

Proposal to vary the commitments given by SP Manweb under the Competition Act 1998 on provision of non-contestable services in electricity connections

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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:

SP Manweb ("SP Manweb") has requested a variation of the commitments which were accepted by Ofgem in October 2005. The commitments were accepted to address the Authority's competition concerns relating to SP Manweb's conduct in the provision of electricity connections services.

Standard Licence Condition 4F (standards for the provision of non-contestable connections services), which was introduced on 1 October 2007, provides mandatory timescales for the provision by licensees of various non-contestable services and imposes reporting obligations for compliance-monitoring purposes. The existence of an enforceable framework for the provision of connections services meets the majority of Ofgem's current competition concerns regarding SP Manweb's conduct. In those circumstances, Ofgem is minded to accept SP Manweb's request for variation of its commitments. To this end, Ofgem invites comments from interested parties.

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Context

The Gas and Electricity Markets Authority ("the Authority") has concurrent powers with the OFT to accept, vary and release commitments under the Competition Act 1998¹. Following receipt of a request from SP Manweb to vary its commitments, the Authority is required to give notice of its intention to vary the commitments and consider any representations made by interested third parties.

This document constitutes a statutory notice pursuant to paragraph 2 of Schedule 6A of the Competition Act 1998 of the Authority's proposal to accept variation of the commitments.

Associated Documents

- "Commitments offered by SP Manweb plc (Company Number 02366937) ("SP Manweb") to the Gas and Electricity Markets Authority pursuant to Section 31A of the Competition Act 1998"
<http://www.ofgem.gov.uk/About%20us/enforcement/Investigations/ClosedInvest/Documents1/55a.pdf>
- "Decision of the Gas and Electricity Markets Authority to accept commitments pursuant to section 31A(2) of the Competition Act"
<http://www.ofgem.gov.uk/About%20us/enforcement/Investigations/ClosedInvest/Documents1/55.pdf>
- "Enforcement: Incorporating the Office of Fair Trading's Guidance as to the circumstances in which it may be appropriate to accept commitments."
http://www.ofgem.gov.uk/shared_ofgem/business_leaflets/ca98_guidelines/ofgem407.pdf
- "Standard Licence Condition 4F Guidance Document - Version 1"
<http://www.ofgem.gov.uk/NETWORKS/CONNECTNS/COMPINCONN/Documents1/SLC4F%20guidance%20document%20v1.pdf>

¹ Competition Act 1998, section 31A. Sub-section (3) provides: "At any time when commitments are in force, the OFT may accept from the person (or persons) who gave the commitments (a) a variation of them if it is satisfied that the commitments as varied will address its current competition concerns; ..." (Ofgem has concurrent powers with the OFT under the Act.)

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Summary

Acceptance of the Commitments

Following an investigation by Ofgem under the Competition Act 1998 into allegations of anti-competitive conduct by SP Manweb, the Authority, pursuant to section 31A(2) of the Act, accepted commitments from SP Manweb in October 2005. The commitments, which came into effect in December 2006, remain in force until January 2009.

The commitments were accepted to address the Authority's competition concerns that independent connection providers ("ICPs") had experienced delays in receiving services from SP Manweb which were not experienced by SP Manweb's affiliated connections provider, Core Utility Solutions Limited ("Core"). As the electricity distribution network operator ("DNO") in the North Wales, Merseyside and Cheshire area which includes Chester, Liverpool and Wrexham, SP Manweb is the only provider of certain non-contestable² connection services (including point of connections ("POC") quotations³, responses to requests for approval of connections design⁴ and work associated with final connection to the distribution network) which all connection providers require in order to compete for and complete connections projects.

In addition to obligations not to discriminate and to provide all connections providers with the same access to information and IT systems (amongst other things), the commitments impose specific timescales on SP Manweb for the provision of information relating to POC and for responses to requests for design approval. The commitments require SP Manweb to report to Ofgem quarterly on its compliance with these obligations. Where SP Manweb fails to perform the work associated with the connection to the distribution network on the date agreed, it is required to offer a new date within 5 working days and perform the work no later than 10 working days thereafter at no extra cost. It is also required to report quarterly on its compliance with this provision.

² Non-contestable services are those that the connection providers can only obtain from a DNO in order to bid for a connections contract or to provide connections work where the contract is awarded to them.

³ 'Point of connection' generally refers to the point at which a site connects onto the main distribution network. In order to bid for connections projects, connection providers need to know the point of connection and how much connection will cost.

⁴ Section 9(1)(a) of the Electricity Act 1989 requires a DNO to develop and maintain an efficient, co-ordinated and economical system of electricity distribution. To comply with this duty, the DNO must be satisfied as to the suitability of new connections to its network. The DNOs have adopted the practice of requiring designs to be submitted so that they can be checked.

Introduction of Standard Licence Condition 4F

On 1 October 2007, in order to address concerns raised in Ofgem's Competition in Connections review, Standard Licence Condition 4F ("SLC 4F") was introduced to provide performance standards for the provision of non-contestable services by all DNOs. The purpose of the new licence condition is to facilitate better the development of competition by ensuring that all non-contestable services are provided by DNOs in a timely manner. SLC 4F requires DNOs to provide POC quotations, approve connections design and complete the final works for the connection within specified timescales. It also requires DNOs to report their performance to Ofgem on a quarterly basis and have their performance measured against the annual performance requirements set on an annual basis.

As a result of SLC 4F coming into force, SP Manweb is now subject to the timescales set out in the licence condition as well as those established by the commitments. The licence condition also places SP Manweb under a second set of reporting obligations in respect of the same services; although similar, the two sets of statistics on which it is required to report are not identical, as SLC 4F establishes different categorisations⁵ for POC quotations. SP Manweb has therefore requested that the commitments be varied to remove the additional administrative burden.

The regime of timescales and compliance-monitoring created by SLC 4F addresses the majority of the Authority's current competition concerns in relation to the provision of non-contestable connections services by SP Manweb. Moreover, Ofgem's Corporate Strategy and plan 2006-2011 reinforces its continuing commitment to the principles of better regulation and to avoiding, where possible, unnecessary duplication in obligations it places on industry. In those circumstances, Ofgem is minded to accept SP Manweb's request for variation of the commitments.

This consultation document is to notify interested parties of Ofgem's proposal to accept SP Manweb's request for variation of their commitments and to invite any representations on the proposed variation as required by Schedule 6A paragraph 2 of the Competition Act 1998.

⁵ This is explained at paragraphs 1.10-1.11, below.

1. The commitments and proposed variation

Question : Do you have any views on Ofgem's proposal to vary the requirements contained in SP Manweb's commitments?

Background

1.1. In October 2002, Ofgem received a complaint from an ICP alleging that SP Manweb, which is wholly owned by Scottish Power UK plc Group, had engaged in anti-competitive behaviour when providing non-contestable electricity connection services. The complainant alleged that SP Manweb had engaged in anti-competitive behaviour in relation to SP Manweb's treatment of its requests for non-contestable services compared with the services provided by SP Manweb to Core, a connections provider which is affiliated with and partly owned by the Scottish Power UK plc Group.

1.2. As a result of allegations made by the complainant and information provided informally by SP Manweb and the complainant, the Authority decided in August 2004 that there were reasonable grounds for suspecting an infringement of the Chapter II prohibition of the Competition Act 1998. As a consequence, Ofgem, on behalf of the Authority, commenced an investigation into SP Manweb's conduct.

1.3. The Authority identified the following practices which gave rise to competition concerns relating to SP Manweb's alleged conduct in providing non-contestable connections services:

- delays with the provision of POC information by SP Manweb to ICPs, in circumstances where either delays were not experienced by Core or where Core was able to determine POC information without recourse to SP Manweb;
- inadequate and/or inaccurate POC information provided to ICPs, in circumstances where either Core was provided with more accurate POC information or was able to determine POC without recourse to SP Manweb;
- delays in the provision by SP Manweb of design approval to ICPs, in circumstances where these delays were not experienced by Core; and
- delays in the carrying out of works associated with connections to the distribution network for ICPs, in circumstances where either there was no delay in providing these services to Core or where Core was permitted to perform such works.

1.4. SP Manweb offered to provide commitments to alter its conduct, thereby address Ofgem's competition concerns. Following discussions between Ofgem and SP Manweb, SP Manweb sent a finalised set of commitments to Ofgem in June 2005. Having consulted publicly on the commitments, the Authority accepted the commitments and closed its investigation.

1.5. The commitments came into effect in January 2006 and are to remain in force for three years, until January 2009. At any time when the commitments are in force, the Authority may accept a variation of them if it is satisfied that the commitments as varied will address its current competition concerns⁶.

1.6. SP Manweb has now requested variation of the commitments in order to avoid any inconsistencies and duplication of their obligations following the introduction of SLC 4F, which creates new standards for the provision of non-contestable connections services. The rest of this section considers the proposed variation of the commitments and how the commitments as varied would continue to address the Authority's competition concerns.

The substance of the proposed variation

1.7. There are several areas where SP Manweb has identified overlap between the commitments and the provisions of SLC 4F. It is in respect of these areas that SP Manweb seeks variation of the commitments so as to remove the obligations imposed by the commitments⁷. The areas of overlap are:

- the timescales relating to provision of POC quotations and the associated reporting requirements;
- the timescales relating to provision of design approval and the associated reporting requirements; and
- the timescales relating to completion of works and the associated reporting requirements.

These areas are discussed in more detail below.

(i) Provision of POC quotations

1.8. The commitments require that, in respect of no less than 90 per cent of cases, SP Manweb provides POC quotations in accordance with the following timescales⁸:

- Simple schemes (low voltage mains and services)- 15 working days
- Complex schemes (including high voltage connections)- 20 working days

1.9. There is no specific timescale for the provision of POC quotations for complicated schemes (which include extra high voltage demand) but SP Manweb is required to

⁶ Competition Act 1998, section 31A(3)

⁷ A more detailed table comparing each of the performance standards and reporting obligations required by SLC 4F and by the commitments can be found at Appendix 2.

⁸ Clause 5.3 of the Commitments offered by SP Manweb and accepted by the Authority pursuant to section 31A (2)

notify the applicant of the date for POC provision within 10 working days⁹. If an applicant has not provided sufficient information for their POC quotation request to be considered compliant, SP Manweb should inform the party as soon as possible but no later than the timescales set out above¹⁰. The commitments also require SP Manweb to approve or reject design proposals for connections within 10 working days of receipt of the request¹¹. There are no specific timescales for the completion of work associated with the final connection to the network (known as 'initial make live' or 'subsequent make live'). However, in the event that SP Manweb fails to perform that work on the date which it has agreed with the ICP, it shall offer a new date within 5 days of becoming aware of this and perform the work no more than 10 working days thereafter at no extra cost¹².

1.10. SLC 4F requires compliance with similar, but not identical, timescales for the provision of non-contestable services. It requires DNOs to make reasonable endeavours in every case and at least 90 per cent of all cases to meet all of those timescales¹³. In respect of POC quotations¹⁴, the following timescales apply¹⁵:

- low voltage connection (no more than 1 kilovolt)- 15 working days
- high voltage connection (no more than 22 kilovolts)- 20 working days
- extra high voltage connection (more than 22 kilovolts but less than 72 kilovolts)- 50 working days

1.11. SLC 4F provides the same timescales (15 and 20 working days) as the commitments for standard low voltage and high voltage connections (i.e connections not involving generation), which under the commitments would be classified as "simple" and "complex" schemes. However, as SLC 4F establishes different categorisations for POC quotations, instead of classifying connections as simple/complex/complicated, it effectively places an additional burden on SP Manweb to keep a second set of statistics in respect of the same services.

1.12. SLC 4F is more onerous than the commitments in that it sets timescales for extra high voltage connections and other "complicated" connections, as well as

⁹ Clause 5.3 of the Commitments offered by SP Manweb and accepted by the Authority pursuant to section 31A (2)

¹⁰ Clause 5.4 of the Commitments offered by SP Manweb and accepted by the Authority pursuant to section 31A (2)

¹¹ Clause 8.1 of the Commitments offered by SP Manweb and accepted by the Authority pursuant to section 31A (2)

¹² Clauses 6.2, 6.3, 7.2 & 7.3 of the Commitments offered by SP Manweb and accepted by the Authority pursuant to section 31A (2)

¹³ SLC 4F (6)(a) and (b)

¹⁴ SLC 4F, Appendix 1

¹⁵ SLC 4F also imposes timescales for low voltage generation connections (30 working days) and high voltage generation connections (50 working days). Generation connections were not expressly included within the timescales set by the commitments and would be likely to be classified as "complicated" under the commitments and, therefore, not subject to any timescales.

requiring that applicants are informed of non-compliant requests within 5 working days.

(ii) Provision of design approval

1.13. Under SLC 4F, the timescales for responding to requests for design approvals¹⁶ are 10 working days for low and high voltage connections and 20 working days for extra high voltage connections. The 10 day timescale reflects the corresponding provision in the commitments but SLC 4F allows more time for design approvals for extra high voltage connections.

1.14. The extended period for responding to requests for EHV design approvals recognises the increased complexity of this type of design which might necessitate discussion with third parties, as highlighted by the DNOs' responses to the consultation on SLC 4F. Ofgem considers that this extended period still meets its current competition concerns, in that it removes unjustified delay in the approval of designs which can have a negative impact on a competitor's reputation as a competent and efficient operator and may therefore influence a developer's choice of connections provider in future projects.

(iii) Completion of works

1.15. SLC 4F provides a higher standard of service than the commitments in respect of work associated with the final connection¹⁷. SLC 4F requires final work for connections to be provided within 10 working days of receiving the request for low voltage connections and 20 working days for high voltage connections.

1.16. It also requires the licensee to inform the applicant of a completion date as soon as reasonably practical within 20 working days of the request. Low and high voltage connections phased energisation works should be completed within 5 and 10 working days respectively of receipt of the requests. As explained above, there are no specific timescales under the commitments for the completion of such work; SP Manweb is required only to perform the work on the date agreed between the parties or otherwise offer a new date within certain timescales.

(iv) Reporting requirements

1.17. The reporting requirements under the commitments and SLC 4F are broadly similar. The commitments require SP Manweb to report at the end of each quarter on the number of requests for POC quotations and design approval received, the number of requests to which SP Manweb responded within the timescales and the number of responses which fell just outside the timescales. They also oblige SP

¹⁶ SLC 4F Appendix 1

¹⁷ SLC 4F Appendix 1

Manweb to provide similar statistics on their handling of non-compliant requests. In respect of the work associated with making connections live, SP Manweb is obliged to also report quarterly of their performance in providing this work on the agreed date.

1.18. Like the commitments, SLC 4F requires DNOs to report on their performance on a quarterly basis. Performance will be measured on an annual basis for licensees against the annual performance requirements¹⁸. Licensees are required to provide the number of requests to which the licensee has responded¹⁹, the time taken in each case to provide the relevant service²⁰ and for requests where the licensee's provision of the service failed to meet the relevant standards, a commentary on those failures²¹. Ofgem considers that these reporting requirements provide a mechanism for continuing to monitor SP Manweb's performance which is as effective as the reporting regime established by the commitments.

1.19. In summary, SLC 4F imposes timescales and a reporting structure, in relation to the provision of POC information, design approval and work associated with connections to the distribution network, which create a robust framework within which competition in the connections market might be facilitated. In so doing, SLC 4F addresses the majority of Ofgem's current competition concerns in relation to the provision by SP Manweb of non-contestable connections services and, in several respects, provides a higher standard of performance than the commitments by including timescales for a wider range of non-contestable services. For these reasons, Ofgem is minded to accept the proposed variation of the commitments. Variation would also avoid the duplication of the obligations which Ofgem imposes on licensees, which is in line with better regulation principles.

The remaining commitments

1.20. Any aspect of the commitments which is not replicated by the provisions of SLC 4F will be retained in the varied commitments. The commitments as varied would therefore continue to address any of the Authority's current competition concerns not met by SLC 4F²².

1.21. The main general provisions which the Authority does not propose to vary impose the following requirements on SP Manweb:

- not to discriminate between Core and any ICP in respect of the handling of requests for POC quotations or in respect of provision and timing of the delivery of POC quotations;

¹⁸ See paragraphs 5.8 to 5.10 of the SLC 4F guidance document.

¹⁹ SLC 4F (9) (a)

²⁰ SLC 4F (9)(b)

²¹ SLC 4F (9)(c)

²² Appendix 3 shows the form of the proposed variation: the sections which are proposed to be deleted are shown in italics.

- to take all reasonably practicable steps to ensure that POC quotations comply with the established industry format and are adequate and accurate;
- to ensure that the same POC quotation is issued to all parties where both Core and an ICP or two or more ICPs have made compliant requests for a POC quotation for the same development, using technical requirements that are similar in a material respects;
- not to disclose to Core any requests for POC quotations or design approval by ICPs and not to subcontract certain non-contestable services to Core in certain circumstances (including the approval and provision of POC, non-contestable designs);
- to offer all ICPs the same access, on a non-discriminatory basis to IT systems as offered to Core; and
- to apply non-discriminatory procedures in permitting non-affiliated ICPs to undertake live low voltage jointing.

Enforcement

1.22. Ofgem is able to apply to the courts for an order to enforce the commitments as varied²³ and/or reopen its investigation under the Competition Act 1998 in certain circumstances²⁴. If Ofgem were to find an infringement of the 1998 Act, it may impose a penalty of up to 10 per cent of the worldwide turnover of the relevant undertaking.

1.23. In the event that SP Manweb's performance of connections services constitutes a breach of SLC 4F, Ofgem may impose a financial penalty under the Electricity Act 1989²⁵: breach of a licence condition may result in the imposition of a financial penalty up to 10% of the licensees' turnover.

1.24. Ofgem considers it essential that there is non-discriminatory access in the provision of non-contestable services in order to prevent the distortion, reduction or elimination of competition in the markets for the provision of electricity connection services to end users within SP Manweb's distribution service area. To this end, in the event of non-compliance by SP Manweb with the standards of performance in its provision of non contestable connection services, Ofgem may launch an investigation into a potential breach of SLC 4F.

²³ Competition Act 1998, section 31E

²⁴ Competition Act 1998, section 31B (4)

²⁵ Electricity Act 1989, section 27A

Next steps

1.25. The deadline for responses to this consultation is 9 November 2007. Ofgem will take into account any representations made in response to the consultation in reaching its decision on whether to vary the commitments. A notice will be published on Ofgem's website, stating whether the proposed variation is to be accepted.

Appendices

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Appendix 1 - Consultation Response and Questions

1.1. Ofgem would like to hear the views of interested parties in relation to any of the issues set out in this document and which is replicated below.

1.2. We would especially welcome responses to the specific question which we have set out at the beginning of chapter 1.

1.3. Responses should be received by 9 November 2007 and should be sent to:

- Contact: Victoria Ellis, Senior Manager, Competition Policy and Enforcement
- Address: Ofgem, 9 Millbank, London SW1P 3GE
- Telephone: 020 7901 7313
- Email: victoria.ellis@ofgem.gov.uk

1.4. Unless marked confidential, all responses will be published by placing them in Ofgem's library and on its website www.ofgem.gov.uk. Respondents may request that their response is kept confidential. Ofgem shall respect this request, subject to any obligations to disclose information, for example, under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.

1.5. Respondents who wish to have their responses remain confidential should clearly mark the document/s to that effect and include the reasons for confidentiality. It would be helpful if responses could be submitted both electronically and in writing. Respondents are asked to put any confidential material in the appendices to their responses.

CHAPTER: One

Question1: Do you have any views on Ofgem's proposal to vary the requirements contained in SP Manweb's commitments?

Appendix 2 - Table comparing the performance standards and reporting obligations required by SLC 4F and by the commitments

Process	SP Manweb commitments	SLC 4F
1. Provision of POC quotation	<p>Performance Standard</p> <p>Provide ICP with POC quotation within 15 working days for simple schemes (including LV) or 20 working days for complex schemes (including HV) (Clause 5.3 of commitments)</p> <p>Provide notification letter of date for the provision of POC quotation to ICP within 10 working days for complicated schemes (including EHV) (Clause 5.3)</p> <p>Inform the relevant ICP of any delay, a new delivery date and a brief explanation for such delay (Clause 5.3)</p> <p>Timescale for providing quotation starts to run from when ICP provides a 'compliant request'²⁶ (Clause 5.3)</p> <p>Reasonable steps to secure</p>	<p>Performance Standard</p> <p>Provide quotation for different voltage categories e.g. low voltage demand within fifteen working days, high voltage demand within twenty working days ("Table of Services and Standards", Appendix 1 to SLC 4F, paragraphs (1)(a), (c))</p> <p>Provide quote for extra high voltage demand within fifty working days of receiving the request (Appendix 1, paragraph 1(e))</p> <p>No similar requirement to inform applicant of delay, only requirement is to include information on failure to meet timescales and a corresponding explanation in licensees annual report (SLC 4F (9)(c))</p> <p>Sets out when a request received by a DNO becomes 'effective' but request must include whatever information the licensee has specified is required and payment of charges where applicable (SLC 4F(4))</p> <p>Provide relevant quotation in at</p>

²⁶ The commitments define a 'Compliant Request' as a request from an ICP containing all relevant information; the precise information requirements are set out in Appendix II of the commitments document.

	<p>compliance in no less than 90% of cases (Clause 5.3)</p> <p>Reporting Requirements</p> <p>Provide the number of simple/complex/complicated scheme requests received; for each category report the number of quotations provided on time; where there were delays provide details (e.g. for simple schemes, categories for which information is to be provided are within 15/15-20/20+ working days) (Clause 5.3)</p> <p>Disaggregate by each ICP and Core (Clause 5.3)</p> <p>Non-Compliant requests</p> <p>Reasonable steps to inform an ICP where request is 'non-compliant' and include explanation no later than 15 working days for simple schemes/20 working days for complex schemes (Clause 5.4)</p> <p>Reporting Requirements for non Compliance</p> <p>SP Manweb to provide the number of simple/complex/complicated non-compliant requests received and average time taken to inform relevant ICP and Core of non compliance (Clause 5.4)</p>	<p>least 90% of cases (SLC 4F(6)(b))</p> <p>Reporting Requirements</p> <p>For each voltage category, licensees must report the number of requests, the time taken to meet each request, commentary where they failed to meet the request within performance standard and the number of requests where the licensee was not required to provide a quotation for reasons set out in SLC 4F(7) (SLC 4F(9))</p> <p>Applies to all requests to DNO's for the services specified in SLC 4F (SLC 4F (9))</p> <p>Incomplete requests</p> <p>Where information provided by applicant is incomplete, DNO's are required to inform applicant within 5 working days of receiving request (SLC 4F(5))</p> <p>Reporting Requirements for incomplete requests</p> <p>Licensee required to record the time taken to inform the applicant about incomplete request but such cases are exempt from monitoring against the relevant standards until minimum information is received (Guidance Document, paragraphs 2.26-2.27)</p>
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<p>2. POC information</p>	<p>Performance Standard</p> <p>Not covered</p>	<p>Performance Standard</p> <p>Provide technical information necessary for applicant to identify proposed location/characteristics of POC within 30 working days in 90% of cases (Appendix 1, paragraph 2(a))</p> <p>Reporting Requirements</p> <p>Licensees required to report on: number of requests, time taken to provide, commentary where failed to meet request within 30 working days, number of requests where the licensee was not required to provide a quotation for reasons set out in SLC 4F(7) (SLC 4F(9))</p>
<p>3. Design Approval</p>	<p>Performance Standard</p> <p>SP Manweb should approve or reject contestable design approvals from ICPs within 10 working days for at least 90% of cases where the proposal is complete and accurate and provide reasons for any rejection (Clause 8.1)</p> <p>Time limits start to run from when ICP provides all relevant information (Clause 8.1)</p> <p>Reporting Requirements</p> <p>SP Manweb required to provide number of requests; number of requests within 10/10-20/20+ working days, disaggregated by Core/ICP (Clause 8.2)</p>	<p>Performance Standard</p> <p>Provide approval/rejection within 10 working days for design submissions for low/high voltage connections and within twenty working days for design submission for an extra high voltage/other connections; also state reasons for any rejection (Appendix 1, paragraph 2(b), (c))</p> <p>Sets out when a request received by a DNO becomes effective but request must include whatever information the licensee has specified is required and payment of charges where applicable (SLC 4F(4))</p> <p>Reporting Requirements</p> <p>Licensees to provide number of requests; the time taken to meet them; commentary where failed to meet request within 30 working days; number of requests where the licensee was not required to provide a quotation for reasons set out in SLC 4F(7) (SLC 4F(9))</p>

<p>4. Initial Make Live/ Final works*</p> <p>* "Initial make live" process under SP Manweb's undertakings will be similarly aligned to "final works" process under SLC 4F</p>	<p>Performance Standard</p> <p>Take all reasonable practicable steps to ensure that initial make live of contestable assets is carried out on the date agreed, subject to the terms of the Adoption Agreement (Clause 6.2)</p> <p>SP Manweb to inform ICP as soon as possible if it is unable to meet initial make live date and take all reasonable steps to offer a new date as soon as possible and within 5 working days of the date when it first became aware that original date would not be met (Clause 6.3)</p> <p>Rearranged date should in at least 90% of cases be no later than 10 working days after original date; no extra charges are to be applied where delay due to SP Manweb (Clause 6.3)</p> <p>Reporting Requirements</p> <p>SP Manweb to provide the number of agreed initial make live dates; number met, disaggregated by each ICP and Core; number missed due to ICP not meeting conditions set out in 6.5, disaggregated; number not met for any other reason; any further agreed make live dates where original date not met (Clause 6.4)</p> <p>Compliance with SP Manweb's conditions</p> <p>SP Manweb shall undertake initial making live of contestable assets subject to ICPs compliance with SP Manweb's reasonable conditions in Adoption Agreement or conditions notified to ICP (Clause 6.5)</p>	<p>Performance Standard</p> <p>Complete relevant final works for low/high/extra high voltage connections within 10/20/20 working days respectively and in accordance with relevant performance standard (Appendix 1, paragraph 3 (a)-(c))</p> <p>Does not cover events where delay is caused by licensee but the licensee is obliged to use reasonable endeavours to meet the timescales prescribed for each standard in at least 90% of cases (SLC 4F(6))</p> <p>Reporting Requirements</p> <p>Licensees to provide the number of requests for low voltage connections/high Voltage connections/extra high voltage connections; the time taken to provide service; commentary where licensee failed to meet request within relevant performance standard; number of requests where the licensee was not required to provide a quotation for reasons set out in SLC 4F(7) (SLC 4F(9))</p> <p>Incomplete requests</p> <p>Sets out when a request received by a licensee becomes effective but request must include whatever information the licensee has specified is required and payment of charges where applicable (SLC 4F(4))</p>
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	<p>SP Manweb to inform Authority of submission to adjudication if dispute pursued under the Adoption Agreement over date for the Initial Make Live (Clause 6.6)</p>	<p>Where information provided by applicant is incomplete, licensee required to inform applicant within 5 working days of receiving request (SLC 4F(5))</p> <p>Not covered</p>
<p>5. Live Jointing/ Phased Energisation*</p> <p>* "Live jointing" process under SP Manweb's undertakings will be similarly aligned to "phased energisation" process under SLC 4F</p>	<p>Performance Standard</p> <p>Where SP Manweb agrees to provide ICP live jointing services and ICP is not allowed to carry out live jointing trials, SP Manweb shall take reasonable steps to ensure that within 10 working days it offers a date for the requested subsequent make live or refuses to undertake such service, providing an explanation (Clause 7.2)</p> <p>SP Manweb shall take all reasonable steps to ensure it carries out the service on the agreed jointing date (Clause 7.3)</p> <p>SP Manweb to inform ICP as soon as possible if unable to meet agreed jointing date and to take all reasonable steps to offer a new date within 5 working days of when first aware that original date would not be met; rearranged date should be as soon as possible and in at least 90% of cases no later than 10 working days after date of offer; no extra charges to be applied where delay due to SP Manweb (Clause 7.4)</p> <p>Reporting Requirements</p> <p>1. Jointing requests</p>	<p>Performance Standard</p> <p>Licensee to complete low voltage phased energisation works within 10 working days and high voltage phased energisation works within 20 working days of receiving request (Appendix 1, paragraph 3(d) and (e))</p> <p>Does not cover events where delay is caused by licensee but the licensee is obliged to use reasonable endeavours to meet the timescales prescribed for each standard in at least 90% of cases (SLC 4F(6))</p> <p>Reporting Requirements</p>

	<p>SP Manweb are required to report on the number of jointing requests; number of responses provided within 10/10-15/15+working days; disaggregated by ICP/Core (Clause 7.5)</p> <p>2. Agreed Jointing Dates</p> <p>Number of agreed jointing dates; number of dates met; number of dates missed where ICP fails to meet conditions under 7.5; number of dates not met for any other reason; disaggregated by ICP/Core; any further dates where initial jointing date not met (Clause 7.5)</p> <p>SP Manweb to inform Authority of submission to adjudication if dispute pursued under the Adoption Agreement over date for the Initial Make Live or Subsequent Make Live (Clause 7.7)</p> <p>Compliance with SP Manweb's conditions</p> <p>SP Manweb shall undertake subsequent making live of contestable assets subject to ICPs compliance with SP Manweb's reasonable conditions in Adoption Agreement or conditions notified to ICP (Clause 7.6)</p>	<p>Provide the number of requests for low voltage energisation and high voltage of energisation; time taken to provide request; commentary where failed to meet request within relevant performance standard; number of requests where the licensee was not required to provide a quotation for reasons set out in (SLC 4F(7)).</p> <p>Incomplete requests</p> <p>Sets out when a request received by a licensee becomes effective but request must include whatever information the licensee has specified is required and payment of charges where applicable (SLC 4F(4))</p>
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Appendix 3 – Form of proposed variation

Commitments offered by SP Manweb plc (Company Number 02366937) ("SP Manweb") to the Gas and Electricity Markets Authority (the "Authority") pursuant to Section 31A of the Competition Act 1998

NB. THOSE SECTIONS WHICH OFGEM PROPOSES TO DELETE ARE SHOWN IN ITALICS

PART I - BACKGROUND

1. SP Manweb is an electricity distribution network operator ("DNO") whose distribution services area includes the cities of Chester, Liverpool and Wrexham. SP Manweb is a company within the Scottish Power UK plc group. SP Manweb sub contracts the day to day operation of its business to SP Power Systems Limited, which is a company within the Scottish Power UK plc Group.
2. Following receipt of a complaint from an Independent Connections Provider ("ICP") in 2002, the Authority identified potential concerns in respect of the activities of SP Manweb. These concerns relate to alleged potential anti-competitive behaviour in the provision of non-contestable connection services, including point of connection ("POC") information, final connections and design approval to ICPs. Of particular concern to the Authority is the nature of the relationship between SP Manweb and Core Utility Solutions Limited ("Core"). SP Manweb is the only provider of non-contestable connection services, including the provision of POC information, in its distribution service area. SP Power Systems acts as agent for SP Manweb in delivering non – contestable connection services to ICPs and carries out all of SP Manweb's day – to – day functions in that regard.
3. As a result of the concerns outlined above, the Authority considered that there were reasonable grounds for suspecting that there may have been an infringement of the prohibition contained in Chapter II of the Competition Act 1998 ("the Act") in 2002, and accordingly an investigation was commenced.
4. SP Manweb has made an offer to enter into binding Commitments that are intended to address, fully, the concerns of the Authority. These Commitments, including their duration, are set out at paragraphs 5 to 11 below. The giving of such Commitments by SP Manweb is in no way an actual or implied admission that SP Manweb has infringed or will infringe the Act, in any way, by, for example, discriminating in favour of any person in respect of POC information or in any other regard, but rather aims to allay the Authority's concerns that a breach of the Act might occur in the future.

PART II – COMMITMENTS

5. Provision of POC quotations

5.1 (Definition of POC Quotation). In this section a "POC quotation" shall mean a quotation issued by SP Manweb for the provision of non-contestable works in respect

of a contestable connection project containing a statement of the non-contestable works required, a breakdown of charges for such works and any necessary supporting information, for instance maps.

A "Compliant Request" shall be a request from an ICP containing all relevant information. The information requirements referred to in the preceding sentences are specified within the SP Manweb document entitled "Design & Planning Framework for Greenfield Low Voltage Housing Estates and Associated HV/LV Distribution Substations", as set out at Appendix II to these Commitments.

5.2 (Discrimination). SP Manweb shall not unduly discriminate between Core and any ICPs in respect of: -

- (i) requests for POC quotations by, ensuring that such requests are treated according to the document headed "POC Quotation Process (Overview)", as attached at Appendix 1 to these Commitments; and
- (ii) the provision of POC Quotations and in respect of the timing of delivery of POC Quotations.

5.3 (Delivery of POC Quotation). SP Manweb shall, using Good Industry Practice take all reasonably practicable steps to secure that in respect of no less than ninety percent of Compliant Requests, SP Manweb provides POC quotations or a date for such provision (as the case may be) to ICPs in accordance with the following timescales:

- *Simple schemes (LV mains and services) – 15 working days;*
- *Complex schemes (including HV) – 20 working days; and*
- *Complicated schemes (including EHV) – date for provision of POC quotation to be notified within 10 working days.*

The time limits for providing the POC quotation shall begin to run at such time as the requesting ICP provides a Compliant Request.

In the event of a delay beyond such deadlines SP Manweb shall inform the relevant ICP as soon as reasonably practicable of (i) the delay and (ii) a new delivery date, giving brief reasons for the delay.

SP Manweb shall keep the following statistics accurately to monitor the time taken to produce POC quotations from the date of receipt of a Compliant Request:

Simple Schemes

- *Number of Simple Scheme Compliant Requests received;*
- *Number of Simple Scheme POC quotations delivered within 15 working days of the dates of receipt of the Compliant Requests, disaggregated by each ICP and Core;*
- *Number of Simple Scheme POC quotations delivered over 15 working days and up to 20 working days of the dates of receipt of the Compliant Requests, disaggregated by each ICP and Core;*
- *Number of Simple Scheme POC quotations delivered over 20 working days of the dates of receipt of the Compliant Requests, disaggregated by each ICP and Core;*

Complex Schemes

- *Number of Complex Scheme Compliant Requests received;*
- *Number of Complex Scheme POC quotations delivered within 20 working days of the dates of receipt of the Compliant Requests, disaggregated by each ICP and Core;*

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- Number of Complex Scheme POC quotations delivered over 20 working days and up to 30 working days of the dates of receipt of the Compliant Requests, disaggregated by each ICP and Core;
 - Number of Complex Scheme POC quotations delivered over 30 working days of the dates of receipt of the Compliant Requests, disaggregated by each ICP and Core;
- Complicated Schemes*
- Number of Complicated Scheme Compliant Requests received;
 - Number of Complicated Scheme POC quotation delivery dates notified within 10 working days of the dates of receipt of the Compliant Requests, disaggregated by each ICP and Core;
 - Number of Complicated Scheme POC quotation delivery dates notified over 10 working days and up to 20 working days of the dates of receipt of the Compliant Requests, disaggregated by each ICP and Core;
 - Number of Complicated Scheme POC quotation delivery dates notified over 20 working days of the dates of receipt of the Compliant Requests, disaggregated by each ICP and Core.

This information shall be supplied to the Authority at the end of each calendar quarter.

5.4 (Non- Compliant Requests). If an ICP submits a request for a POC Quotation that SP Manweb reasonably considers is not a Compliant Request SP Manweb shall, using Good Industry Practice take all reasonably practicable steps to secure that SP Manweb shall inform such ICP of such matters and specify, in reasonable detail, the reasons why SP Manweb considers such request not to be a Compliant Request, as soon as reasonably practicable. In any event, in respect of the following schemes, ICPs shall be informed of such matters within the following timescales: -

- *Simple schemes (LV mains and services) – no later than 15 working days; and*
- *Complex schemes (including HV) – no later than 20 working days.*

SP Manweb shall keep the following statistics accurately to monitor the time taken to inform ICPs of the fact that such requests are not Compliant Requests:

Simple Schemes

- *The number of Simple Scheme non Compliant Requests received;*
- *The average time it takes SP Manweb to inform the relevant ICP or Core of non compliance, from the date of receipt of the requests, disaggregated by each ICP and Core;*

Complex Schemes

- *The number of Complex Scheme non Compliant Requests received;*
- *The average time it takes SP Manweb to inform the relevant ICP or Core of non compliance, from the date of receipt of the requests, disaggregated by each ICP and Core;*

Complicated Schemes

- *The number of Complicated Scheme non Compliant Requests received; and,*
- *The average time it takes SP Manweb to inform the relevant ICP or Core of non-compliance, from the date of receipt of the requests, disaggregated by each ICP and Core.*

This information shall be supplied to the Authority at the end of each calendar quarter.

5.5 (Adequacy of POC Quotations). SP Manweb shall, using Good Industry Practice take all reasonably practicable steps to ensure that POC quotations provided to ICPs

are adequate and accurate and that POC quotations shall be disaggregated in the format specified by the Electricity Connections Steering Group as referred to in the Ofgem August 2002 Decision Document entitled "Review of Competition Gas and Electricity Connections – Report". The format of the POC quotation is attached as Appendix III.

5.6 (Substance of POC Quotations). Where both Core and an ICP or two or more ICPs have made Compliant Requests for a POC quotation for the same development, and each POC quotation request specifies technical requirements that are similar in all material respects (for example the same point of connection, load requirements or same network design), SP Manweb shall using Good Industry Practice take all reasonably practicable steps to ensure that a POC quotation, which is similar in all material respects, shall be issued to each such person. *Such POC quotations shall be delivered in accordance with paragraph 5.3 (Delivery of POC Quotation), (above).*

5.7 (Sub contracting). Where:-

- (i) Core makes a Compliant Request in respect of a development and no other person has made a Compliant Request in respect of the same development; or
- (ii) both Core and an ICP make a Compliant Request at the same time in respect of the same development or an ICP makes a request after Core in respect of the same development;

then, SP Manweb may (but shall not be obliged to) sub contract certain non-contestable design services, such as the preparation of a draft design of non-contestable works and list of materials required to Core.

Where an ICP has made a Compliant Request in respect of a development and Core has not made a Compliant Request in respect of the same development, SP Manweb shall not sub contract such services to Core.

Where such services are sub-contracted to Core, it shall be a term of such sub-contract that Core is obliged to provide such services in a timescale which permits SP Manweb to meet its obligations set out in paragraph 5.3 (Delivery of POC Quotation) (above).

5.8 (Provision of information and sub contracting). SP Manweb shall secure that Core shall not provide any of the following non – contestable services (even if any sub contracting occurs) to ICPs in respect of contestable projects:-

- approval and provision of point of connection information;
- approval and provision of non contestable designs; and
- approval and provision of non-contestable project quotations.

Where any services referred to in paragraph 5.7 (Sub contracting) above are sub-contracted to Core, such sub-contract shall expressly provide that Core shall not undertake the non-contestable services referred to in this paragraph.

5.9 (Provision of designs provided by Core). Where Core provides a design for a non-contestable project, SP Manweb may, following approval of that design by SP Manweb and preparation of the quotation by SP Manweb, provide that design and quotation to ICPs. SP Manweb shall not notify Core of the provision of any such designs or quotations to any ICPs, nor shall it disclose to Core in any circumstances that an ICP has made a request for a POC Quotation (compliant or otherwise) or

otherwise disclose to Core the fact that an ICP is interested in any project relating to a connection to the SP Manweb distribution system.

6. SP Manweb non-contestable works – Initial Making Live

6.1 (Definitions). In these Commitments, the initial connection of a new network (the New Network) (or a part of such New Network) constructed by the ICP to the existing SP Manweb distribution system shall be defined as the “Initial Make Live”. The subsequent connection of a further part of the New Network shall be referred to as the “Subsequent Make Live”. Making Live means the connection of contestable assets or a part thereof so that electricity can flow from the SP Manweb distribution system to the contestable assets or such part thereof (as the case may be) and Make Live shall be construed accordingly.

6.2 (Initial Make Live). SP Manweb shall undertake the Initial Making Live of contestable assets by the date agreed in the relevant Adoption Agreement but subject always to the terms specified in the Adoption Agreement. Once a date for Initial Making Live has been agreed, (the Agreed Initial Make Live Date), SP Manweb shall, using Good Industry Practice, take all reasonably practicable steps to secure that SP Manweb shall carry out the Initial Make Live on the Agreed Initial Make Live Date.

6.3 (New Dates – Initial Make Live). In the event that SP Manweb is unable to meet the Agreed Initial Make Live Date SP Manweb shall as soon as reasonably practicable after it becomes aware of such matters inform the ICP of such matters, and shall take all reasonably practicable steps to offer a new date for the Initial Make Live to the ICP within 5 Working Days of becoming so aware. That new date shall, (subject to the terms of the Adoption Agreement) be as soon as reasonably practicable after the Agreed Initial Make Live Date and, in no less than ninety percent of cases, no later than ten Working Days after the date of the offer of the new Initial Make Live Date. Such new date shall also be deemed to be a further Agreed Initial Make Live Date. No extra charge shall arise to the ICP as a consequence of such matters, where SP Manweb's inability to meet the Agreed Initial Make Live Date is the fault of SP Manweb.

6.4 (Provision of Information – Initial Make Live). SP Manweb shall keep accurate statistics to monitor compliance as follows:-

- The number of Agreed Initial Make Live Dates;*
- The number of Agreed Initial Make Live Dates met by SP Manweb, disaggregated by each ICP and Core;*
- The number of Agreed Initial Make Live Dates not met by SP Manweb owing to the ICP not meeting the SP Manweb conditions referred to at paragraph 6.5 (SP Manweb Conditions – Initial Make Live), disaggregated by each ICP and Core; and*
- The number of Agreed Initial Make Live Dates not met by SP Manweb owing to other reasons, disaggregated by each ICP and Core.*
- Where an Initial Make Live Date has not been met, the statistics listed above in respect of any further Agreed Make Live Date, referencing such further Agreed Make Live Date to the project in question.*

This information shall be supplied to the Authority at the end of each calendar quarter.

6.5 (*SP Manweb Conditions – Initial Make Live*). *SP Manweb’s obligations under paragraphs 6.2 (Initial Make Live) and 6.3 (New Dates – Initial Make Live) are subject to the ICP’s compliance with SP Manweb’s reasonable conditions, as set out in the Adoption Agreement or as otherwise notified to the ICP (for example as to the completion of the contestable works in accordance with the agreed design).*

6.6 (*Disputes*). *In the event that SP Manweb and the relevant ICP do not agree a date for the Initial Make Live and the ICP raises a formal dispute under the Adoption Agreement SP Manweb shall inform the Authority of such dispute (providing a brief summary of the dispute) if it is submitted to adjudication.*

6.7 (*Subcontracting – Initial Make Live*). *SP Manweb shall not use Core to provide the Initial Make Live services to an ICP without the consent of the relevant ICP.*

7. ICP contestable work – Subsequent Making Live

7.1 (*Live Jointing trials*). *SP Manweb currently permits, on a trial basis, ICPs to carry out live low voltage jointing to new assets installed by an ICP within the boundaries of greenfield or brownfield new housing developments provided that the ICP meets certain criteria. This trial may come to an end for non – discriminatory and objective reasons, such as a change in the law affecting the trial or a change in the interpretation of the law by a regulatory body that affects the trial. SP Manweb shall notify the Authority if it brings the trial to an end.*

SP Manweb shall apply non-discriminatory criteria in deciding whether an ICP can participate in the trial and carry out such live low voltage jointing (for so long as SP Manweb permits such live jointing trial to take place, as explained above). SP Manweb shall always be permitted to refuse such permission for safety reasons. SP Manweb shall publish the criteria that it applies to any withdrawal of permission to participate in the trial on the website referred to at paragraph 9.5 (Website).

7.2 (*Requests for Live Jointing etc*). *Where (i) SP Manweb has agreed, in an Adoption Agreement, to provide live jointing services to an ICP and (ii) that ICP is not permitted to carry out live jointing, in accordance with paragraph 7.1 (Live Jointing trials), SP Manweb shall, using Good Industry Practice take all reasonably practicable steps to secure that within ten working days of receipt of a request for a Subsequent Make Live to be carried out by SP Manweb (Jointing Request) from an ICP SP Manweb shall either: -*

*(i) offer a date for the Subsequent Make Live requested, or
(ii) refuse to carry out such Subsequent Make Live, giving reasons for such refusal; in respect of no less than ninety percent of such Jointing Requests.*

7.3 (*SP Manweb and Provision of Live Jointing Services*). *Once a date for the Subsequent Make Live has been agreed (the Agreed Jointing Date), SP Manweb shall using Good Industry Practice, take all reasonably practicable steps to secure that SP Manweb shall carry out the Subsequent Make Live on the Agreed Jointing Date.*

7.4 (*New Dates – Subsequent Make Live*). *In the event that SP Manweb is unable to meet the Agreed Jointing Date SP Manweb shall as soon as reasonably practicable after it becomes aware of such matters, inform the ICP of such matters, and shall*

take all reasonably practicable steps to offer a new date for the Subsequent Make Live to the ICP within 5 Working Days of becoming aware of such matters. That new date shall, (subject to the terms of the Adoption Agreement) be as soon as reasonably practicable after the Agreed Jointing Date and, in no less than ninety percent of cases, no later than ten Working Days after the date of the offer of the new Agreed Jointing Date. Such new date shall be deemed to be a Further Agreed Jointing Date. No extra charge shall arise to the ICP as a consequence of such matters where SP Manweb's inability to meet the agreed Subsequent Make Live Date is the fault of SP Manweb.

7.5 (Provision of Information – live jointing services by SP Manweb). SP Manweb shall keep accurate statistics to monitor compliance as follows.

Jointing Requests

- The number of Jointing Requests received;*
- The number of responses to Jointing Requests made within ten working days, disaggregated by each ICP and Core;*
- The number of responses to Jointing Requests made over ten working days and up to fifteen working days, disaggregated by each ICP and Core; and*
- The number of responses to Jointing Requests made over fifteen working days, disaggregated by each ICP and Core;*

Agreed Jointing Dates

- The number of Agreed Jointing Dates;*
- The number of Agreed Jointing Dates met by SP Manweb, disaggregated by each ICP and Core;*
- The number of Agreed Jointing Dates not met by SP Manweb owing to the ICP not meeting the SP Manweb conditions referred to at paragraph 7.5 (SP Manweb conditions – Subsequent Make Live), disaggregated by each ICP and Core; and*
- The number of Agreed Jointing Dates not met by SP Manweb owing to other reasons, disaggregated by each ICP and Core.*
- Where an Agreed Jointing Date has not been met, the statistics listed above in respect of any further Agreed Jointing Date, referencing such further Agreed Jointing Date to the project in question.*

This information shall be supplied to the Authority at the end of each calendar quarter.

7.6 (SP Manweb conditions – Subsequent Make Live). SP Manweb's obligations under paragraphs 7.3 (SP Manweb and Provision of Live Jointing Services) or 7.4 (New Dates – Subsequent Make Live) are subject to the ICP's compliance with SP Manweb's reasonable conditions, as set out in the Adoption Agreement or otherwise notified to the ICP (for example as to the completion of the contestable works in accordance with the agreed design).

7.7 (Disputes). In the event that SP Manweb and the relevant ICP do not agree a date for the Initial Make Live or Subsequent Make Live, and the ICP raises a formal dispute under the Adoption Agreement SP Manweb shall inform the Authority of such dispute (providing a brief summary of the dispute) if it is submitted to adjudication.

7.8 (Subcontracting – Jointing). SP Manweb shall not use Core to provide Initial Make Live or Subsequent Make Live services to an ICP without the consent of the relevant ICP.

7.9 (Discrimination and Adoption Agreements). SP Manweb shall not unduly discriminate as between ICPs and Core and/or as between ICPs in respect of the terms and conditions applicable to the adoption of contestable networks in the relevant agreement ("the Adoption Agreement").

8. Approval of contestable designs by SP Manweb

8.1 (Design Approval) SP Manweb shall, using Good Industry Practice take all reasonably practicable steps to secure that in no less than ninety per cent of cases SP Manweb approves or rejects contestable design proposals from ICPs within 10 working days of receipt of the design in question, subject always to the contestable design proposal submitted to SP Manweb being complete and accurate. Where SP Manweb rejects a contestable design proposal from an ICP SP Manweb shall give reasons (in reasonable detail) for such rejection to the ICP.

The time limits for approving these contestable designs shall begin to run at such time as the requesting ICP provides all relevant information. The information requirements referred to in the preceding sentences are specified within the SP Manweb document entitled "Design & Planning Framework for Greenfield Low Voltage Housing Estates and Associated HV/LV Distribution Substations", as set out at Appendix II to these Commitments.

8.2 (Reporting – Design Approval) SP Manweb shall keep the following statistics accurately to monitor the time it takes SP Manweb to approve or reject contestable design proposals from the date that all relevant information is supplied by the ICP.

- The number of requests for design approval received;*
- The number of responses to requests for design approval delivered within 10 working days of the dates of receipt of the requests, disaggregated by each ICP and Core;*
- The number of responses to requests for design approval delivered over 10 working days and up to 20 working days of the dates of receipt of the requests, disaggregated by each ICP and Core;*
- Number of responses to requests for design approval delivered over 20 working days of the dates of receipt of the requests, disaggregated by each ICP and Core; This information shall be supplied to the Authority at the end of each calendar quarter.*

8.3 (Non discrimination – Approval) When SP Manweb receives contestable design proposals for approval from both Core and one or more ICPs, it shall ensure that such design proposals will be subject to the same approval criteria and information requirements, to ensure that Core and the ICPs are treated fairly and without undue discrimination in this regard.

9. Information requests and information provision

9.1 (C-Ram and PC Map Access). SP Manweb shall, using Good Industry Practice, take all reasonably practicable steps to make available and keep available to all connections market participants, on a non-discriminatory basis, the IT systems C-Ram, (a system for connections registration and management); and PC MapAccess (a system that provides access to certain maps of the SP Manweb network).

Where any such IT system is replaced, SP Manweb shall, using Good Industry Practice, take all reasonably practicable steps to make available and keep available to all connections market participants such replacement, on a non-discriminatory basis, only to the extent that such access is required to provide to such market participants access to similar information and services that they were able to obtain from C-Ram and PC Map Access (as the case may be).

9.2 (Plants and Circuits Queries) SP Manweb shall using Good Industry Practice take all reasonably practicable steps to secure that, within a reasonable time from receipt of a request, (in writing), from an ICP requesting access to the IT system Plant and Circuits Queries (a system which shows certain details of SP Manweb plant and apparatus) (which is scheduled for introduction in late 2005) (or any replacement, to the extent that such replacement provides similar information and services) to make available and keep available to all connections market participants, on a non-discriminatory basis, such IT system. The extent of such access shall be no different to any access granted to Core.

9.3 (Other IT Systems) When any other IT system that could be used by an ICP or Core in the preparation of a draft POC quotation (or otherwise in respect of matters related to POC design matters) is made available to Core or an ICP by SP Manweb, SP Manweb shall, using Good Industry Practice take all reasonably practicable steps to make such IT system available to any other ICP and Core (should any such ICP or Core request access), subject to the provisions of this paragraph and on a non-discriminatory basis.

9.4 (Conditions of Access) Access to the IT systems set out above (other than C-Ram) is conditional upon the requesting ICP being registered for design accreditation under the National Electrical Registration Scheme operated by Lloyds of London.

Access to such IT systems is also conditional upon the agreement of appropriate commercial terms (for example as regards price), governing such matters between SP Manweb and any ICP requesting access. In offering such commercial terms, and in the making available of all such IT Systems SP Manweb shall not unduly discriminate between Core and ICPs or as between ICPs.

Access to such IT systems shall also be subject to the compliance by the relevant ICP with the requirements and conditions of any licensor and/or other provider of such systems.

SP Manweb may withdraw access to such IT systems on giving no less than three month's notice to any users of such systems. Such withdrawal shall be on a non-discriminatory basis.

9.5 (Website) SP Manweb shall publish, on the internet, (i) pages giving an overview of key aspects of SP Manweb's processes and procedures regarding competition in connections including the availability of access of the IT systems listed above and (ii) any documents, produced by SP Manweb of general application to ICPs that are made available to ICPs provided that such publication does not or is not likely to cause SP Manweb to breach any legal obligation.

PART III - TIMING

10.1 (Implementation) SP Manweb shall ensure that the Commitments set out in paragraphs 5, 6, 7, 8, 9 and 10 above are fully incorporated into SP Manweb's operational procedures no later than 90 days after the date of signing these Commitments. SP Manweb shall notify the Authority when such incorporation takes place (the "Incorporation Date"). The Commitments shall remain in full force and effect from the Incorporation Date until the date occurring three years after the Incorporation Date at which time they shall cease to be operative.

10.2 Any reference to Core in Part II of these Commitments only shall also be construed as a reference to, in addition to Core: -

(i) any company which is competing with ICPs to provide contestable connections to developers in respect of projects in the SP Manweb distribution services area which is an affiliate (as defined in the SP Manweb Distribution Licence) of SP Manweb; or an undertaking in which SP Manweb has a participating interest (as defined in the said Distribution Licence)' or

(ii) any company (the Acquirer) to which Core transfers all of its business pursuant to an agreement between Core and the Acquirer.

10.3. SP Manweb shall notify the Authority as soon as reasonably practicable after the occurrence of the following events: -

(i) the commencement of a business which competes with ICPs to provide contestable connections to developers in respect of projects in the SP Manweb distribution services area by an affiliate of SP Manweb; or an undertaking in which SP Manweb has a participating interest; or

(ii) the transfer by Core of all or part of its business to any person;

(iii) the sale by SPPS or Scottish Power UK plc of any of their shares in Core to another person; or

(iv) the award of a contract to any person other than Core by SP Power Systems Limited for the provision of non-contestable connection services including non-contestable design services.

Any reference in this paragraph 10.3 or paragraph 10.2 above to a "person" shall be construed without limitation to affiliated or related persons to SP Manweb.

PART IV –OTHER MATTERS

11.1 (Exceptional Circumstances) The fulfilment of the following provisions of the Commitments, namely 5.3 (Delivery of POC Quotation); 5.4 (Non- Compliant Requests); 6.2 (Initial Make Live); 6.3 (New Dates – Initial Make Live); 6.4 (Provision of Information – Initial Make Live); 7.2 (Requests for Live Jointing etc); 7.3 (SP Manweb and provision of live jointing services); 7.4 (New Dates – Subsequent Make Live); 7.5 (Provision of Information – live jointing); 8.1 (Design Approval); 8.2 (Reporting – Design Approval); 9.1 (C-Ram and PC Map Access); 9.2 (Plants and Circuits Queries); 9.3 (Other IT Systems); and 9.5 (Website) shall at all times be subject to events and/or exceptional circumstances beyond the reasonable control of SP Manweb (for example) act of God, strike, lockout, war, terrorist act, riot, lightening, fire, storm, flood, act of vandalism, civil disturbance, failure of plant

and apparatus (which could not have been prevented by Good Industry Practice) and explosion, but only to the extent that such events or circumstances cause SP Manweb to be unable to fulfil these Commitments.

SP Manweb shall act in accordance with Good Industry Practice to remedy its inability to fulfil these Commitments as a consequence of such events or circumstances as soon as reasonably practicable. SP Manweb shall notify the Authority as soon as reasonably practicable if such events or circumstances cause SP Manweb to be unable to fulfil the commitments. Such notice shall set out, in reasonable detail, the relevant events or circumstances and the relevant affected obligations.

In these Commitments the phrase "Good Industry Practice" shall have the meaning ascribed to it in the document entitled the Connection and Use of System Code, as made pursuant to the National Grid Company plc Transmission Licence and as designated by the Secretary of State in September 2004.

Where these Commitments refer to the provision of information to the Authority such information shall be provided in writing, in a format to be agreed between the Authority and SP Manweb from time to time.

Where SP Manweb sub contracts any part of non – contestable work, such sub – contracting shall not relieve SP Manweb of any liability for performance under these Commitments.

11.2 (References to documents). Any reference to the SP Manweb document entitled "Design & Planning Framework for Greenfield Low Voltage Housing Estates and Associated HV/LV Distribution Substations" shall be to the document with reference ESDD-02-12 of that name (which should be read together with the Energy Networks Association document "Engineering Recommendation G81"), and as amended, varied or replaced from time to time. That document shall be made available to ICPs by SP Manweb.

11.3. Where reference in this document is made to the disclosure of a person's identity to the Authority, such disclosure shall also include such persons name and address. However such disclosure is subject to such person's consent being obtained by SP Manweb, so as to secure compliance with applicable laws such as the Data Protection Act.

Appendix 4 – The Authority’s Powers and Duties

1.1. Ofgem is the Office of Gas and Electricity Markets which supports the Gas and Electricity Markets Authority (“the Authority”), the regulator of the gas and electricity industries in Great Britain. This Appendix summarises the primary powers and duties of the Authority. It is not comprehensive and is not a substitute to reference to the relevant legal instruments (including, but not limited to, those referred to below).

1.2. The Authority’s powers and duties are largely provided for in statute, principally the Gas Act 1986, the Electricity Act 1989, the Utilities Act 2000, the Competition Act 1998, the Enterprise Act 2002 and the Energy Act 2004, as well as arising from directly effective European Community legislation. References to the Gas Act and the Electricity Act in this Appendix are to Part 1 of each of those Acts.²⁷

1.3. Duties and functions relating to gas are set out in the Gas Act and those relating to electricity are set out in the Electricity Act. This Appendix must be read accordingly²⁸.

1.4. The Authority’s principal objective when carrying out certain of its functions under each of the Gas Act and the Electricity Act is to protect the interests of consumers, present and future, wherever appropriate by promoting effective competition between persons engaged in, or in commercial activities connected with, the shipping, transportation or supply of gas conveyed through pipes, and the generation, transmission, distribution or supply of electricity or the provision or use of electricity interconnectors.

1.5. The Authority must when carrying out those functions have regard to:

- The need to secure that, so far as it is economical to meet them, all reasonable demands in Great Britain for gas conveyed through pipes are met;
- The need to secure that all reasonable demands for electricity are met;
- The need to secure that licence holders are able to finance the activities which are the subject of obligations on them²⁹; and
- The interests of individuals who are disabled or chronically sick, of pensionable age, with low incomes, or residing in rural areas.³⁰

²⁷ entitled “Gas Supply” and “Electricity Supply” respectively.

²⁸ However, in exercising a function under the Electricity Act the Authority may have regard to the interests of consumers in relation to gas conveyed through pipes and vice versa in the case of it exercising a function under the Gas Act.

²⁹ under the Gas Act and the Utilities Act, in the case of Gas Act functions, or the Electricity Act, the Utilities Act and certain parts of the Energy Act in the case of Electricity Act functions.

³⁰ The Authority may have regard to other descriptions of consumers.

1.6. Subject to the above, the Authority is required to carry out the functions referred to in the manner which it considers is best calculated to:

- Promote efficiency and economy on the part of those licensed³¹ under the relevant Act and the efficient use of gas conveyed through pipes and electricity conveyed by distribution systems or transmission systems;
- Protect the public from dangers arising from the conveyance of gas through pipes or the use of gas conveyed through pipes and from the generation, transmission, distribution or supply of electricity;
- Contribute to the achievement of sustainable development; and
- Secure a diverse and viable long-term energy supply.

1.7. In carrying out the functions referred to, the Authority must also have regard, to:

- The effect on the environment of activities connected with the conveyance of gas through pipes or with the generation, transmission, distribution or supply of electricity;
- The principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed and any other principles that appear to it to represent the best regulatory practice; and
- Certain statutory guidance on social and environmental matters issued by the Secretary of State.

1.8. The Authority has powers under the Competition Act to investigate suspected anti-competitive activity and take action for breaches of the prohibitions in the legislation in respect of the gas and electricity sectors in Great Britain and is a designated National Competition Authority under the EC Modernisation Regulation³² and therefore part of the European Competition Network. The Authority also has concurrent powers with the Office of Fair Trading in respect of market investigation references to the Competition Commission.

³¹ or persons authorised by exemptions to carry on any activity.

³² Council Regulation (EC) 1/2003

Appendix 5 - Feedback Questionnaire

1.1. Ofgem considers that consultation is at the heart of good policy development. We are keen to consider any comments or complaints about the manner in which this consultation has been conducted. In any case we would be keen to get your answers to the following questions:

1. Do you have any comments about the overall process which was adopted for this consultation?
2. Do you have any comments about the overall tone and content of the report?
3. Was the report easy to read and understand, could it have been better written?
4. To what extent did the report's conclusions provide a balanced view?
5. To what extent did the report make reasoned recommendations for improvement?
6. Please add any further comments.

1.2. Please send your comments to:

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