self-build and site specific maintenance of transmission connection assets and do companies exist with the necessary skills to offer these on a contestable basis?

Views of respondents

1.71. Nine respondents, four of which were DNOs, were of the view that there was little demand for contestability in transmission connections. They added that negative benefits to end customer were possible through increased cost due to risk, safety and liability charges. Along with two other respondents, they did however recognise the presence of companies which possess the skill to undertake such work. Two of these respondents went on to urge the introduction of competition within the market. One respondent believed opening up the market would lead to an increase in demand due to greater margins when compared to distribution connections. Another respondent agreed with the principals, but emphasised the need for clarity of definitions on transmission and distribution voltage differences between Scotland and England & Wales.

Why has the uptake of contestability in self-build and site specific maintenance been limited?

Views of respondents

1.72. Eight build and site specific maintenance. Two DNO respondents stated that the low connection boundary, which limits the scope of the work and its cost efficiency, was the reason for the limited uptake. Four other respondents believed it was due to the perceived negative benefit it would harvest through increased costs due to integrity, security and reliability. Two of these respondents added that DNOs were better placed to procure equipment, and suggested an incentive scheme in an effort to develop the market. Another respondent put the limited uptake down to the contractors' unwillingness to compete against their primary employer, transmission licensees. One of the DNO respondents considered that there was no point in opening up site specific maintenance and suggested focusing on self build schemes, where some interest has been shown.

Should further measures be taken to facilitate competition in this area? If so, what could they be?

Views of respondents

1.73. One respondent suggested that clear rules, uniform contractual arrangements and cost transparency should be made to facilitate competition. Another respondent considered that a competitive tender process should be put in place. One respondent was of the view that although further measures should be taken they would be difficult to implement. They also commented on how it would need to take into account the current shallow connection regime. Another three respondents

suggested monitoring industry activity through the Connections Industry Review (CIR) and industry workshops. Contrastingly, six respondents, three of which were DNOs, suggested that no further measures were necessary. The three DNO respondents believed the demand was too small whilst the other two respondents considered promoting competition in core activities such as electricity distribution to take precedence. The other respondent believed that competent contractors needed to be identified before further measures were taken.

Is the regulatory framework in place for competition in distribution connections appropriate for further facilitating competition in transmission connections or is a different approach justified?

Views of respondents

1.74. Three DNO respondents considered the current framework to be appropriate to further facilitate competition in this area. One of the respondents added that no change was necessary due to shallow connection boundaries, each projects strategic nature, and the limited number of companies with the required competencies. Contrastingly, one respondent suggested that all charges should be made transparent, along with improved communication, and performance standards encompassed as mandatory license conditions. Another respondent believed that the framework should simply mirror the distribution connections framework. Three DNO respondents believed a common distribution and transmission approach was necessary in terms of voltage thresholds in Scotland and England & Wales. Another respondent suggested that the framework should mirror that of DNO Extra High Voltage (EHV) connections. One respondent suggested the need for an entirely new framework which would need to address any power flow issues across the grid, whilst retaining reliability and security of supply.

Would the bundling of overhead line contestable connections activities encourage efficiency in the execution of the works?

Views of respondents

1.75. Five respondents, three of which were DNOs, agreed that it would increase efficiency in the execution of works, through the reduction of interdependencies, defined boundaries for scope of the works and defined ownership of specific bundled tasks. Although another three respondents considered that it would improve efficiencies, two of these, accompanied by another respondent, suggested that the issues which needed to be addressed included: identifying the scope of an ICP's competencies, clear RIGs given to ICPs to safeguard the adoption agreement and the development of competent work processes. Another respondent supported contestability in this area and showed support for the bundling of activities.

Would the bundling of overhead line activities create barriers to entry in the electricity connections industry?

Views of respondents

1.76. Eleven respondents, five of which were DNOs, agreed that the bundling of overhead lines would not act as a barrier to entry. One respondent suggested it would aid entry by giving clarity of scope. One of the respondents stated that it was because of efficiencies gained from bundling, which may be lost due to ICPs inability to complete all the works within a group. Another respondent stated that it was because of DNOs uncooperative nature, which may prevent some contractors from undertaking such work. One respondent suggested that standards and processes must be clearly documented to avoid DNO misinterpretation.

Are there any other pre-construction or construction activities that should be considered for inclusion in the groups?

Views of respondents

1.77. Six respondents, four of which were DNOs, believed that the present groupings are satisfactory. All the DNO respondents stated that no other activities needed to be considered. One respondent believed additional activities must be discussed on an individual project basis. They also considered that caution must be exercised to avoid imposing on DNO statutory rights and powers. Another respondent suggested there was no need to further competition in this area, as it would create smaller benefits when compared with achieving efficient competition in other core activities.

1.78. One respondent suggested that the groupings should include 132 kV work as this accreditation has been encompassed within Lloyds, thus enabling contractors to undertake the work, and in some cases, directly for DNOs. Another respondent believed that contractors should compete for this work directly. One respondent added that the groupings could be complimented by the development of DNO regional variation documentation. Another respondent suggested the addition of legal rights and consent and other survey work in order to pass on a more distinct benefit to the end customer.

Are the proposed groupings of activities outlined in this chapter appropriate, or are there other combinations that should be considered?

Views of respondents

1.79. Seven respondents, five of which were DNOs agreed that the groupings were appropriate and achievable at present and were seen as a productive way forward. Similarly, one respondent considered the groupings to be satisfactory, but suggested that problems may arise due to its inconsistent application. Another respondent considered the groupings to be appropriate at present, but could be considered for

modification if a contractor requested. Contrastingly, two respondents considered there to be scope for more discussion, but only once the market has become fully operational. Whilst another respondent considered the groupings to be inappropriate and believed distribution and transmission activities should be considered separate until both markets were proven to be operating effectively.

What arrangements could be developed to allow parties to agree the value of the proposal A2 connections work so that costs can be apportioned correctly? For example, could DNOs undertake a shadow costing exercise of the third party's costs?

Views of respondents

1.80. Eight respondents, five of which were DNOs, were against the proposal. Three of them believed effective competition in core areas (fully funded diversions and reinforcements) was more important. The five DNO respondents believed it was unfeasible and unworkable. They identified several problems which included: evidence of efficient expenditure, unworkable diversionary works falling under the NRSWA, and DNO asset falling out of the DNO's control, which may place them in breach of their statutory obligations. One respondent expressed concern over the proposal and emphasised that DNOs needed to have full control over a project if they incur the majority of the costs associated with the scheme. They suggested further consultation and detailed analysis before proceeding any further.

1.81. Six respondents saw the proposal as a workable idea. Four of them emphasised the need for swift action and pro-active DNOs. One of them went on to suggest shadow pricing as a viable option, but stressed the need for DNO charges to be published in order to demonstrate price transparency. The other two respondents expressed concern over the difficulties in putting an effective mechanism in place. They identified several benefits including: consumer control over cost, project management, service standards, and delivery. Another respondent suggested the adoption of DNO internal costs in an effort to remove nation wide cost variations.

Responses to chapter 4 – Protection where competition is not effective

1.82. Chapter 4 of this consultation considered the increased use of regulation in areas where there is no, or limited competition. It summarised existing performance and identified options for controlling charges and assessing customer satisfaction. We asked respondents the following questions:

Is effective competition likely to be feasible in respect of one-off connections? If so, what measures are required to achieve this?

Views of respondents

1.83. Thirteen respondents, five of which were DNOs, suggested that there was little activity in this area of work and that competition was unlikely. The five DNOs suggested that the market was already open and that the limited uptake was because of the perceived lack of value and economies of scale. Two other respondents reinforced the idea of economies of scale working against ICPs, with one respondent suggesting Ofgem simply regulate the market. Another one of the respondents believed it was attributable to streetworks charges, whilst another respondent believed it was a result of loose regulations and inflexible DNOs.

1.84. Five respondents suggested that competition was necessary and feasible. One respondent considered multiple one-off connections running from the same main, another suggested making live jointing contestable to further encourage competition. Another respondent agreed and suggested that competition could be achieved through clearly defined standards of performance.

Should Ofgem regulate one-off connections charges more closely with a price capping mechanism?

Views of respondents

1.85. Twelve respondents, seven of which were DNOs, considered that there was no case for price capping. Two DNO respondents suggested that the customer already has adequate protection through DNO regulation, whilst several of the respondents suggested that DNOs merely recover reasonable costs and are not using these schemes as an income stream. Two of the respondents believed capping would distort competition whilst another respondent suggested offering some sort of interim dispute resolution to ensure reasonable and reflective costs.

1.86. Two respondents were unsure if price capping was a suitable way forward. One respondent suggested that there is uncertainty over the number of schemes undertaken and that the data showing DNOs 100% performance is unreliable. Another respondent reinforced this and considered a comprehensive industry review to gauge demand and DNO performance. Six respondents welcomed a price capping mechanism. One of the respondents added that there should be no upfront charges, whilst three other respondents suggested price capping, coupled with tighter regulation.

Would there be value in surveying connections customers? Would there be significant costs (other than market research costs)?

Views of respondents

1.87. Two DNO respondents stated that they already undertake customer surveys and would consider making them public in the near future. Another respondent suggested that experience gained through completing in-house customer surveys has taught them that performance measurement against delivery targets would be more reliable. Another respondent suggested that the in-house surveys they already undertake are used to identify inefficient service areas within their business and believe that they are contributing valuably to customer satisfaction.

1.88. Fourteen respondents, two of which were DNOs, considered surveys to be a valuable tool. A consistently emerging theme from the respondents was the necessity for accurate and reliable data. One respondent suggested that it would help deicide if tighter regulation was needed or increasing levels of competition, whilst another respondent suggested that Ofgem should audit the results to confirm their accuracy. One of the DNO respondents suggested that surveys would identify the reasoning behind customers choosing DNOs over ICPs. One DNO respondent believed there to be no benefit from undertaking a connections customer survey.

Responses to chapter 5 – Unmetered connections

1.89. Chapter 5 of the consultation document considered the various policy initiatives that were established to improving the level of service provided by DNOs to local authorities in respect of street lighting. In particular, views were sought on the future of the triangular contract arrangements and the trial Unmetered Service Level Agreement (SLA). We asked respondents the following questions:

Which option for the future of the SLA is preferred? What are the costs and benefits of each option?

Views of respondents

1.90. Ten respondents chose option 5C (developing financial incentives). Six respondents favoured option 5B (Ofgem continue monitoring / publish performance), whilst four respondents preferred option 5A (self regulation). Two of the respondents considered that performance targets should be based on the average performance data submitted to Ofgem by DNOs, where the data has to be agreed by LAs. Another suggested that the same standards should apply for the unmetered SLA as are imposed on LAs by the Audit Commission in terms of standards BV215A and BV215B. Fifteen respondents, seven of which were DNOs, supported local arrangements, although one DNO respondent considered that local variations could cloud performance comparisons. Contrastingly, six respondents supported a national agreement only.

1.91. One respondent suggested that minimum service levels should be realistic and in line with similar works such as those that are applicable to domestic interruptions. Contrastingly, one respondent suggested that higher performance levels should be written into the current SLA. Another respondent suggested that the 'Well Lit Highways' document (Chapter 6) produced by the UK Lighting Board provides an indication of minimum service levels. One respondent believed that the Electricity Connections Steering Group (ECSG) should determine appropriate time limits and performance standards and that these should apply from 1 April 2006. The same respondent suggested that 90% performance targets might be appropriate.

1.92. Three DNOs considered that in the event that penalties are introduced they should be proportionate and commensurate with use of system revenue for street lights. One of these respondents suggested that the Audit Commission may have a view on the level of penalties that should apply. Four respondents considered that payments for failure should be sufficiently large to incentivise performance rather than set against use of system revenues. One of these respondents suggested that the cost of a new service could be an appropriate level. Two other respondents agreed, stating they did not want to see penalty payments reflected back in the DNO's prices. Four respondents introduced LA failures as an exemption for DNO penalty payments, with two of the respondents suggesting LAs make penalty payments for their poor performance. Another respondent suggested that a charge based adjustment would be best for receiving payments.

1.93. One respondent considered that DNOs should be able to recover the costs of reporting through the price control. The same respondent suggested that clearer RIGs definitions would be required to improve the comparability of data.

What definitional issues need to be resolved to improve the SLA framework?

Views of Respondents

1.94. There were a number of diverse views on the definitional issues that need to be resolved. Specific issues mentioned include:

- Definition of a DNO fault
- Allowing volume fluctuations to suspend standards
- Defining a high priority fault
- Consistency in the interpretation of faults
- Differences in technical arrangements must be catered for. For example, some DNOs feed a number of streetlights to the main with one connection whereas other cases they are fed from individual connections
- Introducing further upper bands to capture works that are overdue for extended periods
- Standardisation between the terms used in the SLA and the BV indicator, particularly: start date, number of lamps or number of faults, calendar days or working days
- Exemptions due to: Accidents, shortage of materials, and/or delays in deliveries

- Interpretation of completion date. One respondent suggested that there should be two dates, one for completion of site works and one for completion of electrical works
- Requirements of the TMA impacting on the SLA
- Sub-categorisation of New Connections, including, new service connections up to 5 metres, transfer of service, disconnection of service, road crossing new service connection up to 15 metres, and
- DNOs and LAs recovering abortive costs with a suggested £100 fee.

Why would performance on the metrics covered in the SLA trial be expected to vary across DNOs? Can any external factors be quantified?

Views of Respondents

1.95. Various respondents suggested that variations were attributable to the following: the management of LA high priority faults, the management of LA workloads, LA attitudes to NRSWA and acceptance of competition, varying age and condition of DNO networks, and the performance of third party contractors.

1.96. Possible external factors included: geographical density affecting response time, lengthy notice periods required for traffic sensitive areas, differing degrees of LA participation in the trial, and the different technical configurations of connections.

Why has the uptake of competition in unmetered connections been limited?

Views of Respondents

1.97. Two DNO respondents believed that LAs preferred to use DNOs and would rather encourage increased standards of performance as opposed to promoting competition. Similarly, two respondents considered the limited uptake of competition was attributable to the fact that LAs did not want to be burdened with any of the risks associated with using an independent contractor. These two respondents, coupled with two other respondents, believed that DNOs provided them with security and confidence over their liability regarding fault works, and improved safety and standards of service when compared with ICPs.

1.98. Thirteen respondents were of the view that the limited uptake of competition was due to the inflexible nature of DNOs. They gave examples of some DNOs preferred techniques, including concealing schemes such as rent-a-jointer, thus un-informing LAs of the presence of competition, and enforcing high charges and requirements on ICPs which has proven inconsistent with DNOs treatment of its own contractors. Seven respondents considered that the limited uptake of competition was a result of the one metre rule, suggesting that the rule drastically reduced the scope of work contractors could undertake, thus making a DNO the more attractive and time efficient option.

Should Ofgem review the scope of contestability for unmetered connections and is it appropriate to consider removing the one metre rule?

Views of Respondents

1.99. Twenty respondents, five of which were DNOs, suggested the removal of the one metre rule. The five DNO respondents stated that third parties would still be unable to complete final connections due to the associated safety risks regardless of any accreditation they may have received. The other fourteen respondents believed third parties should be able to complete works they were capable of doing, including working on the main. They believed competency was fundamental in opening up the market to competition. The other respondents suggested a relaxation of the rule, with its removal at a later date. They emphasised that removal of the rule could only happen after parties had addressed the issue of risk.

1.100. Five respondents were of the view that the scope of contestability needs to be reviewed in order to increase competition. They suggested increased transparency from DNOs as to what was contestable, the recognition of local arrangements, and upholding of the current high levels of safety. They considered the one metre rule to be adaptable to facilitate their ideas. Contrastingly, one respondent considered the current scope of contestability to be acceptable in facilitating competition, adding that the one metre rule should be kept due to little interest in this area.

Should alternative contract arrangements to the triangular agreement be considered?

Views of Respondents

1.101. Seven respondents, two of which were DNOs, suggested that there was no reason to continue with triangular agreements. The two DNO respondents attributed it to the lack of interest from LAs. The other two respondents believed the current arrangements were too restrictive due to a variety of reasons, such as the one metre rule and the unwillingness of DNOs to encourage competition. Contrastingly, three respondents, two of which were DNOs, believed the current arrangements were reasonable but they were of the view that the arrangements need to have scope for individual tailoring. They considered local variations to accommodate specific circumstances.

1.102. Six other respondents considered that the triangular agreements were overcomplicated and onerous in nature. Four of the respondents believed that there was no inherent benefit from using triangular agreements, and that alternatives should definitely be considered. The other two respondents believed that standardisation would make the process much simpler whilst retaining its fundamental benefits. They regard national agreements as an effective way of levelling the competitive arena for all ICPs. Contrastingly, two DNOs stated that the triangular agreements were not complicated and should continue as they are now.

1.103. Five respondents were of the view that alternative contract arrangements should be considered to the triangular agreement to increase competition in the market as current arrangements are not working. Alternative arrangements included the extension and open availability of a live jointing regime which has proven to be more flexible and beneficial to competition.

Appendix 6 – Draft Licence condition

1. This condition applies to the provision by the licensee of connections to the distribution system in respect of:

   (a) the provision of quotations for obtaining a new connection including point of connection information;

   (b) responding to design submissions; and

   (c) completion of final connection works.

2. The Authority may issue a direction providing that paragraphs 4 to 9 of this condition shall not have effect in this licence. Where the Authority has issued to the licensee a direction, paragraphs 4 to 9 shall cease to have effect in this licence from the date and for the duration specified in that direction.

3. The power to make a direction under paragraph 2 of this condition permits the Authority to revoke that direction upon reasonable notice to the licensee.

4. The licensee shall procure that it takes reasonable endeavours to meet the timescales outlined in paragraph 5 below in every case, unless the customer requests a deferral or otherwise agreed by the Authority, and shall inform the customer no later than the relevant deadline if the timescales will not be met.

5. The licensee shall, in addition, procure that it meets each of the standards outlined below in at least 90% of cases, unless the customer requests a deferral or otherwise agreed by the Authority. The standards require the licensee to:

   (a) issue quotations for new low voltage connections within 15 working days of receipt of the request;

   (b) issue quotations for new low voltage generation connections within 20 working days of receipt of the request;

   (c) issue quotations for new high voltage connections within 20 working days of receipt of the request;

   (d) issue quotations for new high voltage generation connections within 50 working days of receipt of the request;

   (e) issue quotations for new extra high voltage connections within 50 working days of receipt of the request;

   (f) issue quotations for connections not included in sub-paragraphs (a) to (e) within 3 months of receipt of the request;

(g) issue point of connection information for obtaining a new extra high voltage connection within 30 working days of receipt of the request;

(h) issue a written response to design submissions within 10 working days of receipt of the submission. The licensee shall approve the design or provide a reason for rejection within this timescale;

(i) subject to all conditions precedent being met, complete final connections for low voltage connections within 10 working days of receipt of the request;

(j) subject to all conditions precedent being met, complete final connections for high voltage connections within 20 working days of receipt of the request;

(k) subject to all conditions precedent being met, issue dates for final connection for extra high voltage connections within 20 working days of receipt of the request and complete works as soon as reasonably practicable;

(l) subject to all conditions precedent being met, provide partial energisation of low voltage connections within 5 working days of receipt of the request;

(m) subject to all conditions precedent being met, provide partial energisation of high voltage connections within 10 working days of receipt of the request;

6. Where a request or design submission is received or a quotation or design approval or rejection is issued after 5pm on any day it shall be deemed for the purposes of this condition as having been received or issued on the next working day.

7. The licensee shall, at least once in each financial year, provide specified connection information to the Authority.

8. The licensee shall, once in each financial year, except where otherwise agreed by the Authority:

(a) undertake an audit in respect of the provision by the licensee of services under paragraph 1;

(b) inform the Authority of the nature and scope of such audit; and

(c) when requested by the Authority in writing, review such audit and the manner in which it is being operated with a view to determining whether any modification should be made to such audit or the manner of its operation.

9. This condition shall not apply where:

a) the request for a connection is made under section 16 of the Electricity Act 1989;

b) the customer has, in making a request for any of the services specified in paragraph 1, failed to provide to the licensee such information that is required in order to provide that service (which the licensee has notified the customer or published on its website), provided that the licensee informs the customer within 5 working days of receipt of the request;

10. For the purposes of this condition only:

"associated works"	means any work required in order to provide a connection to the licensee's distribution system, including any necessary reinforcement and diversionary works;
"conditions precedent"	means conditions specified by the licensee and agreed by the customer in the Construction & Adoption Agreement (as defined in with the Energy Networks Association's engineering recommendations G-81) or in such similar agreement as the licensee may adopt from time to time;
"customer"	means domestic and non-domestic customers and prospective customers of licensed electricity suppliers; electricity suppliers; independent connection providers, licensed electricity distributors or any other person requesting connection services specified under paragraph 1;
"design submissions"	means the submission of a design for approval by the licensee, outlining a new connection proposal for connection to the licensee's distribution network;
"diversionary works"	means the service consisting of the moving of any electrical lines, electrical plant or meters forming part of the licensee's distribution system to accommodate the extension, redesign or redevelopment of any premises on which the same are located or to which they are connected;
"energisation request"	means a request from the customer to take the necessary step(s) so as to enable an electrical current to flow from the licensee's distribution system to the customer's installation at the exit point;

“extra high voltage connection”	means a new demand connection to the licensee’s distribution system where the point of connection and/or associated works are above 22kV but do not exceed 72kV;
“final connection”	means the installation of the connection equipment in such a way that subject to an energisation request the customer may receive a supply of electricity over the licensee’s distribution system;
“high voltage connection”	means a new demand connection to the licensee’s distribution system where the point of connection and/or associated works are above 1kV but do not exceed 22kV;
“high voltage generation connection”	means a new generation connection to the licensee’s distribution system where the point of connection and/or associated works are above 1kV but do not exceed 22kV;
“independent connection provider”	means an organisation that provides consultancy and/or engineering services in relation to connections on behalf of customers, electricity suppliers and electricity distributors;
“low voltage connection”	means a new demand connection to the licensee’s distribution system where the point of connection and associated works do not exceed 1kV;
“low voltage generation connection”	means a new generation connection to the licensee’s distribution system where the point of connection and associated works do not exceed 1kV;
“partial energisation”	means, in relation to part of the customer’s installation, the capability, subject to an energisation request, to allow electricity to flow from the licensee’s distribution system to the customer’s installation through insertion of fuses or switching operation;
“point of connection”	means the point on the licensee’s distribution system where the customer will be connected for the purpose of network supply and system continuity;

"point of connection information"	means the technical information necessary for the customer to identify the proposed location and characteristics of the connection of the customer's installation to the licensee's existing network;
"quotation"	means the provision of non-contestable information to a customer, to include point of connection information, an indication of the correct charge and any other information reasonably required by the customer;
"reinforcement work"	means those works required, on the licensee's existing distribution system, to accommodate the new or increased connection;
"specified connection information"	means as a minimum:

(a) the number of requests which the licensee has received which fell within each of the standards outlined in paragraph 5;

(b) the time taken in each case to provide the service outlined in paragraph 5;

(c) for requests which exceed the timescales specified in paragraph 5, an explanation of whether this was due to the customer requesting a deferral or otherwise details of the failure;

(d) the results of any audit carried out under paragraph 8 above; and

(e) the number of connection requests under paragraph 1 that the licensee has identified as falling within the categories set out in paragraph 9.

Appendix 7 - Draft impact assessment on the introduction of a licence condition

Summary

This initial impact assessment covers the risks, costs and benefits associated with two options for taking forward the current voluntary standards of service each DNO has put in place for the provision of non-contestable services.

➔ Option 1 - do nothing - continue with the current voluntary arrangements
➔ Option 2 - incorporate the standards into a licence condition with specific performance targets

On the basis of our assessment, we propose option 2.

Question box

➔ Do you agree with our assessment of the risks, costs and benefits attributable to the two options for taking forward the current voluntary standards of service?
➔ What costs/benefits would your organisation incur in the event that we adopt option 2?

Objectives

1.1. Our key objective is to promote competition in the provision of electricity connections by improving the regulatory framework and to encourage improvements in DNO performance in the provision of non-contestable information and services.

Key issues

1.2. We are seeking to ensure that the standards of service delivered by DNOs:

- Provide appropriate levels of protection to all customers taking into account their needs and expectations,
- Promote competition in the provision of electricity connections, and
- Provide sufficiently strong incentives to DNOs to drive improvements in performance.

Options

This impact assessment covers two options for the future arrangements of the standards of service for DNOs with regard to the provision of non-contestable information and services:

- Option 1: Do nothing - continue with the current voluntary arrangements
- Option 2: incorporate the standards into a licence condition with specific performance targets

Option 1 - do nothing option - continue with the current voluntary arrangements

1.3. We could maintain the existing voluntary arrangements in place with each DNO and require the DNOs to continue to monitor and report performance annually, on a voluntary basis.

Option 2 - incorporate the standards into a licence condition with specific performance targets

1.4. At present there is confusion between DNOs and the parties requesting the non-contestable information and services on the applicability of the voluntary standards, the various definitions involved and in the measurement of performance. Under this option we propose to formalise the existing voluntary arrangements into a licence condition which would require all DNOs and all IDNOs to provide a specified level of service to requesting parties in a defined percentage of cases. This option would also involve the re-drafting and formalising of the various definitions to address existing issues of varied interpretations by the different DNOs.

Competition assessment

1.5. The provision of non-contestable services and information is an essential part of the competitive market for electricity connections. The options put forward in this paper propose amendments to levels and means of protection for parties competing with DNOs. To the extent that they facilitate connection of distributed generation, they may reverse barriers to entry and so may have a small positive impact on competition in generation. They should have no effect on competition for supply or the wholesale market as they would provide the same level of protection to all competing parties.

Competition in the provision of electricity connections

1.6. The provision of non-contestable information and services in a timely manner is essential to enabling competition in the electricity connections market. Concerns regarding delays and in DNOs' performance against the voluntary standards has led to complaints about anti-competitive behaviour. The introduction of a formal licence condition, as proposed in option 2, would ensure that DNOs have an obligation to provide accurate information to competitors in a timely manner. Crucially this licence obligation would carry the potential for investigation for a licence breach in the event of a failure to meet prescribed levels of performance. Option 2 would provide greater certainty and assurance to those competing with DNOs and so should both improve levels of service and ultimately increase competition in this area.

1.7. The licence condition would apply to all DNOs and would set performance levels for all requests for non-contestable services and information. This would be beneficial to all competitors, including ICPs, IDNOs and DNOs acting out of area. There should therefore be no negative effect on competition between these parties due to the proposed changes.

1.8. The voluntary standards and the proposed licence condition do not apply to requests made under section 16 of the Electricity Act 1989. There is a separate obligation under standard condition 4D of the electricity distribution licence that requires DNOs to provide such quotes within a maximum timescale of 3 months. The intention of the voluntary standards, and the proposed licence condition, is to cover requests made specifically under the competitive route.

Comparative competition between DNOs

1.9. The intention of the voluntary standards is to ensure that competing parties are provided with an appropriate level of service when they request non-contestable services and information from the DNO. The standards are also intended to drive efficient levels of performance by DNOs in these areas, and we publish data outlining the performance of each DNO in our annual connections industry review (CIR).

1.10. Option 1 allows for us to continue reporting each DNO's performance in the CIR with the intention of incentivising improvements in performance by highlighting the best and worst performers. However, concerns have been raised by ICPs on the accuracy and reliability of the performance data submitted by DNOs.

1.11. The changes proposed in option 2 are intended to improve the robustness of the standards and formalise the obligations placed on DNOs. This should allow us to measure and report on the performance of each DNO with far more accuracy. Option 2 should therefore strengthen competition between DNOs and act as a greater incentive to improve performance. The changes proposed under option 2 will apply to all DNOs and so there should be no negative effect on competition due to these changes.

Impacts, costs and benefits

Environment

1.12. The development of electricity distribution systems may increase the general environmental impacts associated with electricity networks, including the possibility of leaks of insulating material (such as sulphur hexafluoride, a potent greenhouse gas) and visual amenity impacts associated with overhead lines.

1.13. Option 1 is a continuation of the current voluntary arrangements and so is unlikely to have any significant impact on environmental issues.

1.14. However, option 2 intends to encourage the development of competition in this area by improving the efficiency and level of service provided by host DNOs to competitors. This will be beneficial to any customer wishing to connect to the distribution network, including renewable generators.

1.15. Overall, we think that there will be no significant environmental impact as a result of either of our proposals.

Security of supply

1.16. The two options put forward are concerned with improving the levels of service provided to parties competing with DNOs to provide electricity connections to customers. We consider that there will be no significant impact on security of supply as a result of implementing either option.

Health and safety issues

1.17. We do not believe that either option will have a significant impact on the public in terms of health and safety. Option 1 is a continuation of the current arrangements, which are deemed to be appropriate and safe for operation. Option 2 will look at improving the levels of service offered to requestors of non-contestable services but does not involve any amendment to the current engineering or safety standards in place. The aim of option 2 is to embed the current process in a licence condition. Currently DNOs' quote for non-contestable services, approve or reject designs for new connections based on appropriate engineering and safety standards and undertake final connections works once they are satisfied that the contestable work undertaken by the competing party has been completed to an appropriate standard. This retains the current requirements on ICPs and IDNOs under National Electricity Registration Service ("NERS") and appropriate licence conditions respectively and retains DNOs' ultimate responsibility for the provision of this information and related services including quotations, approval or rejection of designs and the completion of final connections. There should therefore be no significant health and safety impact.

Distributional effects

1.18. ICPs and IDNOs tend to concentrate on multiple electricity connections to often new build domestic developments and to larger industrial and commercial (I&C) properties. The scope of the voluntary standards and the proposed licence condition is intended to ensure that all those requesting a competitive quote will receive accurate and timely information with regard to the non-contestable services provided by the DNOs. It is likely that the vast majority of activity captured under these arrangements will be to the larger new build and I&C developments. However, the proposed licence condition will be drafted to cover all competitive quotes, enabling other market areas to be included as and when competition develops further in this area.

Small businesses

1.19. IDNOs are relatively new market entrants and are actively competing to undertake electricity connections in a number of areas. There is some confusion at present about whether competitive requests from IDNOs are included within the voluntary standards of service. Option 2 proposes a licence condition which would specifically include all competitive requests, including those from IDNOs, and so would remove this uncertainty. This should therefore have a positive impact on IDNOs.

1.20. ICPs have been active in the electricity connections market for some time, but are still relatively small businesses in comparison with the volume of connections undertaken by DNOs. The licence condition proposed in option 2 seeks to formalise obligations on DNOs in providing information to the ICPs and so encourage the growth of competition in this area as well as improving the level of service that ICPs can expect to receive. Option 2 should therefore have a positive impact on ICPs.

Risks and unintended consequences

Option 1 - do nothing option - continue with the current voluntary arrangements

1.21. We have received a number of complaints from ICPs and IDNOs about varied interpretations by DNOs in categorising different connection schemes under the voluntary standards of service. This means that competing parties are subject to different timescales for the provision of information dependent on the relevant DNO and that they are unable to predict likely timescales at the outset. This also has an impact on the levels of performance reported by DNOs, as some will be effectively extending the timescales they are required to meet for the more basic schemes by classifying them as more difficult. If the current arrangements are continued then it is likely that we will continue to receive complaints and that these inconsistencies will remain.

1.22. A resulting effect of the above inconsistencies is that we have also received complaints that some DNOs are delaying the provision of non-contestable information, in particular quotations, and that this is having a negative impact on ICPs' and IDNOs' ability to compete effectively with DNOs. If we continue with the current voluntary arrangements then the development of competition in this area may continue to be negatively affected.

1.23. Concerns have also been raised that the data submitted by DNOs is not accurate and so does not reflect performance. Because the standards of service are voluntary the data is not subject to any form of independent audit. In publishing performance data in the CIR we are reliant upon DNOs providing accurate information in response to a formal information request. Because of the concerns raised it is not appropriate to draw any firm conclusions on the performance of individual DNOs or by comparing different DNOs to one another. If the voluntary

arrangements are maintained then the accuracy and reliability of the data reported by DNOs is unlikely to improve and will continue to be potentially misleading.

1.24. A key issue with the voluntary arrangements is that there is no formal obligation on DNOs that requires them to meet the standards set, or that allows us to take action if they fail to do so. This has resulted in complaints from ICPs that there is no incentive on the DNO to improve their performance since there is no consequence of them failing to do so. If the current arrangements are continued then we will remain unable to act if a DNO fails to meet the standards set, even in the event of consistent or significant low levels of performance.

Option 2 - incorporate the voluntary standards into a licence condition with specific performance targets

1.25. The new licence condition would introduce prescribed levels of performance for each DNO to meet and this would be measured annually and reported through the CIR. There is a risk that the performance targets could be set at an inappropriate level. If the performance targets are set too high then they could be unachievable for DNOs, particularly for those DNOs that receive very few competitive requests and so where a single job has a high percentage value in terms of measuring annual performance. Conversely, if the standards are set too low then they will not provide a sufficiently strong incentive for DNOs to improve their performance and may not reflect the expectations of ICPs, IDNOs and other competing parties.

Costs and benefits

Option 1 - do nothing - continue with the current voluntary arrangements

Costs

1.26. The voluntary standards cover the provision of non-contestable information and services to customers who intend to compete with the host DNO for electricity connections work. The voluntary standards were established to support the development of competition by ensuring that customers are provided with accurate and timely information on request. As outlined above we have received a number of complaints about the service provided by DNOs which suggests that the voluntary standards are not being effective. If the current arrangements were maintained then it is likely that we would continue to receive these complaints and that competition in this area could consequently be negatively affected.

1.27. Concerns have also been raised with the accuracy and reliability of the data reported by DNOs in support of the voluntary standards. These concerns, as outlined previously, focus on inconsistent application of the standards across DNOs and on the accuracy of reporting mechanisms themselves due to a lack of any form of audit. Option one would not address either of these data issues and so we would remain

unable to draw firm conclusions about any apparent improvements or declines in performance.

1.28. A key concern raised with regard to the voluntary standards is that, unlike the arrangement in gas, they carry no regulatory weight in terms of enforcement. This means that we are unable to take action in the event of an apparent failure to meet agreed timescales. This has led to criticism that DNOs have no incentive to improve their performance as there is no resulting consequence of failing to do so. If the arrangements were continued on a voluntary basis then we remain constrained in the actions we could take if concerns were raised about a DNO(s) performance.

1.29. There are inconsistencies in the application of the voluntary standards to requests from IDNOs, who were not active in the market at the time when the voluntary standards were introduced. The continuation of the voluntary arrangements would not clarify the treatment of these types of request.

Benefits

1.30. The voluntary arrangements have been in place since 2003 and have been adopted by all DNOs. This is an encouraging sign that DNOs are open to working with ICPs and other customers to promote the development of competition in this area. DNOs have reported their performance data to us on an annual basis and this data is published in the annual CIR, which highlights the best and worst performers through comparison with other licensees. Continuing with the voluntary arrangements would require no changes to DNO systems or to reporting arrangements through the CIR and so would have no resulting financial impact.

Option 2 - incorporate the voluntary standards into a licence condition with specific performance targets

Costs

1.31. It is possible that the introduction of a new licence condition to formalise the voluntary standards would result in DNOs and IDNOs incurring set-up costs such as from system changes to accommodate revised definitions or performance targets. Three respondents to the August consultation stated that DNOs should be able to recover the costs of administering such a scheme, although one respondent stressed that there should be little difference in the costs incurred to operate the voluntary scheme compared to the new licence condition.

Benefits

1.32. The licence condition would cover the provision only of non-contestable information and services where the ICP or other customer has no alternative but to source the information from the host DNO. We believe it is appropriate in such circumstances to introduce a greater level of regulatory control, with appropriate

enforcement powers, where voluntary arrangements have failed to ensure that the DNOs provide an acceptable and consistent level of service to customers.

1.33. The majority of respondents to the consultation document supported the introduction of formal standards of performance. Support was raised for a variety of reasons including that option 2 would provide Ofgem with regulatory powers to act against any DNO found to be in breach of the new licence condition and since it would set specific performance targets against which each DNO could be measured.

1.34. At present the result of a DNO failing to meet the timescales set in the voluntary standards is that the ICP or other customer does not receive the information that they require in time, and consequently finds it more difficult to compete with the DNO. The introduction of a licence condition would shift the consequences of failure onto the DNO themselves, through potential enforcement action by Ofgem. This is likely to be a stronger incentive for DNOs to improve their own performance and should drive increased efficiency by the DNOs.

1.35. The licence condition would introduce specific percentage performance targets (currently proposed at 90%) in addition to the timescales specified for providing the non-contestable information and services. It would also introduce a reasonable endeavours requirement to provide those services within the timescales in all cases. The use of specific performance targets provides a clear target for DNOs to ensure they exceed and also allows ICPs and other customers greater transparency and certainty in the service that they can expect to receive. This also allows simpler measurement of acceptable performance and enables greater comparative competition through benchmarking each DNO's performance against the others, which we would continue to publish in the CIR.

1.36. Option 2 proposes a licence condition with a provision for an audit to be undertaken at least once per year by each DNO in relation to the data that it collects to monitor its performance against the standards. The introduction of this requirement would address current concerns with the accuracy of the data reported by some DNOs and would drive DNOs to ensure that their systems are reliable and fit for purpose. This would enable us to more easily compare DNOs and allow us greater certainty in the performance data that we publish and in our resulting conclusions about the performance of DNOs.

1.37. Another benefit of introducing a licence condition is that it allows us to amend and clarify the definitions used to classify connections requests. Respondents to the consultation document raised concerns that the current definitions were ambiguous and so open to varying interpretation. This resulted in inconsistencies in the application of these definitions across the DNOs and so led to confusion over the timescales in which ICPs and other customers expected to be provided with the requested information and services for different schemes. Option 2 would ensure greater consistency between DNOs in the application of the standards and the treatment of different schemes.

Review and compliance

1.38. The voluntary arrangements have been in place since 2003 and each DNO's performance is published annually within the CIR. DNOs and IDNOs are required to complete data tables issued through a section 28 of the Electricity Act information request for the preceding financial year. The data is not audited externally or by Ofgem.

1.39. Option 2 proposes the introduction of a licence condition. This condition would require DNOs and IDNOs to submit reporting data at least once each year and to conduct an audit of their services in relation to the licence condition. The licensees would be required to inform the Authority of the nature and scope of their audit and, on request, would also be required to review the audit to determine if it is fit for purpose. This would introduce an additional validation check for the systems each DNO uses for providing the non-contestable services and would introduce some form of validation of the data submitted for the purposes of monitoring performance for the first time. This should improve confidence in the accuracy of the data reported by each DNO, which would continue to be published through the CIR.

Conclusion

1.40. We propose to implement option 2 as this will better promote the development of competition in electricity connections by addressing concerns with the current voluntary arrangements. Option 2 will also allow greater certainty to parties competing with the DNO(s) and will improve the accuracy and reliability of the data recorded and reported by DNOs and IDNOs.