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Dear Sirs,

Gas and Electricity Connections Industry Review 2007-08

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1. Introduction

Amey are a leading street lighting service provider with considerable interests and contracts in relation to Local Government and Local Authority highways and street lighting PFI projects and traditional Term Maintenance Contracts.

I am the Service Director with direct responsibility for street lighting within the Amey Group. In relation to the Gas and Electricity Connections Industry Review and consultation document published by Ofgem, I would like to convey Amey's views in respect of competition in un-metered electricity connections, consistency of service and the wider un-metered supply related issues and barriers to competition.

2. Background

Despite Ofgem's attempts to introduce greater competition and consistency into the un-metered electricity connections market we have seen, and continue to see, considerable differences in the attitude, policy and approach towards street lighting when dealing with the various DNO's across the Country.

The attempts to open up the un-metered connections market to competition and to improve standards of service have been on the agenda for well over 10 years and the lack of any real progress over this time clearly outlines the DNOs ability to resist and stall attempts to introduce competition and wider choices.

Whilst we have been able to negotiate and agree locally the basis of an operational approach with specific DNOs there remain huge differences and major frustrations in the way each DNO commits to, and how willing they are, in respect of aiding competition to help drive efficiencies. Many DNOs have been able to, and continue to, stall and resist progress in respect of introducing competition and choices to street lighting service providers and local authorities.

The result is that DNO connection performance, service delivery and importantly pricing is adversely impacting on the end user (i.e. the customer) through an inability to seek any genuine competition or alternative and through the continuation of a monopoly type delivery model.

3. Competition

The attempt by Ofgem to promote some competition through "Live Jointing Trails" of selective un-metered connections is proving to be extremely difficult in some areas to access.

There are inconsistencies and a lack of clarity between the Lloyds registration scheme and how DNOs operate un-metered connections activities and specifically the requirements for undertaking live jointing trials within DNO areas.

Despite the Lloyds accreditation scheme it is evident (but not made clear on the Lloyds system) that DNOs have considerable influence through insisting upon further audits and checks and in some cases trade tests of individual jointers and in providing authority to ICPs to work on their networks.

DNOs have failed to consistently communicate and receive enquiries and requests for live jointing trials. Messages and responses from senior individuals within DNOs are often very different. Amey have consistently been told by officers from one DNO that competition will not be considered or allowed in their licence area due to Health and Safety concerns. Other DNO individuals have conveyed messages that the DNO will not entertain competition for commercial reasons i.e. as it will impact upon their commercial activities and overall financial performance.

For over 2 years we have requested rates for Jointer only / Rent-a-Jointer with one DNO, as under our current NERS accreditation Amey were seeking choices to self deliver and undertake all of the civil engineering (digging and reinstatement) activities to improve control and the commercial positions on one of our contracts. This approach was again consistently resisted and still to this date we have been unable to obtain proper prices or co-operation for jointer only services. Eventually after many attempts Amey were advised that the jointer only prices were the same as the all inclusive prices and therefore as this clearly did not offer any potential savings or improvements we have continued to request connections from that DNO that include full excavation and reinstatement works.

The DNO has recently indicated that Amey will receive jointer only prices but this is after a two year process and clear resistance, and we still have to see if they offer any savings over the excavation and reinstatement rates.

DNOs often indicate their mixed messages and inappropriate responses our because we or the requester does not approach the right person and make the correct request? Again this should be considered as anti competitive behaviour as the DNOs

must ensure that requests are properly channelled and responded to within their organisations.

One of our requests for a Live Jointing Trail has not been accepted because as the DNO put it Amey and their ICP failed to ask for, or secure a contract from the DNO to work on their network? We had secured an ICP from the Lloyds register who had specifically developed his organisation over a 6 month period to be able to operate in this DNOs area on a business proposition to undertake street lighting connections works. Despite all of his investment and his accreditation he was still after over 6 months of requests unable to do any works in that DNO area. We formally requested a Live Jointing trail but apparently we failed to ask for a tripartite or bipartite contract and therefore the request was not accepted?

Another approach was that a Live Jointing Trail was already being planned within a DNO area and so we had to wait until the outcome from that trial before our trail would be allowed. We believe that DNOs are required to treat all customers equally and not to discriminate between customers. We feel this situation is a clear discrimination and we should be allowed to progress a live jointing trial in parallel with another trial.

The use of stalling by these tactics must be regarded as resisting competition and how they have a major impact on organisations looking to operate as ICPs as they consider the barriers, obstacles and limitations in work that they can perform not worth the investment in becoming an ICP.

Equally once an ICP has authority to work in one DNO area this is only relevant to that DNO and the whole process has to be repeated to work in another or adjacent DNO area. The whole process and the ability of the DNO to stall applications and requests has, and will, reduce or put off ICPs and potential organisations progressing ICP status.

Even if an ICP overcomes all of these delays, costs, barriers there is only limited scope for transfers and disconnections that the ICP can do, and this requires Lloyds accreditation and an audit regime that must be paid for and then a DNO audit regime (for each DNO area) that has to be paid for by the ICP. This is a duplication of audits and costs that we believe present unfair barriers and obstacles to introducing competition and why take up of ICPs has been extremely limited.

There are also clear indications from the contracting organisations that the DNOs use that they are under immense pressures not to become ICPs and provide connections to local authorities / service providers direct through ICP routes. Individual organisations have suggested that their wider work streams may be affected if a DNO sees them competing against their own provision for un-metered connections.

4. Commercial

Because of their retained monopoly status DNOs are involved in providing prices that Service Providers such as Amey use when bidding Local Authority contracts. However, their monopoly status allows them to review and change prices even where they have committed prices to bidding opportunities.

This results in the Service Provider / bidder taking all of the price risk and the DNO risk free even where their prices have influenced bids. Most Service Providers can manage this issue within some boundaries but over the past year price increases of

50% have been levied which are impossible to manage. There is also unwillingness and resistance to share price breakdowns even the none-contestable mains connection prices. We maintain that as these are monopoly services we should see a breakdown of overhead, materials, sub contract / DLO rates, vehicle and plant rates etc, to help assess value for money and cost reflectivity without having to require a formal price determination through Ofgem.

There is also concerns that as DNOs see opportunities for Local Authorities and Service Providers to use ICPs etc, that their pricing structures are being changed and geared to reflect this market position and to influence competition and choices.

Whilst overall increases may be in the order of 6%, there are massive swings in pricing structures where transfers and disconnection prices have come down (as these are potentially competitive activities) and mains connections and the non-contestable works are being significantly increased? This begs the question if they are using pricing to influence or limit competition?

5. Policies

There is evidence that policies are being enforced on ICPs that are not adopted and enforced by the DNO on their own contractors or by the DLO of the DNO.

A typical example is the requirement for service disconnections to be disconnected at the main. This is to prevent a live cable being present within a footway with a stop end only.

However, this approach is not consistently adopted by some DNOs or by the contractors working for the DNOs. The impact is again to minimise fair open competition.

6. Summary

Despite many years of attempting to deliver greater competition and choices within the electricity sector progress has been extremely slow and very limited.

There remains strong resistance to competition by some DNOs although it is recognised that some DNOs have progressed with more support and sincerity.

The process of challenging and complaining to DNOs and through Ofgem is an extremely slow process and there is no evidence that any DNO has been fined for resisting competition.

The impact of retaining monopoly services in electricity connections is that service delivery and cost of delivery are artificially higher than it could be and this is impacting upon the infrastructure improvement works that can be delivered as the budgets are used on higher than should be connection costs.

Ofgem must introduce real competition to the full spectrum of un-metered connections activities and impose greater requirements for DNOs to allow competition for greater industry acceptance of Lloyds passports across DNO areas.

Yours faithfully,

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