Connections Policy
Office of Gas and Electricity Markets
9 Millbank
London
SW1P 3GE

14th February 2009

For the attention of Rachel Fletcher

Dear Ms Fletcher,

Response to Electricity Distribution Price Control Review Initial Proposals – Incentives and Obligations

The following response is made on behalf of the MCCG. We have a number of representatives on the Electricity Connections Steering Group and our members are fully active with the Competitive Connections market and committed to developing competition and removing the monopoly of the DNO's for the overall benefit of customers within the market place.

The MCCG welcomes the opportunity to express its views on the relevant connections section within the Electricity Distribution Price Control Review Initial Proposals and we look forward to working with Ofgem in the most appropriate and effective manner we can, to ensure competition is allowed to flourish within this market.

Yours faithfully

Chris Bean
Chairman of the MCCG

Chapter Ten Responses

Question 1: Do you agree with the scope, timeframes and level of penalties proposed for the guaranteed standards regime?

In general we agree with the proposed guaranteed standards however we have concerns regarding some of the detailed measures under the GS scheme. As such we believe it may be possible to consolidate some of the standards to have fewer standards to measure.

We fully support the introduction of measures to improve services to customers from DNOs however it is critical that the standards are applied to services offered to ICPs to ensure they don't create a perverse outcome that would impact negatively on competition. DNOs must therefore volunteer to offer the GS payments to ICPs and IDNOs.

We also believe there is a need for one additional standard in terms of the production of the legal documentation from the DNO, within two weeks of acceptance by the client or two weeks after design approval on contestable schemes.

Question 2: Should we develop a mechanism to ramp up the level of the proposed penalty payments?

Whilst we believe that as there is no cut off on the application of the penalties a ramp mechanism is not actually required. However Ofgem must ensure it has a quick and effective mechanism to address any DNO who persistently offends against any of the standards.

Question 3: Should we cap the penalties that apply to each of the proposed standards?

No, for the reasons outlined in our response to question 2, it would not be appropriate to cap such penalties.

Also the DNO has it within its power to avoid such penalties and thus should constantly have the pressure applied to resolve the failure. Capping a penalty will remove this pressure.

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?

Ofgem has often sought to apply a 90% per cent performance target against the DNO's and whilst this may be beneficial in benchmarking DNO's performances and ensure the DNO does not consistently fail this measure. It is worth noting that this gives DNO's the opportunity to legitimately fail 10% of all of its activities. Any member company of the MCCG that failed 1 in every 10 of its customers would not be in business for very long.

Therefore whilst we accept this as a bench mark to be utilized on a quarterly basis to determine if Ofgem will continue to allow the DNO to make margin, and we believe that a DNO which fails two successive quarters must have its margin removed.

We also feel the performance figure should rise over time.

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?

On the whole the market segmentation would appear appropriate. However section 10.40 reflects on allowing unregulated margin for particular segments. To avoid DNO's focusing on particular areas, we do not believe it would be appropriate for a DNO to be able to make unregulated margin in one particular segment that has deemed to be classed as a potential competitive segment if it is failing to achieve all aspects of the competition tests in another market segment that is deemed to be a potential competitive segment.

Question 6: What are your views on the proposed level of regulated margin and is there any further evidence we should take into account in setting the level of regulated margin?

We believe that it is always difficult to establish what is an acceptable level of margin to be applied and in fact the easiest way, would be for full competition to be available and let customers determine the value of such margin against the added benefits of service and delivery for all competitors.

Therefore it is very important that Ofgem drives the DNO's actions and motives to allow full competition to occur before taking the next step and allowing unregulated margin.

Until true competition is established the most important factor for customers, is transparency of costs. If a customer can clearly understand the make up of the costs for undertaking any such work and not just the margin that is applied, then they will either be satisfied with the detail or be able to explore with the DNO the reasoning for such costs. Therefore it is imperative that Ofgem puts pressure on the DNO's to produce a price accuracy scheme that is accepted by the industry and the DNO's customers.

Question 7: Do you have any comments on the scope of the proposed competition tests?

This area is perhaps the single most important factor in the in the entire Price Control Review from a competition in connections perspective. If the test measures the most desirable behaviours and is rigorously applied then this action will be successful, if not the market will not look much different by the end of the DPCR5 period. In terms of scope the areas covered by the test are the right ones. The challenge will be developing a template that will deliver the right results. The MCCG members will be active through the ECSG sub group in debating and determining the template to be used for the competition test.

One area we believe is flawed within the proposal is the ability for a DNO to claim their area is competitive, whilst still maintaining significant market share. The scope of competition tests detailed in appendix 3 is set to allow a DNO who passes those tests to charge an unregulated margin. This would be inappropriate if market share are remained at high levels. If DNO's are able to demonstrate meeting the tests described in 10.42 figure 10.1 and market share remains high then either other barriers to entry have not been addressed or the cost and service levels provided by the DNO are beyond any other recognised service industry which has very high levels of service but where they are still are unable to maintain the levels of market share that a DNO enjoys, due to true competition.

For DNO's to show a true desire for competition to succeed they need to demonstrate they have taken every step they could possible to allow competition.

An example of this is partially funded schemes, most DNO's refuse to allow this to occur as there is no national agreement on the area. Yet there is evidence from our members that shows when it has suited the DNO, this activity has been permitted to be competitive. Under the current proposals, an individual DNO's will now be able to make the case for how they are breaking the barriers of competition without the shackles of consensus from all DNO's.

Ofgem need to ensure there is adequate weighting on this commitment and that DNO's who have resisted change and competitive activity at every stage must not be allowed the benefit of margin without first changing their complete outlook on competition. These changes will be dynamic as further barriers are broken down by proactive DNO's and Ofgem must always monitor against the "Best in Class".

As it has been determined that Section 15 CinC performance can not have the same penalties applied to them on a mandatory basis. It is imperative that Ofgem views a DNO's commitment to voluntary apply the same criteria to CinC activities as a fundamental requirement to the DNO's commitment to competition.

We would also draw Ofgem's attention to the problems identified by the MCCG members around the 2nd comer rule under CinC and again we now believe this template gives Ofgem the opportunity to judge a DNO's commitment to competition through the voluntary individual commitment to apply the 2nd comer rule to CinC projects.

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 appropriate to deem the market competitive?

The market share weighting compared to price and service must be higher. The supporting Regulatory Framework cannot be set to define a level of lost market share. It is at what point is a DNO no longer viewed as a dominant supplier of services within his market. There may be case history to answer that. However erosion of market share year on year needs to be monitored and any referral to the competition commission, if the level of competition remains low, will determine that point.

The DNO market share will eventually stabilise across each market and the ongoing independent compliance reports will demonstrate compliance without the need to set a figure. However to establish competition we believe that across those markets segments identified as likely to attract competitive interest the DNO's must be set a target of at least a loss of 40% of the particular within the DPCR period.