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Dear Lia,

### **Consultation on cost recovery approaches for determinations**

SSE welcomes the opportunity to respond to Ofgem's consultation on cost recovery approaches for determinations. Our answers to the specific questions set out in the consultation are given in Appendix I.

The streamlining of the existing process around determinations and the updating of relevant documents will be helpful. We also agree in principle to Ofgem's recovery of certain costs associated with the determination process where these costs could have reasonably been avoided. However, if such charges are to be introduced, it is essential that they are reasonable and cost reflective, and that there is transparency in the process used to determine the charges. It is also important to note that in some cases the issues involved in a determination can be technically complex and by their nature can take some time to communicate and conclude. Some flexibility may therefore be required in the process to allow for these circumstances.

Finally, if the proposals are to go ahead, an appropriate appeal process will need to be put in place to ensure that both network companies and customers are able to contest any charges imposed on them.

I hope this is helpful. If you require any further information please be in touch.

Yours sincerely,

Aileen Mcleod  
**Head of Regulation, Networks**

## **Appendix I**

### **CHAPTER: Two**

#### **Question 1: Should the circumstances listed below constitute the basis for recovering costs from a party?**

Where parties' actions cause unnecessary and unreasonable delays to the determination process, we agree that it may be appropriate for Ofgem to recover some costs; however we consider that these costs should be only those reasonably incurred, and would question whether the proposed flat rate of £200 per day is cost reflective. If this approach is to be taken, holidays should be taken into account when setting deadlines for the submission of information. It is also important to note that in some cases the issue to be determined upon can be technically complex and as such several attempts may be required to effectively communicate the issue; this can unavoidably lengthen the determination process.

Where parties' actions result in Ofgem incurring the costs of more than one round of external technical and legal advice, we again agree that it may be appropriate for Ofgem to recover some of the associated costs; although in some more difficult cases more than one round of external advice may be appropriate.

Similarly it may be appropriate for Ofgem to recover some costs where the matter could have been resolved by parties prior to referral to Ofgem.

#### **Question 2: Are there are other circumstances in which cost recovery should be considered?**

We believe that the consultation covers all appropriate circumstances.

#### **Question 3: Is it appropriate for us to recover costs in the circumstances detailed in this chapter?**

Please see our response to Question 1 above.

#### **Question 4: Do you think the cost recovery approaches are appropriate given the circumstances set out in this chapter?**

The cost recovery approaches do not appear in themselves unreasonable. However it is important that the customer or network company is given appropriate warning that charges are going to begin to be incurred. Further there must be transparency in the process used to determine any costs to be charged; we are concerned that the costs proposed in the consultation are neither transparent nor cost reflective.

The flat rate of £200 per day, as mentioned in our response to Question 1, appears excessive when a delay is unlikely to result in any costs being incurred. We also note that there is no breakdown of the standard rates of £3,500 and £10,000 where a determination could have been resolved prior to referral to Ofgem. These costs appear high, particularly for domestic customers where the potential to be charges £3,500 is likely to be a deterrent to going for a determination. Finally, it is not clear how the £5,000 cap has been calculated or how it is to be applied. Does the cap apply to each element of the potential charge (i.e. flat rate, external advice and standard rate) or to the overall total? Either way, this again is a very high price for domestic customers to be faced with. We consider that this cap should be lowered and applied to the total cost. An appropriate cap should similarly be applied to network companies.

## CHAPTER: Three

**Question 1: Do the factors set out in this chapter fairly assess when we should recover costs?**

We agree that vulnerable customers should not be exposed to costs associated with a determination. However, we do not believe that the consultation is clear as to the customers that Ofgem would class as vulnerable and hence exclude from any determination charges. Most of the criteria set out in the consultation do not appear to be relevant to the determination process. We suggest that this needs to be amended and clarified.

**Question 2: Are there any additional factors that should be taken into account?**

Please see our response to Questions 1 and 4 of Chapter 2 for additional factors that should be taken into consideration.

**Question 3: Are the implementation procedures comprehensive?**

Yes.

**Question 4: We welcome views regarding additional procedures that would facilitate the determination process.**

It would be useful during the determination process for parties to be given updates as to the progress of the determination. In our experience there are often delays of several months following the submission of information by both parties.