



The Association of Signals, Lighting and
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11th September 2009

Dear Rachel

**DPCR5 – Electricity Distribution Price Control and Review Initial Proposals –
Core and Incentives and Obligations Documents - Refs: 92/09 and 93/09**

I write in response to the above documents issued for consultation and thank you for giving us the opportunity to comment on them. We would refer you to our comments in our letter of 13 February 2009 in response to the original DPCR5 proposals – which still stand.

In respect of the Initial Proposals Core – ref 92/09, we broadly support the approach taken based on a pragmatic analysis of the facts and sensible projections. We agree that the suggested cost increases from the DNO's, and even the allowed revenues proposed in the DPCR 5 may be excessive. We would suggest that the mechanism for real price effects on DNO's be a combination of indices, using material costs and delivered fuel costs, together with actual cost of labour – this is a common practice in the construction industry within which a significant proportion of the actual work carried out by DNO's could be said to lie.

In respect of DPCR 5 Incentives and Obligations – ref 93/09 – again we broadly support the main principles and the majority of the detail within the document. However we remain concerned about a number of the issues – principally the lack of consistency across (and in some cases within) DNO's in terms of reporting – including reporting against licence conditions (e.g. the recent reports on SLC 19), performance and pricing; and the failure to ensure that DNO's commence this period by confirming what actions they have taken against the requirements already set by OFGEM.

In particular:

- 1) Due to the lack of significant progress in competition in connections across the UK, we reiterate that a baseline competition test must be established, which all DNO's should meet prior to or on 1st April 2010. A sample questionnaire has been developed and is in OFGEM's possession, and this could be used as the basis of establishing that DNO's meet the requirements already set up and agreed with OFGEM, rather than potentially waiting until 2013 to establish whether OFGEM's existing requirements as at 2009 have been met or not. DNO's not meeting best practice should set out their actions and timeframes to achieve this.
- 2) We welcome the proposals for OFGEM to audit the DNOs and would ask that OFGEM ensure DNO's are audited to appropriate detail level against the proposed competition tests on an annual basis as self-auditing / self declaration does not appear to have produced the industry-wide improvements required
- 3) We would ask that OFGEM ensure and check through audits, that a consistent approach is taken by all DNO's

- 4) We would ask that OFGEM ensure that best practice is adopted by all DNO's, including price transparency, customer awareness of competitive alternatives, facilitation of competition, dealing with complaints, performance and reporting against existing and proposed standards and licence conditions. In this respect, it would appear that the requirements on DNO's for metered connections are more explicit and detailed than those on un-metered connections. We would suggest that these two areas should be aligned where possible in terms of performance requirements (see Appendix 3) – this will make comparisons easier and should be easier administratively and operationally for the DNOs.

In addition in respect of Chapter 10:

<p>Question 1: Do you agree with the scope, timeframes and the level of penalties proposed for the guaranteed standards regime?</p>	<ul style="list-style-type: none"> • Scope – we welcome the 100% reporting against the 90% achievement. There should be a requirement for year on year improvement on the 90% from year 1. • Timeframes – agreed – other than the requirement for an initial baseline test • Levels – these are not financial penalties in the real sense of the word – merely tokens. We believe that failure to continue to improve should result in a ratchet mechanism on the levels. Ideally the level of penalties should be such, initially, as to encourage compliance and ongoing improvement
<p>Question 2: Should we develop a mechanism to ramp up the level of the proposed penalty payments?</p>	<p>Yes – see above</p>
<p>Question 3: Should we cap the penalties that apply to each of the proposed standards?</p>	<p>No</p>
<p>Question 4: Should we apply in aggregate a 90 per cent performance target to apply to the standards and measure this on a quarterly basis?</p>	<p>We would prefer to see a 100% performance reporting with a moving / improving target and cross DNO comparison to encourage the early adoption of best practice.</p>
<p>Question 5: Do you agree with our market segmentation strategy for metered and unmetered connections? Are there any segments other than those identified that should be exempt from earning a margin?</p>	<p>No. The use of the term “PFI” limits the market segmentation to this form of contract whilst excluding other forms of high value, large scale long term solutions such as prudential borrowing. Whilst it may be appropriate to segment PFI's, this should not have the unintended consequence of potentially allowing lesser standards for other forms of contract delivery. Standards should be at least as those specified for all forms of contract, with an option to “opt out” being customer led only. Ideally the segmentation should be on size / number of units rather than on the form of contract</p>
<p>Question 6: What are your views on the</p>	<p>The level of regulated margin seems</p>

<p>proposed level of regulated margin and is there any further evidence we should take into account in setting the level of regulated margin?</p>	<p>appropriate, however it is critical that there is complete price transparency and complete consistency across DNO's. This must also apply to "cost-reflective" price increases</p>
<p>Question 7: Do you have any comments on the scope of the proposed competition tests?</p>	<p>There must be a baseline competition test – failure to provide evidence for compliance with this should result in a delay in commencement of the benefits from DPCR5, with the same end date. There must also be a comparison within and across DNO's and evidence of adopting / moving towards best practice. Where possible – competition tests for the metered and un-metered segments should be identical</p>
<p>Question 8: We invite views on the relative weighting of market share compared to the price and service tests? What level of lost market share would be appropriate to deem the market competitive</p>	<p>The issue of loss of market share is complex – as it implies DNO's are not and never will be competitive. However as a mechanism for encouraging open-ness and competition, it is useful. We believe that audited price and service test and genuine customer feedback should prove a more reliable indicator</p>

The following should also be addressed:

1. The reporting of performance needs to be consistent. The "stopping and starting of the clock" to cover such things as notice under the TMA needs to be documented and consistent. Generally there should be no exemptions to the competition tests.
2. We welcome Ofgem's commitment to DNO policy, reporting and price consistency and transparency and are keen to see that this extends down to detail level including the split of contestable and non contestable costs.
3. Any policy or procedures in facilitating competition should be fair, and transparent and proactively communicated by DNO's. Any policies which restrict the scope of contestable works to less than that of the industry recognised standard must be investigated and appropriate action taken to avoid charges of abuse of a dominant market position. DNO's should be prevented from imposing unfair constraints or additional costly measures for access to their network equipment on unmetered connection providers and contractors such as with G39 "trade tests", and this should form part of the initial and ongoing competition tests. DNO's should be penalised where a policy is documented and agreed, and then varied or not implemented by, allegedly, individual DNO employees
4. We would welcome a DPCR5 framework which encourages the DNO's to extend the scope of contestable works to include unmetered connections to overhead lines and associated equipment and to existing DNO LV mains, so that we have the opportunity to place programmed new and replacement connection works with a single service provider and gain the economic and delivery management benefits of doing so.

Finally we would like to re-state that we welcome the approach of adding incentivisation to the regulatory framework. We also welcome the proposals to extend regulation to all connections.

In terms of the timescale, we understand that by definition these proposals will come into place by 2010. However we feel that the timeframe for meeting the proposed competition tests (which are also welcomed) should be looked at again, as effectively this is allowing several more years, beyond 2010, before this area can be fully complied with. Regrettably there appears to be no verification from OFGEM nor any independent verification that the requirements of OFGEM (e.g. in respect of DNO's providing information to enable easier take-up of competition) are actually in existence, and we would expect this to be verified before the end of the current Price Control and Review framework.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Gareth Pritchard', written in a cursive style.

Gareth Pritchard BTech (Hons) CEng FILE Tech IOSH
Chief Executive