

Electricity Distribution Price Control Review Initial Licence Drafting

Chapter 1

Question 1: Do you think our proposed timetable for the implementation of changes to the licence conditions and other legal instruments (set out in chapter 1) are appropriate?

The timetable is challenging and we would not be surprised if DNOs to seek an extension but for it not to be granted. Industry participants working with Ofgem through the Industry Working Groups should be able to deliver draft RIG and regulations within this timescale. It is important that DNOs are not allowed to dilute the reporting requirements which they may claim are cumbersome and disproportionate to other reporting activities as has happened in the past. This is particularly relevant where competition is weak and a DNO remains a dominant or monopoly supplier of services. The work in progress in regard to the licence modifications continues and failure to achieve agreement on these exposes the industry to a Competition Commission referral.

Chapter 2

The comments made under this section of response relate in the main to Connections activities 2.45 – 2.50

Question 1: Do you think any of our proposed changes to the standard licence conditions or new charge restriction conditions (current special licence conditions) are inappropriate?

No, it is not thought that the proposed changes are inappropriate. Competition in Connections remains at low levels and in some DNO area nearly non-existent. The changes will assist in developing a competitive market place providing the DNO introduce processes to facilitate competition rather than processes to demonstrate compliance with conditions and achieving a performance standard, which is subject to a separate consultation. The proposed financial penalties are not compensatory nor could they expect to be as customers would need to prove a loss. We would expect DNOs repeatedly failing standards be investigated under a licence breach.

Question 2: Do you think there are any other changes to the standard licence conditions or new charge restriction conditions (current special licence conditions) we should be looking to make at the start of the DPCR5 period?

The purpose of allowing a regulated margin is intended to stimulate competition and have established systems and procedures in place to comply with the Electricity (Connection Standards of Performance) Regulations and the relevant RIGs requirements that are proposed. Our initial thoughts that allowing a 4% regulated margin at entry level is inappropriate has changed as a result of discussions and development since September. If a DNO meet the necessary requirements and providing they maintain the systems and procedures then an allowed margin is acceptable providing that it is removable if performance and standards slip. We commented in the initial proposals document that DNO failing to meet competition tests in December 2013 and handing back regulated margins would be impractical and uneconomic. That view is unchanged. We would prefer to see regulated margins allowed after a full performance period and as an incentive raise the allowed

margin above 4% [6%]. Maintaining and improving performance will protect DNO from losing the regulated margin. Failing or falling performance should provide an indicator that the regulated margin is at risk and allow the DNO to take corrective action during the performance period, not at the end if the systems and procedures that allowed a regulated margin are maintained. We believe that DNO should apply the regulated margin transparently and at the level agreed (as is included in part B of the CRC) against transparent costs. Once DNO has met the competition tests, it is free to present their cost and charges however they choose and the market will determine whether it is appropriate. The methodology should be captured in the new charge condition restrictions, CRC13, and the level of transparency of costs captured within the Regulatory and Instruction Guidance (RIG). In a competitive market there is no obligation on participants to lay out their full cost schedule, but generally this happens when bidding for work against a client tender. DNOs do not now share this level of detail claiming commercial confidentiality. To be allowed to earn a regulated margin and maintain secrecy of their costs would be inappropriate.

Question 3: Do you think we have chosen the appropriate implementation instrument (e.g. licence condition, statutory instrument, RIG or direction) for each of the policy areas?

Yes, the mix of the three is correct. Licence conditions modifications have shown to be an effective tool that focuses DNO priorities. Separation of connection activities outside of general standards of performance is long overdue and underpinned through a SI and Regulatory and Instruction Guidance will deliver improvements to customer service in this market place. The drafting of these documents must continue to involve customer representatives as well as DNOs in order to ensure they deliver against customer expectations.

A minor area of concern is the reference to applying regulated margins against fully funded connections against direct and indirect contestable elements (section 2.48). In order for DNO to maintain market share it could claim that the connection is not fully funded (by 4%) and retain the work. It should be clear to the industry that network extensions are downstream of the point of connection (POC) and always contestable and therefore allowable margins apply (whether regulated or unregulated). Upstream of the POC, the diversionary or reinforcement work is contestable if it is fully funded sole use assets and allows the DNO to apply a margin. If it is not fully funded apportionment rules apply and it is non-contestable work (no margin). We would be seriously concerned if the DNO are allowed to treat network extensions as part funded or arbitrarily move the point of connection to suit circumstances that secure them the work. It should be clear that this is the case now but the wording in 2.48 could lead DNOs to apply the rules differently and change charging methodologies accordingly.