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5<sup>th</sup> September 2008

Dear Ms Fletcher

## **Response to Application by EDF Energy (IDNO) Ltd for an electricity distribution license**

Further to the Ofgem notice of 6<sup>th</sup> August 2008 with respect to granting a license to EDF Energy for an IDNO license, I am writing on behalf of Power On Connections, to express our concern and objection to allow this to occur.

This letter is in addition to our previous letter on 16<sup>th</sup> June 2008 in response to the consultation regarding the above application.

Whilst we still believe the points raised in our original letter remain relevant we also believe there are a number of additional factors that should be considered by Ofgem before a final decision is made on whether or not to grant EDF an IDNO.

### 1 DNO Assessment & Design Charges

Ofgem have stated that they believe there will be appropriate controls in place to prevent any anti competitive practices if a license was granted.

However Ofgem recently announced that after investigation into a complaint regarding up front charges, the application of up front A&D charges is illegal. This is a clear breach of primary legislation and EDF is one of the main DNO's to apply these charges for numerous years.

This highlights that even with effective license conditions, breeches can occur and sometimes it takes years to actually come to light. Unearthing breeches between interrelated companies will be even more difficult to regulate against and we do not believe Ofgem can place enough conditions on EDF to be confident that breeches will not occur.

### 2 Competition in Connections (CinC) Market



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The amount of competition in the CinC market within EDF has been limited by the direct actions of EDF. For example;

- i) Very high up front A&D charges,
- ii) Poor access to EDF technical standards,
- iii) Single source material procurement contracts

Customers want competition, however as an ICP it is very difficult to offer this competition in EDF's area due to their direct actions.

In 2005-06 and 2006-07 CinC reporting years, the combined three EDF licensed companies received 17 CinC enquiries. In the same period United Utilities acted upon 2,400 enquiries in one DNO region.

Our view is that where DNO's embrace competition it is allowed to flourish, however where DNO's strategically block competition it does not, yet the license conditions are the same for all DNO's.

Therefore allowing EDF to hold an IDNO license will only add to their ability to shape the market place in the way they decide. A prime example of this is the current IDNO license application. The application is made on the basis that EDF are required to operate two contractual agreements under IDNO arrangements. EDF have been involved in these contracts for a number of years knowingly working on schemes that they currently can not deliver. Therefore one must surmise it was their intent to force Ofgem in to granting them an IDNO license.

Granting EDF an IDNO license has the potential to skew the market so far in favour of the monopoly to an extent that the market place could no longer be available to either ICP's or IDNO's in the EDF area.

### 3 More Competition not more Regulation

One of Ofgem's principle objectives in the Electricity Act 1989 is to protect the interests of consumers through the introduction of competition.

We believe this is served by opening markets to competition and choice for the customer, rather than developing greater regulation to monitor an incumbent monopoly whose track record for embracing competition is limited to say the least.

Whilst there is clearly a customer involved in each of these networks allowing an incumbent and monopoly greater access to the market place before competition is actually established can not be beneficial to the long term competitive market.

Therefore in summary we believe that granting EDF an IDNO license will not benefit electricity consumers or the overall industry and that Ofgem should look to continue the good work it has done in promoting competition rather than additional regulation.

Yours Faithfully

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