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*Promoting choice and
value for all customers*

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Date: 22 October 2008

Dear Colleague

Decision in relation to Western Power Distribution (South Wales) Plc ("WPD") modification proposal 008/001: Clarification of A & D fees.

On 24 September 2008, WPD submitted to the Gas and Electricity Markets Authority ("the Authority")¹ a proposal to modify its connection charging methodology statement for its South Wales region.

WPD proposed to update its connection charging methodology statement, required under Standard Licence Condition 13 of the electricity distribution licence ("the licence"), in order to amend its policy concerning the upfront charging of Connections Assessment and Design ("A&D") fees.

Having considered the issues raised by WPD's proposal, we have decided **not to veto** the proposed modification.

This letter sets out the background to the modification proposal, summarises the proposed changes and explains our decision.

Background

WPD has licence obligations² to have in place three charging statements: the statement of Use of System (UoS) charging methodology, the statement of UoS charges and the statement of connection charging methodology and charges. The statement of UoS charging methodology and the statement of connection charging methodology and charges outlines the method by which distribution UoS charges and connection charges are calculated. WPD has a requirement to keep these methodologies under review and bring forward modification proposals so that they better achieve the relevant objectives³.

¹ Ofgem is the office supporting the Authority. The terms 'Ofgem' and 'the Authority' are interchangeable for the purposes of this letter.

² Standard licence conditions (SLC) 13 -14.

³ The relevant objectives for the connection charging methodology, as contained in paragraph 3 of SLC 13 of WPD's licences are:

- (a) that compliance with the UoS charging methodology facilitates the discharge by the licensee of the obligations imposed on it under the Electricity Act 1989 and its licence;
- (b) that compliance with the UoS charging methodology facilitates competition in generation and supply of electricity, and does not restrict, distort or prevent competition in the transmission or distribution of electricity;
- (c) that compliance with the UoS charging methodology results in changes which reflect, as far as is reasonably practicable (taking into account of implementation costs), the costs incurred by the licensee and its distribution business; and

On 14 August 2008, Ofgem issued a consultation on charging upfront A&D fees. This consultation document outlined the Authority's view that the practice of charging upfront A&D fees was not consistent with the Electricity Act 1989 ("the Act").⁴ The Authority's consultation letter explained that:

- the practice of upfront charging or A&D works as a pre-condition of providing a section 16A(5) connection offer is not consistent with the Act;
- A&D fees can only be recovered if the full and formal connection offer, the section 16A(5) notice, is accepted by the customer; and
- A&D fees fall within section 19(1) of the Act as they are expenses incurred in respect of making the connection (i.e. where any electric line or plant is provided as long as they are reasonably incurred as required by that section).

The August consultation stressed that Ofgem were concerned that Distributors' connection charging methodologies might not be compliant with the statutory arrangements. We therefore invited Distributors to review their methodologies and raise the necessary changes in the form of modifications.

WPD's proposal

WPD have proposed to amend their statement of connection charging methodology and charges by differentiating between those connection applications received requesting a connection offer in accordance with the statutory scheme under section 16A(5) of the Act, and those other connection related requests which are of a speculative nature, where the applicant does not require, or is not in a position to request a formal connection offer under the statutory scheme.

WPD propose to provide those customers who do not require or who are not in a position to request a formal connection offer with the option of a feasibility study. The feasibility study would provide a customer with guidance on capacity and locations which WPD suggests will result in lower connection charges if the party then decides to go ahead with a formal connection request under section 16 of the Act. WPD states that if a customer requests that a feasibility study is undertaken then it will require payment in advance of the study being made, however WPD will no longer charge upfront A&D charges where a formal section 16A(2) connection request has been made. Consequently, the only occasion when WPD will make an upfront charge for any A&D will be when the customer actively requests a feasibility study.

WPD also propose to make further amendments to their statement of connection charging methodology and charges. That is, the definition of application date has been amended from the date on which payment for associated study work was received, to the date on which WPD receives the complete set of data necessary to progress the connection application. Furthermore, WPD have stated that charges for providing point of connection (POC) information and engineering design will be included in the offer for connection rather than being requested upfront.

The Authority's decision

In coming to our decision we have assessed the proposal against the relevant objectives and Ofgem's wider statutory duties.

(d) that, so far as is consistent with sub-paragraphs (a), (b) and (c), the UoS charging methodology, as far as is practicable, properly takes account of developments in the licensee's distribution business.

⁴ Ofgem's consultation letter can be found at:

<http://www.ofgem.gov.uk/Networks/Connectns/CompinConn/Documents1/A%20and%20D%20fees%20consultation.pdf>

The Authority considers that WPD's proposal to offer customers the choice of whether to undertake a feasibility study is more in line with statutory requirements than their present methodology. WPD are distinguishing between customers who are requesting a formal section 16A connection offer and those who are merely attempting to ascertain if they wish to make a formal section 16A request and if so, which location would be financially preferable.

The Authority considers that undertaking a feasibility study is likely to incur costs on WPD. WPD cannot be confident that on requesting such a study, a customer will go ahead with a formal section 16A connection request. Therefore they may have no mechanism of recovering these costs. We therefore consider that it is appropriate that WPD may ask for payment for the study in order to cover their costs. Given that the feasibility study is undertaken outside the formal section 16A connection offer, we do not consider that this places WPD at odds with the requirement under the Act. It is important to note that WPD provide customers with a choice of whether they wish the feasibility study to be undertaken or not. No upfront charge will be levied by WPD unless the customer specifically requests a feasibility study.

The Authority considers that this proposal allows WPD to better facilitate and discharge its obligations and requirements imposed on them under the Act.

Furthermore, the Authority considers that the amendment WPD propose to the definition of application date provides greater transparency and does not restrict, distort or prevent competition in the distribution of electricity. The proposal to charge for POC information and engineering design in the final section 16A connection offer, also better discharges the obligations and requirements under the Act in that it removes the current policy of upfront charging for these services.

The Authority considers that WPD have raised this modification in response to the Authority's view⁵ that the charging of up front A&D fees was not consistent with the statutory obligations contained within the Act. WPD have amended their methodology so that there are no up front charges levied for customers who request a connection under section 16(A) of the Act. We consider that this proposal better facilitates the discharge by WPD of the obligations imposed on it by the Act and thus better facilitates the relevant objective detailed in SLC 13.3 (a). Therefore, on balance, we consider that the proposal better facilitates the relevant objectives. Consequently, we have decided **not to veto** WPD's modification to their connection charging statement.

If you have any questions relating to this letter then please contact Mark Askew at mark.askew@ofgem.gov.uk or on 0207 901 7022.

We would also like to repeat the request made in our August consultation letter on A&D fees encouraging all Distributors to review and bring forward any modifications to their connection methodology which they felt were necessary on this matter.

Yours faithfully,



Rachel Fletcher

Director, Distribution

Signed on behalf of the Authority and authorised for that purpose by the Authority.

⁵ Please see footnote 4 for this document.