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Dear Madam,

RE: Response to OFGEM Consultation – Review of Competition in Gas & Electricity Connections (Proposals Document Ref: 26/07 & 26a/07 Supplementary Appendices

This letter sets down Miller Home's response to the consultation referred to above.

The positive approach that is being taken by Ofgem and which is very evident in this consultation is most welcome. Moreover, the introduction of licence conditions for DNO's is a step in the right direction in terms of ensuring that effective competition in the utility service industry is taken seriously. Furthermore, recognition of the underlying importance of all customers, especially the needs and aspirations of new home owners, is long overdue. Regionally, in December 2006, the North West House-building Industry, which includes Miller Homes North West, had to deal with around 700 disappointed new home owners as a direct consequence of utility service providers seriously under-performing. Issues varied from no connections to compromised occupations whereby generators and temporary bottled gas supplies had to be provided. In today's consumer responsive society this is unacceptable. (Ref: State of the Business Review (North West) – HBF January 2007).

Against such a background and by way of a general comment, one of our main concerns for the past 6 – 8 years has been the period of time that it actually takes to secure new connections, particularly those in respect of electricity. With the passage of time this has become much longer with the process having evolved to the stage whereby any benefits arising from the reduction in the monopoly privileges enjoyed by utility providers have long since been eroded. Indeed, when indirect costs are factored into the process, there is compelling evidence to suggest that the cost of providing a new utility service is considerably more expensive.

Following work undertaken in the North West, prompted by Miller Homes, the enclosed flow chart provides ample demonstration of just how complex today's process actually is. Moreover, one of our lingering concerns is whether the UK's utility service industry has the necessary resources to meet the needs of UK house-builders? This is particularly important given the fact that the Government's housing targets will see an increase of 35% in annual new home completions by 2016.

Furthermore, a commitment to modern methods of construction, again a key aspect of the Government's housing strategy, has the propensity to deliver a new home within six weeks - significantly less than Ofgem's current proposals for improved response times. These are important issues and additional, related comments in this respect are provided later in this response.

Turning to each of the questions posed, we would respond as follows:-

Chapter 3

Question 1

Do you agree with our proposals to introduce a licence condition?

Yes – total agreement. The evidence is quite compelling in that voluntary standards have not worked. Unfortunately, there has been reluctance on the part of utility providers/DNO's to embrace competition, the outcome of which has been to create a management environment where there is responsibility without accountability. Moreover, restrictive working practices have been a feature of past relationships which in turn has created a subjective, almost uncaring approach that at times has been adversarial.

Question 2

Do you agree with the proposed scope, performance targets and timescales?

In general, yes but against a background of our being able to provide a new home within 6 weeks of starting construction, what is proposed in table 3.1 falls a long way short of the response times that are necessary to meet the requirements of a modern business. Moreover, whilst any improvements in response times for HV schemes is welcomed (Para 3.11) a reduction from three months to 50 working days represents a reduction of a mere three weeks. Our plea is very much one that seeks an even greater level of improvement in the response times set out in table 3.1.

Question 3

Is the proposed structure and drafting of the licence condition clear?

On balance this appears to be so but there can be no substitute for either legal advice and/or opinion. Moreover, a reasonable endeavours approach can often be abused. Are there plans to provide more exacting requirements?

The licence conditions should also embrace performance criteria in respect of wayleaves and easements – terms and conditions are often subjectively applied. This aspect remains a somewhat vexed and delay prone area.

The Construction and Adoption Agreement continues to be a source of conflict and delay. (Amendments to this document are ongoing in the North West). Furthermore, an initial reading of this agreement leaves one with a clear perception that it may be a candidate for the 'unfair contract provisions' and therefore unenforceable from a legal perspective. It is our view that further development work is required if this form of agreement is considered to be of intrinsic importance. (Comment: There appears to be a desire to create something new when a model form of agreement, namely, that contained in 'Sewers for Adoption' offers a simple but effective way forward).

Question 4

Does the licence condition require a supporting guidance document?

We believe that this is fundamental with the need for clear, concise, procedural guidance.

Chapter 4

Question 1

Do you agree with the package of best practice principles?

In general, yes. The proposals set out in paragraphs 4.25 and 4.26 are particularly welcome given that historically, a transparent schedule of costs has remained elusive, particularly so in respect of infrastructure credits when redeveloping previously developed land (PDL).

The possibility of a more responsive dispute resolution process is also welcomed (Para 4.29 & 4.30) but it does not effectively address those instances when terms and conditions are presented as a *fait accompli* and there is no time to engage in meaningful discussions concerning the inequity of what is often presented. In the past utility providers have exploited the commercial pressures placed upon house-builders and have often submitted terms and conditions on a 'take or leave it' basis late in the process. It is our view that the licence conditions should allow for the acceptance of terms and conditions on a without prejudice basis whilst Ofgem determine whether or not those terms are indeed justified. Furthermore, it would be useful if financial penalties could be applied if/when Ofgem find that such terms and conditions are deemed inequitable.

Question 2

Are there other areas of improvement to the connections application process that are required?

Yes – ensure that sufficient resources are in place to provide an acceptable level of service. For example, we have identified that jointing capacity is limited but there are no initiatives in place to recruit additional jointers and/or provide sufficient training to meet the needs of our industry. Can this be addressed? This is an important consideration if we are to meet the Government's housing objectives.

In addition, the connection process is unbelievably 'long-winded'. What prevents an electricity meter being installed at the same time as the connection and immediately the roof to a new home has been constructed? Such an approach would be consistent with the provision of gas connections, why should electricity connections be any different? This change in procedure would manifest significant timescale and delivery improvements.

Question 3

Do you agree with the reporting arrangements set out in this chapter, are specific guidelines required?

Whilst the reporting requirements, as set out in this chapter, are laudable there is a demonstrable need for unequivocal, specific guidance – see earlier comments.

Chapter 5

Question 1

Do you agree with the proposed key performance indicators for the SLA?

This does not have a material effect on our business.

Question 2

Do you agree that the scope of contestability should be based on contractor accreditation rather than the 1 metre rule?

Contractor accreditation is considered the most effective way forward and such an approach should make a positive contribution to improved competition.

Summary

Ofgem's proposals are both timely and welcome. The utility service industry has a pedigree of poor performance and at times a cavalier approach towards its customers. Responsibility with accountability is a management concept that has been in short supply within most utility providers. These proposals go some way towards redressing the balance. As a final comment, we must continue to register our concern that the proposals in terms of improved response times still fall a long way short of the needs of a modern business. As we move towards a significant reduction in construction periods the need for radical improvement becomes paramount. If we are to meet the Government's new housing targets this is not an option but a necessity.

In the event that you may wish to follow up on any of the points raised in this response, please do not hesitate to contact the writer.

Yours sincerely



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