



Promoting choice and value

for all gas and electricity customers

Competition in connections - Consultation on WPD's Competition Notices

Consultation

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Overview:

This consultation seeks your views on the development of competition in connections in WPD's Distribution Services Areas. It follows the submission to us by WPD of "Competition Notices" on 26 October 2012 on behalf of -

- Western Power Distribution (East Midlands) plc
- Western Power Distribution (West Midlands) plc
- Western Power Distribution (South Wales) plc
- Western Power Distribution (South West) plc.

We currently protect the interests of consumers by regulating the margins that Distribution Network Operators can earn from their connections business.

We propose to lift price regulation of connection services where WPD has demonstrated that effective competition exists by satisfying both a Legal Requirements Test and a Competition Test. We intend to make determinations on whether WPD has satisfied these tests in each of its distribution services areas in February 2013.

In this document we highlight the information we are looking for from interested parties to help us to assess whether effective competition exists in each of WPD's distribution services areas. WPD's Competition Notices are available on our website as an associated document to this consultation.

Context

Our principal objective is to protect the interests of existing and future consumers. We consider that where competition is viable and effective, it can protect customer interests better than regulation. Effective competition in the connections market should allow customers to benefit from lower prices, innovation (for example providing multi-utility connection services) and better service standards (for example faster connection installations).

In recent years, we have worked closely with the industry and new entrant connections providers to remove legislative barriers and other limitations on the scope for competition in connections. In 2010, we introduced a package of measures to remove regulatory barriers to competition and to provide strong incentives on Distribution Network Operators (DNOs) to facilitate competition. These measures include -

- Providing headroom to new entrants by introducing a four per cent regulated margin that DNOs charge on contestable connection services in market segments where we consider competition to be viable
- Providing DNOs with the opportunity to have this price control lifted in segments of the market where they can demonstrate that competition can be relied upon to protect consumer interests (by way of submitting a Competition Notice and passing a Competition Test)
- An assurance that we will continue to monitor competition in the connections market (We will review the position and consider what action to take if a DNO fails to demonstrate the scope for effective competition by December 2013.)

To date we have issued decisions on three DNOs' Competition Notices - Electricity North West Limited (ENWL) on 21 November 2011; Northern Powergrid on 26 October 2012; and UK Power Networks (UKPN) on 29 October 2012. Details of our decisions can be found on our website (see associated documents below).

In these decisions we have emphasised that we will not lift price regulation until we have seen sufficient evidence that customers' interests would be protected in its absence. If a DNO does not consider that it can provide evidence of effective competition in the whole of a RMS, it can propose an alternative market segment.

We have recently received an application from WPD. This consultation seeks views on WPD's application, which relates to nine market segments in each of its four distribution services areas.

Associated documents

WPD's Competition Notices and decisions on previous Competition Notices
<http://www.ofgem.gov.uk/Networks/Connectns/CompinConn/Pages/CompinCnnectns.aspx>

DPCR5 Final Proposals - Incentives and Obligations
<http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=348&refer=Networks/ElecDist/PriceCtrls/DPCR5>

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Executive Summary

Background

We have been working to facilitate competition in electricity connections since 2000. Unlike the replacement, reinforcement and maintenance of the existing network, connection services are contestable. This means that new entrants to the market can compete with Distribution Network Operators (DNOs) operating in their regions to give customers a real choice over their connections provider and an opportunity to shop around to get a good service and value for money. We would expect this competition to deliver benefits that are more difficult to achieve through regulation, such as innovation in the type of services on offer, a focus from providers on meeting customer needs and a choice for customers.

In general, however, we have been disappointed with the pace at which competition in the electricity connections market has developed. For this reason, at the last electricity distribution price control review (DPCR5), we revised regulatory arrangements to facilitate competition further. Previously, DNOs were prevented from earning a margin on connection activities. DNOs now earn a margin of four per cent on contestable connection services in those market segments where competition is considered viable. This is intended to create headroom to allow new entrants to compete against the DNO.

In addition, since the start of DPCR5 (April 2010), DNOs have been able to submit Competition Notices to request that price regulation be lifted in market segments where they can show that effective competition exists.^{1,2}

WPD is applying for price regulation to be lifted in nine Relevant Market Segments (RMSs). Its application covers all four of its licensed distribution services areas (DSAs).³ We have four months from the date of WPD's application to determine whether to lift price regulation in each of these nine market segments in each of WPD's DSAs.

Considerations in determining whether to lift price regulation

In determining whether to lift price regulation, we will consider whether we can rely on actual competition or the threat of competition, rather than price regulation, to protect consumer interests. We will only lift regulation where we determine that effective competition exists. Furthermore, our previous decisions on DNOs' Competition Notices have emphasised that we will not lift price regulation until we have seen sufficient evidence that customers' interests, in the whole of a RMS, will

¹ As DNOs have an important role to play in removing barriers to entry, any DNO that fails to demonstrate effective competition by December 2013 will be reviewed by Ofgem and may subsequently be referred to the Competition Commission.

² To date we have issued decisions on three DNOs' Competition Notices - Electricity North West Limited (ENWL) on 21 November 2011; Northern Powergrid on 26 October 2012; UK Power Networks (UKPN) on 29 October 2012. Details of our decisions can be found on our website.

³ Western Power Distribution (East Midlands) plc, Western Power Distribution (West Midlands) plc, Western Power Distribution (South Wales) plc, Western Power Distribution (South West) plc.

be protected in its absence. We will conduct a separate analysis of each of the nine RMSs covered by WPD's application in each of its DSAs.

One important indicator of whether competition is effective in each of the RMSs is WPD's market share. Another is the number of alternative providers present in the market. WPD's application suggests that in some segments where it considers effective competition exists it retains as much as 100 per cent of the market, whereas in others it retains zero per cent. It also suggests that in some segments WPD is facing competition from as many as 42 participants, whilst in others there appear to be no current participants.

While we will take into account market share in assessing whether effective competition exists, we do not think that it should be considered in isolation as it can be an imperfect indicator of the effectiveness of competition. For example, a DNO may retain a high market share by providing a competitive price or a high quality of service. In that case, the threat from competitors may be effective in limiting the prices the DNO charges and/or encouraging it to innovate and improve service.

Equally, continued regulation in contestable services can have unintended consequences and stifle the scope for customers to realise the benefits, such as innovation, that competition can bring. For this reason, an approach that looks narrowly at market shares and retains price regulation until pre-defined thresholds have been met, may not be in customers' best interests. Where we lift price regulation, we will continue to monitor the way the market works and customers will continue to be protected by competition law.

Respondents' views

For the reasons outlined above, we will consider a range of criteria in assessing whether effective competition exists. We will make our decision having considered, the evidence in WPD's Competition Notices and that provided by interested parties.

We would like to hear in particular from local authorities, property developers and other customers (or their representatives) who purchase contestable connection services in the nine RMSs across WPD's DSAs. We would like to understand whether customers have effective choice between connections providers, whether they have the information they need to decide between alternative offerings and whether this has been, or is likely to be, successful in delivering improved service levels or more competitive prices (either from WPD or its competitors) in WPD's DSAs.

We also seek the views of those companies competing with WPD (or those who have done so, or who have considered doing so in the past). We would like to understand whether there are barriers to them entering or growing their market share in the RMSs covered by WPD's application. In particular, we would like to understand whether WPD responds appropriately to the needs of its competitors when it provides them with non-contestable services.

Overall, we invite views and evidence on whether we can have confidence in WPD to operate appropriately if price regulation is lifted in the RMSs in each of its DSAs. Responses to this consultation should be sent to us by 18 January 2013 at the latest.

1. WPD's Competition Notices

Chapter Summary

This chapter describes WPD's Competition Notices, the process we will follow in considering whether the Competition Test has been met and the structure of this consultation.

- 1.1. Competition Notices serve as applications to have price regulation lifted on competitive connection activities in the nine Relevant Market Segments (RMSs) set out in Charge Restriction Condition 12 (CRC 12) of the Electricity Distribution Licence.
- 1.2. On 26 October 2012 WPD submitted Competition Notices⁴ in respect of its licensed distribution networks -
 - Western Power Distribution (East Midlands) plc
 - Western Power Distribution (West Midlands) plc
 - Western Power Distribution (South Wales) plc
 - Western Power Distribution (South West) plc.
- 1.3. The RMSs covered by WPD's Competition Notices are -

Metered Demand Connections

- Low Voltage (LV) work
- High Voltage (HV) work
- HV and Extra High Voltage (EHV) work
- EHV work and above

Metered Distributed Generation (DG)

- LV work
- HV and EHV work

Unmetered Connections

- Unmetered Local Authority (LA) work
- Unmetered Private Finance Initiative (PFI) work
- Unmetered other work.

Full descriptions of each of the RMSs are set out at appendix 4 of this consultation.

- 1.4. CRC 12 and our Final Proposals for DPCR5 set out the process we must follow in assessing the Competition Notices submitted by WPD. We must determine whether the Legal Requirements Test and the Competition Test (set out in CRC 12) have been met for each RMS in each of WPD's Distribution Services

⁴ Whilst the licence requires DNOs to submit separate Competition Notices for each licensee, for administrative convenience we agreed that WPD could submit a single document covering all four of its licensed areas. Note that we will make separate determinations for each licensee.

Areas (DSAs).⁵ We must make these determinations within four months of receiving WPD's Competition Notices. CRC 12 places an obligation on us to consult with parties that we believe have an interest prior to making our determinations.

- 1.5. DPCR5 Final Proposals set out key issues that Distribution Network Operators (DNOs) should consider in making their evidence case. In addition, our previous decisions on DNO's Competition Notices have emphasised that we will not lift price regulation until we have seen sufficient evidence that customers' interests will be protected in its absence. The key issues set out in DPCR5 form the basis for WPD's Competition Notices.⁶ These are -
- actual and potential competition (The current level of competition the DNO faces in each market segment and the scope for this competition to grow.)
 - price and transparency of pricing to customers (The steps the DNO takes to ensure that customers have the information they need to make decisions between taking a service from the DNO or a new entrant provider, and what they are doing to ensure they do not discriminate between their own customers and new entrant providers when they price their services)
 - promoting awareness of competitive alternatives amongst connections customers (The steps the DNO takes to ensure that customers are aware that they can go to other providers for the service they are requesting.)
 - competition in connections procedures and processes (The actions the DNO has taken to ensure that the procedures and processes they have in place for non-contestable services meet the needs of new entrants and are provided in a non-discriminatory manner.)
 - efforts to open up non-contestable activities to competition (What action the DNO has taken to extend contestability.)
 - barriers to competition (Other actions the DNO is taking to remove barriers to new entrants competing in their area.)
- 1.6. We intend to publish our decision on the Competition Notices submitted by WPD (with details of our determinations in respect of each of the RMSs in each of its DSAs) in February 2013.

Consultation responses

- 1.7. In making our determinations we will, amongst other relevant information, consider responses to this consultation.
- 1.8. We are required to make separate determinations for each of the RMSs and DSAs covered by WPD's application.

⁵ The Legal Requirements Test and the Competition Test are set out at Appendix 3 to this document.

⁶ Note that this is not intended to be an exhaustive list of requirements.

- 1.9. **We ask respondents to this consultation, wherever possible, to submit their responses using the template at appendix one of this document.** In any case, we ask them to clearly set out which of the RMSs and WPD's DSAs each section of their response relates to.
- 1.10. Unless consultation responses are marked confidential they may be posted on our website. Please note that it could prove difficult for us to use confidential information as evidence in coming to a determination. **If you consider your response to be confidential, in whole or in part, please contact us using the details on the front of this document.**
- 1.11. The deadline by which consultation responses must be submitted to us is 18 January 2013.

Structure of this document

- 1.12. While interested parties are invited to respond to all of the questions posed in this consultation, we would particularly like to invite:
- Customers to consider the issues discussed in Chapter 2 (Customer awareness and ability to choose competitive alternatives) and the document summary at Chapter 6.
 - **Existing/potential competitors to consider the issues discussed in Chapter 3** (The potential for further competition) and the document summary at Chapter 6.
- 1.13. At Chapter 4, we present a summary of WPD's market share analysis and we seek the views of interested parties on the data provided in WPD's Competition Notices.
- 1.14. At Chapter 5 we set out WPD's current position against the Legal Requirements Test.
- 1.15. Appendix 2 gives an overview of the electricity connections market, our decision to introduce a regulated margin and the potential for price regulation to be lifted. It also discusses what we will consider in determining whether the Competition Test has been passed.
- 1.16. We encourage all respondents to read the document containing WPD's Competition Notices which is available on our website as an associated document to this consultation.
- 1.17. We intend to publish our decision on the Competition Notices submitted by WPD (with details of our determinations in respect of each of the RMSs in each of its DSAs) in February 2013.

2. Customers' awareness of and ability to choose competitive alternatives

Chapter Summary

This chapter seeks customers' views relating to awareness of competitive alternatives. In particular it asks whether customers are able to make informed decisions in choosing a connections provider and whether the competitive alternatives available to them provide the service and price they expect to receive.

Question box

When considering your responses to these questions, please consider your experiences, the actions that WPD has undertaken and the actions that you consider it could reasonably undertake.

When considering your responses to these questions please only consider the nine RMSs covered by WPD's application. In your response please indicate the RMS(s) and WPD DSA(s) to which your experiences relate.⁷

Question 1: Are customers aware that competitive alternatives exist?

Question 2: Do customers have effective choice, ie are they easily able to seek alternative quotations?

Question 3: Does WPD take appropriate measures to ensure that customers are aware of the competitive alternatives available to them?

Question 4: Are quotations provided by WPD clear and transparent? Do they enable customers to make informed decisions whether to accept or reject a quote?

Question 5: Have customers benefitted from competition? Have they seen improvements in WPD's price or service quality or have they been able to source a superior service or better price from WPD's competitors?

2.1. We consider that, for effective competition to exist, customers must have a real choice of connections providers. In determining whether this choice exists, in addition to the number of competitors active in each of the RMSs, we will consider –

- customers' awareness of alternative providers
- the ability of customers to make informed decisions

⁷ Wherever possible please provide your response using the template at appendix 1 of this document.

- whether competitive alternatives to WPD offer customers an effective choice of connections provider and the quality of service and/or value for money that they expect to receive.

Number of competitive alternatives

2.2. WPD has provided information in its Competition Notices that shows that in 2011-12 –

- 48 competitors requested connection quotations in WPD's West Midlands DSA and 27 accepted the quotations provided
- 47 competitors requested connection quotations in WPD's East Midlands DSA and 24 accepted the quotations provided
- 31 competitors requested connection quotations in WPD's South West DSA and 14 accepted the quotations provided
- 22 competitors requested connection quotations in WPD's South Wales DSA and four accepted the quotations provided.

Further detail on the number of competitors active in each of the RMSs in WPD's DSAs can be found in WPD's Competition Notices and in Chapter 3 of this consultation.⁸

2.3. We would expect customers in any RMS, for which WPD is seeking to pass the Competition Test, to face an effective choice of competitive providers when they are looking for connections. We note that responses to our previous consultations on other DNOs' Competition Notices have indicated that this choice may not always exist for customers with small/low value jobs in the LV and unmetered RMSs.

2.4. We would like to understand if this is the experience of customers in these and/or other RMSs. Have they been able to obtain quotes from competing providers? We are also interested in whether customers are confident that they have a real choice between connections providers.

Promoting awareness of competition

2.5. While the figures presented by WPD show a number of alternative providers operating in its DSAs, we note that where a lack of customer knowledge/engagement exists, customers will not be able to take advantage of competitive alternatives.

2.6. We consider that WPD has a role to play in promoting awareness of competitive alternatives to customers. We note the following points from WPD's Competition Notices –

- in October 2012 WPD revamped the connections pages of its website to ensure that

⁸ <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=383&refer=Networks/Connectns/CompinConn>

- information on competition in connections was available within two clicks of its homepage
 - its 'Connecting to our Network' page has competition in connections at the top of the page to help make sure that connection customers are aware of their options
 - it offers an explanation of competition in connections to customers and shows them where they can find an alternative provider.
- WPD has developed guidance leaflets which have been available on its website since September 2012 (Its 'Competition in Connections' leaflet explains the connections process from application to energisation and the different aspects of the process which are contestable and non-contestable.⁹)
 - WPD has provided its call centre staff with guidance to help them answer customer questions about competition in connections.
 - WPD conducted a survey into customers' awareness of competition in the DG RMSs. (WPD found that 72 per cent of DG customers were aware that competitive connections providers could undertake contestable work. It also identified how these customers would have preferred to be told about competition in connections.)
 - WPD has been trialling 'customer surgeries' at its depots in its South Wales DSA. (It considers that the surgeries make WPD personnel more accessible and provide a further opportunity to raise awareness of competition in connections.)
- 2.7. We seek customers' views on the statements made by WPD. In particular, we are interested in whether customers consider that WPD takes appropriate measures to make customers aware of the competitive alternatives available to them – for example, in information available to customers throughout the connections process, including on its website¹⁰, connections literature, application forms, quotations etc. When responding please consider your experiences, the actions that WPD has undertaken and the actions that you consider it could reasonably undertake.

Customer choice

- 2.8. In addition to the existence of alternative connections providers in WPD's areas and customers' awareness of those connections providers, we consider that for customers to have effective choice there must be transparency in terms of connection timeframes and price. Customers need to receive transparent quotations so that they are easily able to compare DNO and competitor quotations and make an informed decision as to which to choose.

⁹ After submitting its Competition Notice WPD informed us that it intends to start sending these leaflets to customers with its application packs and quotations towards the end of November 2012.

¹⁰ <http://www.westernpower.co.uk/>

Where customers are not able to easily make this choice they may be less likely to use competitive alternatives.

2.9. We note the following from WPD's Competition Notices –

- Historically WPD has enclosed a breakdown of costs with all connection offers. The breakdown allows customers to compare WPD's connection charges against the indicative charges set out in 'WPD's Statement of Methodology and Charges for Connection' which is available on its website.¹¹
- For larger schemes, requiring works with costs in excess of £20,000, WPD has historically provided the split between the charges for the contestable and non-contestable elements of the work to help customers make comparisons between the competitive and non-competitive connection route.
- WPD is aware that customers would like more information included within their connection offers and it has recently developed a new connection offer breakdown. This breakdown will be implemented in mid November 2012 and will be provided for all connections in the RMSs. An example of the breakdown can be found at appendix 12 of WPD's Competition Notices.¹²
- Customers cannot currently accept only the non-contestable portion of a full WPD connection offer. However, WPD asserts that subsequent requests for competitive offers can be provided efficiently as they are usually handled by the same planner. We understand that WPD is currently considering the viability of combining full and competitive quotations to provide a complete one-stop service.

2.10. We seek customers' views on these points made by WPD. In particular –

- Do customers consider that having to reapply for a separate non-contestable offer makes customers less likely/able to choose competitive alternatives? If so has WPD taken appropriate action to mitigate this? (We are aware that responses to our previous consultations on other DNOs' Competition Notices have indicated that having to reapply for a separate non-contestable offer can delay the process which may result in customers being less likely to choose competitive alternatives.)
- Are quotations provided by WPD for connections clear and transparent?
- Do WPD's quotations enable customers to make an informed decision to accept or reject a quote?

When responding please consider your experiences, the actions that WPD has undertaken and the actions that you consider it could reasonably undertake.

¹¹ <http://www.westernpower.co.uk/Connecting-to-our-Network/Connection-Charging-Statement>

¹² <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=383&refer=Networks/Connectns/CompinConn>

Benefits

- 2.11. In addition, we are interested in whether customers consider that they have benefitted from competition. Such a benefit could be seen, for example, either in improvements in WPD's services/charges in the face of competition or by new entrants providing a superior level of service and/or a better price.

3. The potential for further competition

Chapter Summary

This chapter seeks to capture the views of existing and potential competitors on the potential for future competitive activity in each RMS. It considers the number of competitors already in the market, potential barriers to the further growth of competition and what factors influence competitors' decisions to enter a RMS.

Question box

When considering your responses to these questions, please consider your experiences, the actions that WPD has undertaken and the actions that you consider it could reasonably undertake.

When considering your responses to these questions please only consider the nine RMSs covered by WPD's application. In your response please indicate the RMS(s) and WPD DSA(s) to which your experiences relate.¹³

Question 1: Does the level of competitive activity in the RMSs show that there is the potential for further competition to develop?

Question 2: Consider the organisational structure of WPD's business and its procedures and processes –

- ➔ **how do they compare to those you encounter elsewhere in the gas and electricity markets or other industries? Do they reflect best practice?**
- ➔ **do they enable competitors to compete with the timescales for connection (from quote to energisation) offered by WPD? Or do they offer WPD any inherent advantage over its competitors or prevent existing competitors from competing with them effectively?**
- ➔ **do they assist, obstruct or delay connections providers entering the RMSs?**

Question 3: Are the non-contestable charges levied by WPD for statutory connections in the RMSs consistent with those levied for competitive quotations? Are they easily comparable with competitive quotations?

Question 4: What factors are key influences on the development of competition in the RMSs? In particular, if you are an existing/potential competitor –

- ➔ **what is the potential for competitors to enter new RMSs, or grow their share of an RMS they already operate in?**
- ➔ **are there any types of connection in any of the RMSs, or geographic locations in WPD's DSAs, that by their nature, are not attractive to competition? Please explain your response.**

¹³ Wherever possible please provide your response using the template at appendix 1 of this document.

- 3.1. While we will consider current levels of competition when determining whether to lift price regulation in each of the RMSs, it will only be considered alongside the potential for further competition to develop.
- 3.2. This chapter asks for competitors' views on the potential for further competition in each of the RMSs in each of WPD's DSAs. In particular it asks for views on the ease with which competitors can enter and compete and whether barriers to competition exist. We also invite views on how competition might develop in the future.

Ease of entering and competing in the market

The number of competitors active in the market

- 3.3. We consider that the ease at which competitors can enter the market and the number of competitors leaving the market indicators of the potential for further competition to develop.
- 3.4. In its Competition Notices WPD provided details of the number of competitors active in the RMSs in its DSAs in 2011/12. A high level summary of the information provided on competitors requesting and accepting quotations can be found in table 3.1 below. Note that the figures in brackets show the number of competitors that won work.

Table 3.1 – Active competitors

| | South West | South Wales | East Midlands | West Midlands |
|---------------------------------------|---------------|---------------|----------------|----------------|
| Metered demand | | | | |
| LV | 16 (4) | 8 (2) | 31 (17) | 35 (17) |
| HV | 14 (8) | 16 (2) | 42 (16) | 40 (23) |
| HV/EHV | 0 | 0 | 10 (0) | 3 (2) |
| EHV and above | 0 | 0 | 9 (0) | 6 (0) |
| Metered Distributed Generation | | | | |
| LV | 0 | 0 | 3 (0) | 2 (0) |
| HV/EHV | 11 (5) | 4 (1) | 9 (2) | 6 (1) |
| Unmetered | | | | |
| Local Authority | (2) | (2) | (2) | (3) |
| PFI | | | | |
| Other | | | | |

- 3.5. WPD's Competition Notices show the percentage of quotations requested/accepted by each of its competitors in each of the RMSs. It also shows the percentage of connections completed by each of its competitors in 2011/12. We encourage respondents to review this analysis.¹⁴

¹⁴ <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=383&refer=Networks/Connectns/CompinConn>

- 3.6. WPD states that the number of different competitors requesting quotations in each of the RMSs demonstrates the interest and openness of competition in WPD's DSAs.
- 3.7. The information provided by WPD shows that, in some RMSs, the competitors that completed connections in 2011/12 were different to those requesting/accepting quotations in the same period.
- 3.8. We ask existing/potential competitors whether they consider that the level of competitive activity in each of the RMSs in each of WPD's DSAs in itself shows that there is the potential for further competition to develop.

Barriers to effective competition

- 3.9. Given the levels of market share WPD retains in some of the RMSs (see Chapter 5) we consider that it is particularly important to look at whether barriers to competition exist in the market that -
 - prevent competitors from competing effectively in each of the RMSs (For example, barriers that may make it difficult for competitors to compete with the DNO in terms of service or price.)
 - prevent further competition in each of the RMSs (For example, barriers that may make entering a RMS in WPD's DSAs unattractive, or barriers that obstruct or delay entry to a RMS in WPD's DSAs.)
- 3.10. In considering barriers to competition, we are not only considering potential barriers that are within the DNO's gift to remove, but also natural or regulatory barriers that may obstruct competition from developing further.

Potential barriers to competition raised by the Electricity Connections Steering Group

- 3.11. In 2011, members of the Electricity Connections Steering Group (ECSG) identified issues that they considered to be potential barriers to competition.
- 3.12. The purpose of the exercise was to provide a starting point for DNOs to engage with stakeholders to consider whether barriers to competition existed in their areas. The potential barriers raised were not DNO specific nor were they presented as a definitive list of barriers.
- 3.13. We explained to DNOs that where they identify barriers to competition they should work to remove these barriers, or if they are not within the DNO's control, bring the issue to our attention.
- 3.14. The Competitive Networks Association (CNA) also developed and circulated a list of what they consider to be barriers to competition.
- 3.15. The potential barriers highlighted by the ECSG and CNA include -
 - poor availability of information (Ease of access, speed of access, ensuring information is up-to-date/current.)
 - adoption agreement and security arrangements (These can sometimes be viewed as overly onerous. The ECSG questioned whether the numbers of

faults seen in adopted assets necessitated the level of bond DNOs require in some circumstances.)

- DNO inspection and monitoring practices (These can sometimes be viewed as overly onerous. The ECSG questioned whether the numbers of faults seen in adopted assets necessitated the level of inspection and monitoring DNOs require in some circumstances. They also questioned whether DNOs subject their own staff to the same levels of inspection and monitoring.)
- terms in connection agreements / types of connection agreements available (DNOs are sometimes viewed as being inflexible, for example insisting on tri-partite agreements.)
- letters of Authority (The ECSG considered that there was inconsistency in what DNOs require.)
- service timeframes (Services that sit outside of SLC 15 are not always provided within reasonable timeframes. There are concerns that DNOs require different levels of minimum information before an application is deemed complete.)
- developing ongoing relationships (DNOs are often seen to be poor at 'soft skills', eg, communication, cooperativeness, relationships with competitors etc.)
- scope of contestable works (The scope of contestability can sometimes vary from DNO to DNO, for example in respect of the assets competitors may work on. Competitors consider that the scope of what is contestable could be extended.)
- legal process (DNOs are sometimes slow to progress and complete legal documents which can leave competitors unable to offer clients firm timescales for connection.)
- difference in non-contestable charges between statutory and competitive quotations (Customers can be unable to transfer non-contestable costs detailed in DNO statutory quotation to a competitive quote. Higher non-contestable charges can be incurred by competitors (compared to DNO statutory quotation customers) to cover the processing of competitive applications.)
- dispute resolution (Competitors raised concerns that the length of time sometimes taken to resolve disputes can leave them unable to compete effectively.)

Barriers to competition in WPD's DSAs

- 3.16. WPD's Competition Notices state that it has been working with customers and competitors to improve its procedures and processes to better facilitate competition in connections and so avoid any unintended barriers, either real or perceived. The Notices also discuss its policies in relation to the potential barriers to competition raised by the ECSG and the CNA.

- 3.17. We seek views on the extent to which respondents consider the procedures and processes identified in WPD's Competition Notices sufficient to enable competitors to compete effectively. In particular we seek competitors' views on the organisational structure, including procedures and processes, of WPD's business –
- How does WPD compare to businesses competitors encounter elsewhere in the gas and electricity markets or other industries? Do they reflect best practice?
 - Does WPD enable competitors to compete with its connection timescales (from quote to energisation)? Or does WPD have any inherent advantage or prevent existing competitors from competing effectively?
 - How does WPD assist, obstruct or delay connections providers entering the RMSs?
- 3.18. We also seek competitors' views as to whether the non-contestable charges levied by WPD for statutory connections are consistent with those levied for competitive quotations and easily comparable with competitive connections.
- 3.19. We ask that, if competitors do consider that barriers exist, they consider the impact of the identified barrier and whether this has been addressed by WPD or is beyond its control. We also ask competitors to provide evidence to support their view and to suggest what WPD might reasonably do to remove the barrier.

The future growth of competition

- 3.20. In the absence of barriers to competition, in a market where effective competition exists, we would expect competitive providers to try to grow their market share. Therefore, we are interested in whether existing/potential competitors intend to grow their market share/start competing in any of the RMSs in WPD's area. We are also interested in the factors that competitors take into consideration in deciding whether to compete with WPD in each RMS.
- 3.21. We note that you may consider this information to be confidential. If you do, please provide it in a separate annex to your response and clearly mark it as such.

The potential for competition to develop

- 3.22. Further to the potential barriers to competition discussed earlier in this chapter, we note that the potential for competition to develop in each RMS may be influenced by a number of factors, for example the level of contestable service offered by WPD to its customers, economic conditions, the level of margin charged by WPD, etc.
- 3.23. We seek the views of existing and potential competitors on what factors they consider are key influences on the development of competition in each of the RMSs in WPD's DSAs.

- 3.24. For each RMS, we also seek the views of existing and potential competitors in WPD's DSAs, on the potential for them to enter new RMSs, or to grow their share of the RMSs in which they currently operate within the next five years.
- 3.25. Further, we seek existing and potential competitors' views as to whether there are any types of connection in any of the RMSs, or geographic locations in WPD's DSAs, that by their nature, are not attractive to competition. If you consider some connections/areas are not attractive to competition, why is that the case?
- 3.26. For example, we note that WPD's Competition Notices highlight some issues specific to particular RMSs/DSAs that could make an RMS (or part of an RMS) unattractive to competitors. In particular -
- LV demand work RMS/HV demand work RMS (The general level of activity in the Midlands gives competitors access to sufficient volumes of work to allow them to be able to spread their fixed costs. This tends not to be the case in South Wales and the South West where the level of activity is lower. Where activity is lower it is more difficult for competitors to build economies of scale through multiple schemes, and they may therefore be more attracted to larger developments.)
 - LV demand work RMS/HV demand work RMS (Many competitors are based in/have bases in the Midlands and delivering schemes in other geographic areas (ie South West/South Wales) involves additional overheads. Competitors are more selective over which schemes they will compete to deploy their workforce to outside of their base area. They will generally not compete for smaller jobs.)
 - DG RMSs (WPD have highlighted that the DG connections that are attractive to competitors are generally part of wider developments. These connections therefore fall under the demand RMSs rather than the DG RMSs. Competition for DG connections that are not part of a wider market segment has been slower to develop.)
 - WPD claims that its structure results in customer satisfaction (It considers that satisfied customers are less likely to seek an alternative connections provider.)

Efforts to open up non-contestable activities to competition

- 3.27. Connections works are split between works that are contestable (competitive) and those that are non-contestable (can only be completed by the DNO).¹⁵
- 3.28. We believe that opening up non-contestable activities to competitors may provide further opportunities and incentives for competition to develop in each of the RMSs. This is because it reduces competitors' reliance on DNOs to

¹⁵ A full explanation of what is currently contestable/non-contestable in WPD's DSAs can be found in its Statement of methodology and charges for connection which is available on its website: <http://www.westernpower.co.uk/Connecting-to-our-Network/Connection-Charging-Statement>

provide essential services and it increases the scope of works for which competitors can compete.

- 3.29. We have undertaken a number of projects in the past to support the extension of contestability. For example, in 2004 we proposed that contestability be extended to live jointing to ICP installed mains. Following this, in 2006, we worked with industry to extend the scope of contestable works to include certain elements of reinforcement and diversionary works fully funded by customers.
- 3.30. We are aware that a number of competitors and customers consider that contestability can be further extended to the benefit of customers. To support the extension of contestability we have –
- published a decision that in principle contestability should be extended to jointing to existing LV/HV mains¹⁶
 - consulted¹⁷ on introducing competition to part funded connections
 - set up a working group to consider the extension of contestability to self determination of the Point Of Connection.¹⁸
- 3.31. We consider that to enable the industry to conclude whether an activity should become contestable, working groups require active and supportive input from DNOs. This includes, amongst other things, DNOs facilitating trials, overcoming barriers to competition and sharing learning. It also requires DNOs to measure trial success and make trial working practices business as usual as soon as it is possible.
- 3.32. Not only do we consider active DNO participation in Ofgem working groups and industry trials to be important, we also consider that DNOs themselves should engage with the industry to consider where it is possible to further extend contestability to facilitate competition. We do not consider that Ofgem's involvement sets the limit of what can be deemed contestable by a DNO.¹⁹
- 3.33. Amongst other things we note the following from WPD's application:
- WPD amended its Connection Charging Methodology in June 2012 to make LV jointing to existing mains a contestable activity
 - HV jointing is now open to competition in each of WPD's DSAs (It plans to modify its Connection Charging Methodology to formalise this change in the first quarter of 2013.)

¹⁶ <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=355&refer=Networks/Connectns/CompinConn>

¹⁷ Consultation on part funded connections

<http://www.ofgem.gov.uk/Networks/Connectns/CompinConn/Pages/CompinCnctns.aspx>

¹⁸ Details of these working groups can be found on the Ofgem website.

¹⁹ While we consider that DNOs are free to extend contestability, we recognise that barriers beyond DNOs' control may prevent this happening without our support. If a DNO or other party encountered regulatory or other barriers to the extension of contestability we would expect this to be brought to our attention.

- WPD has been engaged with competitors in developing processes to allow them operational access to its HV network (It plans to roll these processes out in early 2013.)
 - WPD is starting to look at methods to allow competitors operational access to the LV network to allow competitors to use intrusive cable identification techniques (With competitors using their own Distribution Safety Rules.)
 - WPD has made it possible for competitors to self-determine their own points of connection (POCs) for unmetered services
 - WPD has a project underway with a competitor to identify what the requirement would be for WPD to provide information to allow competitors to determine their own POCs to WPD's network.
- 3.34. We seek views on WPD's activities to open up non-contestable activities to competition. In particular, we seek views on how WPD engages with stakeholders in considering the extent of contestability and in developing procedures and processes (at the trial stage and for newly contestable activities) that promote competition.
- 3.35. We ask existing and potential competitors whether they consider the extension of contestability is likely to stimulate further competition in any of the RMSs in WPD's DSAs.

4. WPD's assessment of its market share

Chapter Summary

This chapter presents a summary of WPD's market share analysis and seeks view from interested parties.

Question box

When considering your responses to these questions please only consider the nine RMSs covered by WPD's application. In your response please indicate the RMS(s) and WPD DSA(s) to which your experiences relate.²⁰

Question 1: Do you agree with the methods used by WPD to analyse the level of competition in each of the RMSs covered by its application? In particular, do you consider that WPD gives a clear indication of the current level of competitive activity?

Question 2: Do you consider that competitive activity is at a level that in itself indicates that effective competition exists?

- 4.1. In this chapter, we provide a brief summary of the market share analysis set out in WPD's application. We are seeking views on WPD's assessment of its market share.
- 4.2. WPD has provided information that shows -
- that 72 competitors (29 Independent Distribution Network Operators (IDNOs) and 43 Independent Connections Providers (ICPs)) competed for/completed work in its DSAs in 2011-12
 - that a number of these competitors competed across WPD's DSAs and the RMSs
 - the percentage market shares of ICPs and IDNOs operating in each of the RMSs in WPD's DSAs
 - the level of market share held by each of its competitors and the number of competitors active in its four DSAs varies by RMS.
- 4.3. Readers should refer to WPD's Competition Notices for full details of its analysis.²¹

²⁰ Wherever possible please provide your response using the template at Appendix 1 of this document.

²¹ <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=383&refer=Networks/Connectns/CompinConn>

Points to note about WPD's assessment of market share

- 4.4. In order to facilitate an assessment of the level of activity and potential competition in WPD's DSAs and the RMSs, WPD has provided its competition analysis over a variety of different measures in its Competition Notices. The data it has provided relates to the 2011-12 regulatory year.

Completed connections

- 4.5. WPD considers that the number of connections completed is a concrete measure of levels of competition. It considers that this measure can be considered a historical view of competition since many of these connections will have been contracted with the customer by the DNO or competitor, months or even years ahead of the connection being made.
- 4.6. The information on IDNO connections has been sourced from data used for IDNO billing purposes by WPD and is based on the meter installation date as a substitute for the connection date.
- 4.7. Where WPD is using data from the DPCR4 price control period it has categorised them into the RMSs (which did not exist until the DPCR5 price control period) by splitting volumes in the proportions of available DPCR5 data.

Quotations and acceptances

- 4.8. WPD considers the number of quotations it provides for competitive POCs and non-competitive connection schemes a measure of the current level of competitive activity and interest in carrying out competitive schemes in its RMSs. It considers that this measure gives an up-to-date view of competitive activity as it considers new and prospective developments.
- 4.9. WPD considers that data showing accepted quotations in the period is the most up-to-date measure of schemes being won and lost by WPD and its competitors. It should be noted that a single quotation may relate to multiple connections.
- 4.10. WPD has not provided information on quotations and acceptances for the unmetered RMSs. As work in these RMSs has shorter lead times and higher turnover, WPD considers completed connections to be the strongest measure of competition and market share.
- 4.11. For the LV demand work and HV demand work RMSs, WPD has also provided data showing accepted quotations in terms of the value of non-contestable works. It considers that this adds another dimension to the analysis provided. It has not provided this analysis for other RMSs as it does not consider the volumes of schemes in other RMSs large enough.

Table 4.1 – WPD (South West) plc

| RMS | Size of the market (2011-12) | New projects (2011-12) | | | | | Completed work (2011-12) | |
|--------------------------------------|--|------------------------|-----------------|------------------------|--------------------------------|---|-----------------------------------|-------------------|
| | | Number of competitors | | Percentage competitive | | | Competitors completing jobs | |
| | | Requesting quotes | Winning work | Quotes | Quotes accepted (number) | Quotes accepted (value non- contestable work) | | Jobs completed |
| Metered Demand LV Work | 455 accepted quotes 4,333 connections | 16 | 4 | 6% | 1.4% | 3% | 15% | 3 |
| Metered Demand HV Work | 443 accepted quotes 3,372 connections | 14 | 8 | 10% | 5% | 6% | 23% | 6 |
| Metered Demand HV and EHV Work | 2 accepted quotes 0 connections | 0 | 0 | 0% | 0% | | N/A | N/A |
| Metered Demand EHV work and above | 0 accepted quotes 0 connections | 0 | N/A | 0% | N/A | | N/A | N/A |
| Metered DG LV work | 61 accepted quotes 26 connections | 0 | 0 | 0% | 0% | | 0% | 0 |
| Metered DG HV and EHV work | 297 accepted quotes 116 connections | 11 | 5 | 7% | 7% | | 4% | 1 |
| Unmetered Local Authority work | 5,356 connections | | | | | | 63% | 2 |
| Unmetered PFI work | 0 connections | | | | | | N/A | |
| Unmetered other work | 1,075 connections | | | | | | 0% | |

Table 4.2 – WPD (South Wales)

| RMS | Size of the market (2011-12) | New projects (2011-12) | | | | | Completed work (2011-12) | |
|--------------------------------------|--|------------------------|-----------------|------------------------|--------------------------------|---|-----------------------------------|-------------------|
| | | Number of competitors | | Percentage competitive | | | Competitors completing jobs | |
| | | Requesting quotes | Winning work | Quotes | Quotes accepted (number) | Quotes accepted (value non- contestable work) | | Jobs completed |
| Metered Demand LV Work | 249 accepted quotes 1,636 connections | 8 | 2 | 5% | 0.8% | 1% | 4% | 2 |
| Metered Demand HV Work | 258 accepted quotes 1,713 connections | 16 | 2 | 8% | 1% | 5% | 42% | 4 |
| Metered Demand HV and EHV Work | 0 accepted quotes 21 connections | N/A | N/A | N/A | N/A | | 100% | 1 |
| Metered Demand EHV work and above | 0 accepted quotes 0 connections | N/A | N/A | N/A | N/A | | N/A | N/A |
| Metered DG LV work | 30 accepted quotes 28 connections | 0 | 0 | 0% | 0% | | 0% | 0 |
| Metered DG HV and EHV work | 117 accepted quotes 12 connections | 4 | 1 | 3% | 3% | | 0% | 0 |
| Unmetered Local Authority work | 1,854 connections | | | | | | 52% | 2 |
| Unmetered PFI work | 0 connections | | | | | | N/A | |
| Unmetered other work | 213 connections | | | | | | 0% | |

Table 4.3 – WPD (East Midlands)

| RMS | Size of the market (2011-12) | New projects (2011-12) | | | | | Completed work (2011-12) | |
|--|--|------------------------|--------------|------------------------|--------------------------|--|--------------------------|-----------------------------|
| | | Number of competitors | | Percentage competitive | | | Jobs completed | Competitors completing jobs |
| | | Requesting quotes | Winning work | Quotes | Quotes accepted (number) | Quotes accepted (value non-contestable work) | | |
| Metered Demand LV Work | 558 accepted quotes 6789 connections | 31 | 17 | 17% | 13% | 17% | 42% | 15 |
| Metered Demand HV Work | 262 accepted quotes 3,479 connections | 42 | 15 | 44% | 32% | 29% | 88% | 12 |
| Metered Demand HV and EHV Work | 2 accepted quotes 0 connections | 10 | 0 | 69% | 0% | | N/A | N/A |
| Metered Demand EHV work and above | 1 accepted quote 0 connections | 9 | 1 | 87% | 100% | | N/A | N/A |
| Metered DG LV work | 15 accepted quotes 14 connections | 3 | 0 | 14% | 0% | | 0% | 0 |
| Metered DG HV and EHV work | 27 accepted quotes 17 connections | 9 | 2 | 12% | 7% | | 0% | 0 |
| Unmetered Local Authority work | 8,716 connections | | | | | | 70% ²² | 2 |
| Unmetered PFI work | 10,882 connections | | | | | | 47% ²³ | |
| Unmetered other work | 907 connections | | | | | | 0% | |

²² 10 per cent of the 30 per cent of jobs retained by WPD were completed under WPD's rent-a-jointer scheme.

²³ The remaining 53 per cent of jobs were completed under WPD's rent-a-jointer scheme.

Table 4.4 – WPD (West Midlands)

| RMS | Size of the market (2011-12) | New projects (2011-12) | | | | Completed work (2011-12) | | |
|--|--|------------------------|--------------|------------------------|--------------------------|--|-------------------|-----------------------------|
| | | Number of competitors | | Percentage competitive | | | Jobs completed | Competitors completing jobs |
| | | Requesting quotes | Winning work | Quotes | Quotes accepted (number) | Quotes accepted (value non-contestable work) | | |
| Metered Demand LV Work | 512 accepted quotes 5,051 connections | 35 | 17 | 14% | 10% | 14% | 38% | 13 |
| Metered Demand HV Work | 295 accepted quotes 3,696 connections | 40 | 23 | 34% | 26% | 32% | 80% | 12 |
| Metered Demand HV and EHV Work | 2 accepted quotes 2 connections | 4 | 2 | 44% | 100% | | 100% | 1 |
| Metered Demand EHV work and above | 1 accepted quote 0 connections | 6 | 1 | 100% | 100% | | N/A | N/A |
| Metered DG LV work | 12 accepted quotes 7 connections | 2 | 0 | 5% | 0% | | 0% | 0 |
| Metered DG HV and EHV work | 25 accepted quotes 12 connections | 6 | 1 | 9% | 4% | | 0% | 0 |
| Unmetered Local Authority work | 8,950 connections | | | | | | 45% ²⁴ | 3 |
| Unmetered PFI work | 10,337 connections | | | | | | 96% ²⁵ | |
| Unmetered other work | 1,251 connections | | | | | | 0% | |

²⁴ Seven per cent of the 55 per cent of jobs retained by WPD were completed under WPD's rent-a-jointer scheme

²⁵ The remaining four per cent of jobs were completed under WPD's rent-a-jointer scheme.

5. WPD's compliance with the Legal Requirements Test

Chapter Summary

This chapter contains our assessment of the position of WPD (East Midlands) plc, WPD (West Midlands) plc, WPD (South Wales) plc and WPD (South West) plc against the Legal Requirements Test.

- 5.1. CRC 12 and the Final Proposals Document set out a Legal Requirements Test that must be considered in conjunction with the Competition Test when we determine whether to lift price regulation in any RMS.

The Legal Requirements Test

- 5.2. Compliance with the Legal Requirements Test is a necessary pre-condition for passing the Competition Test. The legal requirements set out in the test are for the DNO to have no enforced breaches in the given regulatory year of any of the five strands detailed below.
- Standard Licence Condition (SLC) 12.6(c) (Requirement to offer terms for use of system and connection.)
 - SLC 15 (Standards for the provision of Non-Contestable Connection Services.)
 - SLC 15A (Connections policy and connection performance.)
 - SLC 19 (Prohibition of discrimination under Chapters 4 and 5, and
 - The Competition Act 1998.).

WPD's current position

- 5.3. For the purposes of WPD (East Midlands) plc, WPD (West Midlands) plc, WPD (South Wales) plc and WPD (South West) plc Competition Notices, as the notices were submitted on 26 October 2012, the relevant regulatory year is 2012-13, which runs from 1 April 2012 to 31 March 2013.
- 5.4. Whilst the 2012-13 regulatory year is yet to run its course, there are currently no enforced breaches against WPD (East Midlands) plc, WPD (West Midlands) plc, WPD (South Wales) plc and WPD (South West) plc in any of the five strands of the Legal Requirements Test in this regulatory year.

Future compliance with the Legal Requirements Test

- 5.5. If WPD (East Midlands) plc, WPD (West Midlands) plc, WPD (South Wales) plc and WPD (South West) plc no longer meet the Legal Requirements Test after price regulation has been lifted, we could issue a clawback direction under Special Licence Condition CRC 12.40. The clawback direction would require EPN, SPN or LPN to pay back any relevant charges in excess of the four per cent regulated margin allowance.

6. Summary

Chapter Summary

This chapter summarises the issues discussed in this consultation. It seeks views from customers and existing and potential competitors on whether, taking all of the issues discussed into consideration, price regulation should be lifted in each RMS.

Question box

When considering your responses to these questions please only consider the RMSs covered by WPDs' application. In your response please indicate the RMS and DSA to which your experiences relate.²⁶

Question 1: Do you consider customers have an effective choice of connections provider? In particular, do you feel that levels of choice, value and service will be protected and will improve if the restriction on WPD's ability to earn a margin is removed?

Question 2: Do you consider that there is scope and/or for competitors to grow their market share, for example if WPD put up its prices or if its quality dropped, or are there factors constraining this?

Question 3: Do you consider that there is scope and/or appetite for new participants to enter the market? Do you consider that new entrants would be able to provide similar or better services than existing participants or are there factors constraining this?

Question 4: Given your overall view of WPD, do you consider that we can have confidence in them to operate appropriately in the event that price regulation is lifted?

Question 5: Do you consider that there are factors not addressed in this consultation that should be taken into consideration in determining whether price regulation should be lifted?

- 6.1. As discussed throughout this document, we consider that effective competition should not be determined by looking at market share data alone.
- 6.2. We note that WPD retains a significant proportion of the market in a number of the RMSs for which it seeks price regulation to be lifted. However, we also recognise that price controls may limit the attractiveness of a market to new entrants and that the current level of regulated margin may be set too low and may not enable third parties to compete effectively.

²⁶ Wherever possible please provide your response using the template at appendix 1 of this document.

- 6.3. We reiterate that the intention of our assessment is to assess whether, in the event that price regulation was removed, competition could be relied upon to protect customers' interests by delivering choice, quality and value for customers. We ask respondents to consider whether, on balance, consumer interests in each RMS are better protected by regulation than they would be by competition. We also remind respondents that if price regulation is lifted in any RMS, we will continue to monitor WPD's compliance with competition law and we will take seriously any evidence of anti-competitive behaviour.
- 6.4. We seek stakeholders' responses to the questions posed throughout this document. In particular we seek customers' and existing and potential competitors' views on the following -
- Is there currently effective choice for customers in each RMS covered by WPD's Competition Notices? In particular, do customers feel that levels of choice, value and service will be protected and will improve if the restriction on WPD's ability to earn a margin is removed?
 - Is there scope and/or appetite for competitors to grow their market share in the RMSs covered by WPD's application (for example, if WPD put up its prices or if its quality dropped) or are there factors constraining this?
 - Is there scope and/or appetite for new participants to enter the RMSs covered by WPD's application? Would they be able to provide similar or better services than existing participants or are there factors constraining this?
 - Given your overall view of WPD, can we have confidence in them to operate appropriately in the circumstance that price regulation were lifted?
- 6.5. We also seek respondents' views as to whether there are factors not addressed in this consultation that should be taken into consideration in determining whether price regulation should be lifted in each of the RMSs covered by WPD's application.
- 6.6. In conclusion, we encourage all respondents to read WPD's Competition Notices which are available on our website as an associated document to this consultation.
- 6.7. We would like to remind respondents that since we are required to make separate determinations for each RMS in each WPD DSA, responses to this consultation should be drafted in such a way that they clearly set out to which RMS(s) each section of their response relates. We also ask, wherever possible that respondents provide evidence to verify their claims.

Appendices

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Appendix 1 - Consultation Responses and Questions

1.1. Ofgem would like to hear the views of interested parties in relation to any of the issues set out in this document.

1.2. We would especially welcome responses to the specific questions which we have set out at the beginning of each chapter heading and which are replicated below.

1.3. If you have any questions on this document please contact:

James Veaney
Head of Distribution Policy
Ofgem, 9 Millbank, London, SW1P 3GE
0207 901 1861
Connections@Ofgem.gov.uk

1.4. Responses should be sent, preferably by e-mail by 18 January 2013 to the address above.

1.5. Unless marked confidential, all responses will be published by placing them in Ofgem's library and on its website www.ofgem.gov.uk. Respondents may request that their response is kept confidential. Ofgem shall respect this request, subject to any obligations to disclose information, for example, under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.

1.6. Respondents who wish to have their responses kept confidential should clearly mark the document/s to that effect and include the reasons for confidentiality. Respondents are asked to put any confidential material in the appendices to their responses.

1.7. Next steps: Having considered the responses to this consultation, we intend to publish our decision in relation to WPD's Competition Notices in February 2013.

Each of the questions asked by this consultation is set out in the template below. **Note that an editable version of this response template is available on our website as an associated document to this consultation.** If you do not wish to use our response template, please ensure that you indicate the RMS and DSA to which your experiences relate.

When considering your responses to these questions, please consider your experiences, the actions that WPD has undertaken and the actions that you consider it could reasonably undertake.

Please check the RMS and DSAs that are relevant to you in the table below.

| Relevant Market Segment (RMS) | WPD Competition Notice/DSA | | | |
|--|----------------------------|--------------------------|--------------------------|--------------------------|
| | <u>South West</u> | <u>South Wales</u> | <u>East Midlands</u> | <u>West Midlands</u> |
| 1. Metered low voltage work (LV) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Metered high voltage work (HV) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Metered HV and Extra High Voltage (EHV) work | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Metered EHV work and above | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Distributed Generation (DG) LV work | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. DG HV and EHV work | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Unmetered Local Authority (LA) work | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. Unmetered Private Finance Initiative (PFI) work | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. Unmetered Other work | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

When answering the questions below, please check the RMS(s) and DSA(s) that are relevant to your response.

Chapter Two

| Question | RMS(s) | DSA(s) | Response |
|--|---|---|----------|
| One: Are customers aware that competitive alternatives exist? | Metered LV <input type="checkbox"/> Metered HV <input type="checkbox"/> Metered HV/EHV <input type="checkbox"/> Metered EHV+ <input type="checkbox"/> DG LV <input type="checkbox"/> DG HV/EHV <input type="checkbox"/> Unmetered LA <input type="checkbox"/> Unmetered PFI <input type="checkbox"/> Unmetered Other <input type="checkbox"/> | S West <input type="checkbox"/> S Wales <input type="checkbox"/> East <input type="checkbox"/> Mids <input type="checkbox"/> West <input type="checkbox"/> Mids <input type="checkbox"/> | |
| Two: Do customers have effective choice (ie are customers easily able to seek alternative quotations)? | Metered LV <input type="checkbox"/> Metered HV <input type="checkbox"/> Metered HV/EHV <input type="checkbox"/> Metered EHV+ <input type="checkbox"/> DG LV <input type="checkbox"/> DG HV/EHV <input type="checkbox"/> Unmetered LA <input type="checkbox"/> Unmetered PFI <input type="checkbox"/> Unmetered Other <input type="checkbox"/> | S West <input type="checkbox"/> S Wales <input type="checkbox"/> East <input type="checkbox"/> Mids <input type="checkbox"/> West <input type="checkbox"/> Mids <input type="checkbox"/> | |
| Three: Does WPD take appropriate measures to ensure that customers are aware of the competitive alternatives available to them? | Metered LV <input type="checkbox"/> Metered HV <input type="checkbox"/> Metered HV/EHV <input type="checkbox"/> Metered EHV+ <input type="checkbox"/> DG LV <input type="checkbox"/> DG HV/EHV <input type="checkbox"/> Unmetered LA <input type="checkbox"/> Unmetered PFI <input type="checkbox"/> Unmetered Other <input type="checkbox"/> | S West <input type="checkbox"/> S Wales <input type="checkbox"/> East <input type="checkbox"/> Mids <input type="checkbox"/> West <input type="checkbox"/> Mids <input type="checkbox"/> | |
| Four: Are quotations provided by WPD clear and transparent? Do they enable customers to make informed | Metered LV <input type="checkbox"/> Metered HV <input type="checkbox"/> Metered HV/EHV <input type="checkbox"/> Metered EHV+ <input type="checkbox"/> | S West <input type="checkbox"/> S Wales <input type="checkbox"/> | |

| | | | |
|--|--|----------------------------------|--|
| decisions whether to accept or reject a quote? | DG LV <input type="checkbox"/> | East <input type="checkbox"/> | |
| | DG HV/EHV <input type="checkbox"/> | Mids <input type="checkbox"/> | |
| | Unmetered LA <input type="checkbox"/> | | |
| | Unmetered PFI <input type="checkbox"/> | West <input type="checkbox"/> | |
| | Unmetered Other <input type="checkbox"/> | Mids <input type="checkbox"/> | |
| Five: Have customers benefitted from competition? Have they seen improvements in WPD's price or service quality or have they been able to source a superior service or better price from WPD's competitors? | Metered LV <input type="checkbox"/> | S West <input type="checkbox"/> | |
| | Metered HV <input type="checkbox"/> | | |
| | Metered HV/EHV <input type="checkbox"/> | S Wales <input type="checkbox"/> | |
| | Metered EHV+ <input type="checkbox"/> | | |
| | DG LV <input type="checkbox"/> | East <input type="checkbox"/> | |
| | DG HV/EHV <input type="checkbox"/> | Mids <input type="checkbox"/> | |
| | Unmetered LA <input type="checkbox"/> | | |
| | Unmetered PFI <input type="checkbox"/> | West <input type="checkbox"/> | |
| | Unmetered Other <input type="checkbox"/> | Mids <input type="checkbox"/> | |

Chapter Three

| Question | RMS(S) | DSA(S) | Response |
|--|--|----------------------------------|----------|
| One: Does the level of competitive activity in the RMSs show that there is the potential for further competition to develop? | Metered LV <input type="checkbox"/> | S West <input type="checkbox"/> | |
| | Metered HV <input type="checkbox"/> | | |
| | Metered HV/EHV <input type="checkbox"/> | S Wales <input type="checkbox"/> | |
| | Metered EHV+ <input type="checkbox"/> | | |
| | DG LV <input type="checkbox"/> | East <input type="checkbox"/> | |
| | DG HV/EHV <input type="checkbox"/> | Mids <input type="checkbox"/> | |
| | Unmetered LA <input type="checkbox"/> | | |
| | Unmetered PFI <input type="checkbox"/> | West <input type="checkbox"/> | |
| | Unmetered Other <input type="checkbox"/> | Mids <input type="checkbox"/> | |
| Two: Consider the organisational structure of WPD's business and its procedures and processes – (a) how do they compare to those you encounter elsewhere in the gas and | Metered LV <input type="checkbox"/> | S West <input type="checkbox"/> | |
| | Metered HV <input type="checkbox"/> | | |
| | Metered HV/EHV <input type="checkbox"/> | S Wales <input type="checkbox"/> | |
| | Metered EHV+ <input type="checkbox"/> | | |
| | DG LV <input type="checkbox"/> | East <input type="checkbox"/> | |
| | DG HV/EHV <input type="checkbox"/> | Mids <input type="checkbox"/> | |
| | Unmetered LA <input type="checkbox"/> | | |
| | Unmetered PFI <input type="checkbox"/> | West <input type="checkbox"/> | |

| | | | |
|--|--|--|--|
| <p>electricity markets or other industries? Do they reflect best practice?</p> <p>(b)do they enable competitors to compete with the timescales for connection (from quote to energisation) offered by WPD? Or do they offer WPD any inherent advantage over its competitors or prevent existing competitors from competing with them effectively?</p> <p>(c)do they assist, obstruct or delay connections providers entering the RMSs?</p> | <p>Unmetered Other <input type="checkbox"/></p> | <p>Mids</p> | |
| <p>Three: Are the non-contestable charges levied by WPD for statutory connections in the RMSs consistent with those levied for competitive quotations? Are they easily comparable with competitive quotations?</p> | <p>Metered LV <input type="checkbox"/></p> <p>Metered HV <input type="checkbox"/></p> <p>Metered HV/EHV <input type="checkbox"/></p> <p>Metered EHV+ <input type="checkbox"/></p> <p>DG LV <input type="checkbox"/></p> <p>DG HV/EHV <input type="checkbox"/></p> <p>Unmetered LA <input type="checkbox"/></p> <p>Unmetered PFI <input type="checkbox"/></p> <p>Unmetered Other <input type="checkbox"/></p> | <p>S West <input type="checkbox"/></p> <p>S Wales <input type="checkbox"/></p> <p>East <input type="checkbox"/></p> <p>Mids <input type="checkbox"/></p> <p>West <input type="checkbox"/></p> <p>Mids <input type="checkbox"/></p> | |

| | | | |
|---|--|--|--|
| <p>Four: What factors are key influences on development of competition in the RMSs? In particular, if you are an existing/potential competitor</p> <p>(a) what is the potential for you to enter new RMSs, or grow your share of an RMS you already operate in?</p> <p>(b) are there any types of connection in any of the RMSs, or geographic locations in WPD's DSAs, that by their nature, are not attractive to competition? Please explain your response.</p> | <p>Metered LV <input type="checkbox"/></p> <p>Metered HV <input type="checkbox"/></p> <p>Metered HV/EHV <input type="checkbox"/></p> <p>Metered EHV+ <input type="checkbox"/></p> <p>DG LV <input type="checkbox"/></p> <p>DG HV/EHV <input type="checkbox"/></p> <p>Unmetered LA <input type="checkbox"/></p> <p>Unmetered PFI <input type="checkbox"/></p> <p>Unmetered Other <input type="checkbox"/></p> | <p>S West <input type="checkbox"/></p> <p>S Wales <input type="checkbox"/></p> <p>East <input type="checkbox"/></p> <p>Mids <input type="checkbox"/></p> <p>West <input type="checkbox"/></p> <p>Mids <input type="checkbox"/></p> | |
|---|--|--|--|

Chapter Four

| Question | RMS(S) | DSA(S) | Response |
|---|--|--|----------|
| <p>One: Do you agree with the methods used by WPD to analyse the level of competition in each of the RMSs covered by its application? In particular, do you consider that WPD gives a clear indication of the current level of competitive activity?</p> | <p>Metered LV <input type="checkbox"/></p> <p>Metered HV <input type="checkbox"/></p> <p>Metered HV/EHV <input type="checkbox"/></p> <p>Metered EHV+ <input type="checkbox"/></p> <p>DG LV <input type="checkbox"/></p> <p>DG HV/EHV <input type="checkbox"/></p> <p>Unmetered LA <input type="checkbox"/></p> <p>Unmetered PFI <input type="checkbox"/></p> <p>Unmetered Other <input type="checkbox"/></p> | <p>S West <input type="checkbox"/></p> <p>S Wales <input type="checkbox"/></p> <p>East <input type="checkbox"/></p> <p>Mids <input type="checkbox"/></p> <p>West <input type="checkbox"/></p> <p>Mids <input type="checkbox"/></p> | |
| <p>Two: Do you consider that</p> | <p>Metered LV <input type="checkbox"/></p> | <p>S West <input type="checkbox"/></p> | |

| | | | | |
|--|--------------------------|--------------------------|-----------|--------------------------|
| competitive activity is at a level that in itself indicates that effective competition exists? | Metered HV | <input type="checkbox"/> | S Wales | <input type="checkbox"/> |
| | Metered HV/EHV | <input type="checkbox"/> | | |
| | Metered EHV+ | <input type="checkbox"/> | | |
| | DG LV | <input type="checkbox"/> | East Mids | <input type="checkbox"/> |
| | DG HV/EHV | <input type="checkbox"/> | | |
| | Unmetered LA | <input type="checkbox"/> | West Mids | <input type="checkbox"/> |
| | Unmetered PFI | <input type="checkbox"/> | | |
| Unmetered Other | <input type="checkbox"/> | | | |

Chapter Six

| Question | RMS(S) | DSA(S) | Response |
|---|---|---|----------|
| One: Do you consider customers have an effective choice of connections provider? In particular, do you feel that levels of choice, value and service will be protected and will improve if the restriction on WPD's ability to earn a margin is removed? | Metered LV <input type="checkbox"/> Metered HV <input type="checkbox"/> Metered HV/EHV <input type="checkbox"/> Metered EHV+ <input type="checkbox"/> DG LV <input type="checkbox"/> DG HV/EHV <input type="checkbox"/> Unmetered LA <input type="checkbox"/> Unmetered PFI <input type="checkbox"/> Unmetered Other <input type="checkbox"/> | S West <input type="checkbox"/> S Wales <input type="checkbox"/> East Mids <input type="checkbox"/> West Mids <input type="checkbox"/> | |
| Two: Do you consider that there is scope for competitors to grow their market share (for example, if WPD put up its prices or if its quality dropped), or are there factors constraining this? | Metered LV <input type="checkbox"/> Metered HV <input type="checkbox"/> Metered HV/EHV <input type="checkbox"/> Metered EHV+ <input type="checkbox"/> DG LV <input type="checkbox"/> DG HV/EHV <input type="checkbox"/> Unmetered LA <input type="checkbox"/> Unmetered PFI <input type="checkbox"/> Unmetered Other <input type="checkbox"/> | S West <input type="checkbox"/> S Wales <input type="checkbox"/> East Mids <input type="checkbox"/> West Mids <input type="checkbox"/> | |
| Three: Do you consider that there is scope/appetite for new participants to enter | Metered LV <input type="checkbox"/> Metered HV <input type="checkbox"/> Metered HV/EHV <input type="checkbox"/> | S West <input type="checkbox"/> S Wales <input type="checkbox"/> | |

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| | | | |
|--|---|---|--|
| the market? Do you consider that new entrants would be able to provide similar or better services than existing participants or are there factors constraining this? | Metered EHV+ <input type="checkbox"/> DG LV <input type="checkbox"/> DG HV/EHV <input type="checkbox"/> Unmetered LA <input type="checkbox"/> Unmetered PFI <input type="checkbox"/> Unmetered Other <input type="checkbox"/> | East Mids <input type="checkbox"/> West Mids <input type="checkbox"/> | |
| Four: Given your overall view of WPD, do you consider that we can have confidence in them to operate appropriately in the event that price regulation is lifted? | Metered LV <input type="checkbox"/> Metered HV <input type="checkbox"/> Metered HV/EHV <input type="checkbox"/> Metered EHV+ <input type="checkbox"/> DG LV <input type="checkbox"/> DG HV/EHV <input type="checkbox"/> Unmetered LA <input type="checkbox"/> Unmetered PFI <input type="checkbox"/> Unmetered Other <input type="checkbox"/> | S West <input type="checkbox"/> S Wales <input type="checkbox"/> East Mids <input type="checkbox"/> West Mids <input type="checkbox"/> | |
| Five: Do you consider that there are factors not addressed in this consultation that should be taken into consideration in determining whether price regulation should be lifted? | Metered LV <input type="checkbox"/> Metered HV <input type="checkbox"/> Metered HV/EHV <input type="checkbox"/> Metered EHV+ <input type="checkbox"/> DG LV <input type="checkbox"/> DG HV/EHV <input type="checkbox"/> Unmetered LA <input type="checkbox"/> Unmetered PFI <input type="checkbox"/> Unmetered Other <input type="checkbox"/> | S West <input type="checkbox"/> S Wales <input type="checkbox"/> East Mids <input type="checkbox"/> West Mids <input type="checkbox"/> | |

Appendix 2 -Background

Chapter Summary

This chapter provides some background to our decision to introduce regulated margins and the potential for DNOs to have price regulation lifted where they meet both a Legal Requirements Test and a Competition Test.

Competition in Connections

Overview of competition in connections

1.8. Many of the activities of electricity network companies have the characteristics of a natural monopoly and are regulated by Ofgem. Some network activities are not natural monopolies such as the construction of new assets required to extend the network or connect to the existing network. Independent Connections Providers (ICPs) compete with network operators to construct connections (including constructing any network extension required for new developments), but only licensed companies can own and operate the assets once they have been installed.

1.9. Where effective competition is possible, it can be a much better way to protect consumers' interests than regulation. This is because it provides customers with choice and competition between service providers is likely to be more effective than regulation at promoting lower prices, innovation and better service standards. We have sought to promote competition in both the installation of connections to gas and electricity distribution networks, and in the subsequent ownership and operation of those assets.

Role of the host distributor in supporting competition

1.10. Each DNO sets out in its charging methodology the scope of connection services that ICPs are permitted to compete with the incumbent to provide. Activities that ICPs can carry out are described as 'contestable' and those that can only be carried out by the host distributor (DNO) are referred to as 'non-contestable'. Some services may be considered non-contestable by the DNO due to technical or safety reasons. Other services may be considered non-contestable where current legislative or regulatory arrangements make it difficult for competition to develop.

1.11. Current examples of contestable works include construction of assets and jointing of dead cables. Examples of non-contestable works include determination of Point of Connection (POC) and design approval. Ofgem is currently working with industry to extend contestability. Further details can be found in Chapter 3 of this document.

1.12. Since ICPs rely on the DNO to provide non-contestable services it is important for competition in connections that the incumbent does not abuse its position as the monopoly provider of these services. The Competition Act and the Electricity Distribution Licence include measures to prohibit the incumbents from discriminating unduly against competitors in the provision of non-contestable services.

Growth of competition in connections

1.13. Since the introduction of competition²⁷ we have seen competition grow rapidly in gas connections, to the extent that more than half of all connections are now installed by new entrants. Competition in the electricity connections market has developed much less rapidly.

1.14. In the metered electricity connections market (across all DNOs), market penetration by new entrants²⁸ stood at only 13 per cent in 2009-10. Although this was a marginal increase in new entrants' market share since 2008-09, the overall level remained low and the rate of growth remained slow. In the unmetered market (across all DNOs), market penetration by new entrants rose to nine per cent in 2009-10, compared to less than two per cent in 2008-09.²⁹

DPCR 5 Final Proposals – Introduction of regulated margins and the potential for Ofgem to lift price regulation

1.15. The 2008-09 and 2009-10 Connections Industry Reviews highlighted concerns about the development of competition in the electricity connections market. We set out to address these concerns as part of the last price control review (DPCR5), which came into effect in April 2010, by introducing a new approach to facilitating competition in connections to electricity distribution networks. Developments were inserted into the Electricity Distribution Licences of the various DNOs as Charge Restriction Condition 12 (CRC 12).³⁰

1.16. We recognised that there are some market segments where competition may not currently be viable, for example the provision of one-off Low Voltage (LV) connections. These market segments are described as Excluded Market Segments for the purposes of CRC12 and they are set out at Appendix 3 of this document. One factor that may make jobs in these market segments unattractive to ICPs is their general low value. In these market segments where competition is not currently considered viable, DNOs are not allowed to earn a margin on any of the connections services they provide.

1.17. The arrangements introduced at DPCR5 have however enabled DNOs to earn a regulated margin (set at four per cent above cost)³¹ on contestable connection services in those market segments where competition is considered viable. These market segments are described as Relevant Market Segments (RMSs) in CRC12 and are set out in Appendix 3 of this document. They include metered demand and generation connections at all voltages but exclude certain metered demand connections (one off industrial and commercial work at low voltage and domestic LV

²⁷ Competition was introduced in gas connections in 1998 and electricity connections in 2000.

²⁸ ICPs and Independent Distribution Network Operators (IDNOs).

²⁹ Note that market penetration by new entrants (metered connections) rose to 23 per cent in 2010-11.

³⁰ Charge Restriction Condition 12 - <http://epr.ofgem.gov.uk/index.php?pk=folder575248>

³¹ Previously under DNO approved connection charging methodologies their connection charge were limited to recovery of reasonable costs.

work relating to no more than four domestic premises) where competition is not considered currently viable. They also include unmetered connections activities. The purpose of the regulated margin is to create headroom to encourage new entrants and to remove the stifling impact on competition that may have existed when the DNOs were not allowed to earn a margin over their costs on contestable services.

1.18. In addition to this regulated margin, we also made provision for DNOs to apply to have price regulation lifted in market segments where competition can be relied upon to protect customer interests.

1.19. The Competition Test is designed to enable DNOs to demonstrate that effective competition exists in each RMS. The key overall consideration in our assessment is whether competition can be relied upon to protect the interests of customers. By this we mean that competition will deliver good levels of service and innovation in the connections market at prices which represent value for customers. We would expect that service, innovation and value should reflect customers experience in similar competitive markets such as the provision of other utility services/infrastructure. Further, we would expect that competition would deliver improvements in these areas over time, again to an extent that should be comparable with similar industries. For effective competition to exist, customers must have a real choice between alternative connections providers and/or, if the existing market participants do not deliver, there must be a credible threat of new providers entering the market.

1.20. If customers are to be able to choose between alternative connections providers, WPD, as the owner of the local distribution network, and provider of non-competitive connections services,³² has an important role to play. If actual and potential alternative providers are going to be able to put genuine competitive pressure on WPD then they will need to be able to receive timely and reliable non-contestable connections services. Further, for competition to work effectively the alternative providers must not be significantly disadvantaged in comparison to WPD's own connection business. In considering whether an alternative provider is at a disadvantage to WPD, we note that it is irrelevant whether any disadvantage is due to the actions of WPD or an inherent feature of the connections market (for example, limited access to WPD's network for safety reasons).

1.21. To further encourage DNOs to facilitate competition we also set out that any DNO that failed to demonstrate competition, by December 2013, would be reviewed by Ofgem and could subsequently be referred to the Competition Commission.

1.22. In DPCR5 Final Proposals we set out the information that DNOs should provide in making their evidence case. These issues form the structure of WPD's Competition Notices. They are -

- actual and potential competition (the current level of competition the DNO faces in each market segment and the scope for this competition to grow.)

³² Some aspects of the connection activity are deemed non-contestable and a can (currently) only be provided by the owner of the distribution network to which a connection is being made.

- price and transparency of pricing to customers (the steps the DNO takes to ensure that customers have the information they need to make decisions between taking a service from the DNO or a new entrant provider, and what they are doing to ensure they do not discriminate between their own customers and new entrant providers when they price their services)
- promoting awareness of competitive alternatives amongst connections customers (the steps the DNO takes to ensure that customers are aware that they can go to other providers for the service they are requesting.)
- competition in connections procedures and processes (the actions the DNO has taken to ensure that the procedures and processes they have in place for non-contestable services meet the needs of new entrants and are provided in a non-discriminatory manner.)
- efforts to open up non-contestable activities to competition (what action the DNO has taken to extend contestability.)
- barriers to competition (other actions the DNO is taking to remove barriers to new entrants competing in their area.)

Appendix 3 – The Legal Requirements and Competition Tests

1.23. Both the Legal Requirements Test and the Competition Test are set out in DPCR5 Final Proposals and referenced in CRC 12. Both Tests are reproduced below.

1.24. The overriding objective of the Competition Test is to enable DNOs to demonstrate that the market is working effectively for their customers. The DNO's evidence should enable Ofgem to take a holistic view of the effectiveness of the market and prescribe an appropriate course of action (i.e. allow regulated or unregulated margins, or further work to remove barriers). Accepting that all markets are different, there will be a flexible approach to the format and scope of the DNO's evidence case subject to the legal requirements being met.

The Legal Requirements Test

1.25. Compliance with the Legal Requirements Test is essential for passing the Competition Test. The legal requirements are for the DNO to have no enforced breaches in the given regulatory year of -

- standard licence condition 12.6(c): Requirement to offer terms for use of system and connection
- amended standard licence condition 15: Standards for the provision of Non-Contestable Connections Services
- new standard licence condition 15A: Connections policy and connection performance
- standard licence condition 19: Prohibition of discrimination under Chapters 4 and 5
- the Competition Act 1998.

The Competition Test

1.26. Overall, we will be looking to see whether we can rely on real competition or the threat of competition to protect consumer interests rather than regulation of the margin earned by the DNO. There are a number of key issues that DNOs should consider in making their evidence case. This is not intended to be an exhaustive list of requirements but provides guidance on aspects of the market that we will look at -

- barriers to competition (Including parts of the market where competition is not feasible and the reasons why.)



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- actual and potential competition (This is intended to capture views on levels of competitive activity).
- price and transparency of pricing to customers
- promoting awareness of competitive alternatives amongst connection customers
- competition in connections procedures and processes
- efforts to open up non-contestable activities to competition.

Appendix 4 – The Relevant Market Segments

1.27. This section reproduces all of the Relevant Market Segments (RMSs) set out in CRC 12 of the Electricity Distribution Licence.

1.28. Metered Demand Connections

- **Low Voltage (LV) Work** (LV connection activities involving only LV work, other than in respect of the Excluded Market Segments (see paragraph 1.31 below).)
- **High Voltage (HV) Work** (LV or HV connection activities involving HV work (including where that work is required in respect of connection activities within an Excluded Market Segment)).
- **HV and Extra High Voltage (EHV) Work** (LV or HV connection activities involving EHV work.)
- **EHV work and above** (EHV and 132kV connection activities.)

1.29. Metered Distributed Generation (DG)

- **LV work** (LV connection activities involving only LV work.)
- **HV and EHV work** (Any connection activities involving work at HV or above.)

1.30. Unmetered Connections

- **Local Authority (LA) work** (New connection activities in respect of LA premises.)
- **Private finance initiatives (PFI) Work** (New connection activities under PFIs.)
- **Other work** (All other non-LA and non-PFI unmetered connections work.)

1.31. The Excluded Market Segments are as follows:

- LV connection activities relating to no more than four domestic premises or one-off industrial and commercial work
- connection activities in respect of a connection involving three-phase whole current metering at premises other than Domestic Premises.

Appendix 5 - Glossary

C

Competition Test

The Competition Test is set out in Distribution Price Control Review 5 Final Proposals - Incentives and Obligations and referenced in CRC 12. It is also recreated at Appendix 2 to this document.

CIR [Connections Industry Review](#)

An annual Ofgem publication that sets out how the gas and electricity connections market has developed in the given year. It also details how licensed companies have complied with their connections related obligations and standards.

CRC [Charge Restriction Condition](#)

A special condition of the Electricity Distribution Licence.

D

DG [Distributed Generation](#)

Distributed generation is also known as embedded or dispersed generation. It is an electricity generating plant connected to a distribution network rather than the transmission network. There are many types and sizes of distributed generation facilities. These include Combined Heat and Power (CHP), wind farms, hydro electric power or one of the new smaller generation technologies.

DNO [Distribution Network Operator](#)

There are 14 Electricity Distribution Network Operators who carry electricity from the transmission system and some distributed generators to industrial, commercial and domestic end users. They have distribution services areas which correspond to those of the former public electricity suppliers (before privatisation in 1990). They are owned by seven different corporate groups.

DPCR [Distribution Price Control Review](#)

The price review applicable to electricity distribution network operators. The fifth Distribution Price Control Review (DPCR5) was launched in April 2010.

DSA [Distribution Services Area](#)

Electricity DNOs each have a distribution services area. With the

exception of embedded independent networks they are monopoly operators within that area and are subject to particular licence requirements accordingly.

E

ECSG [Electricity Connections Steering Group](#)

Advises Ofgem on the measures that are required to support the development of competition in the electricity connections market.

EHV [Extra High Voltage](#)

Over 22 kV but less than or equal to 72 kV

EMS [Excluded Market Segments](#)

As set out in CRC 12. In DPCR5 Final Proposals Ofgem considered that that competition was not viable in these market segments at that time or in the foreseeable future. DNOs are not able to earn a regulated margin in these market segments.

HV [High Voltage](#)

Exceeds 1 kV but does not exceed 22 kV

I

ICP [Independent Connections Provider](#)

An independent connections provider not affiliated to a distribution network operator.

IDNO [Independent Distribution Network Operator](#)

In 2007-08 there were four independent electricity distribution network operators. IDNOs own and operate various small networks embedded within DNO networks. IDNOs do not have DSAs.

L

[Legal Requirements Test](#)

The Legal Requirements Test is set out in Distribution Price Control 5 Final Proposals - Incentives and Obligations and referenced in CRC 12. It is also recreated at Appendix 2 to this document.

LV [Low Voltage](#)

Does not exceed one kV

P



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POC

Point of Connection

The point at which new works are connected to the existing distribution network.

R

Regulatory Year

From 1 April - 31 March.

RMS

Relevant Market Segment

As set out in CRC 12. In DPCR5 Final Proposals Ofgem considered that that competition is viable in these market segments. DNOs currently charge a four per cent margin on contestable services provided in these market segments.

S

SLC

Standard Licence Condition

A Condition of the Electricity Distribution licence.

W

WPD

Western Power Distribution

A collective name for the four licensed distribution network operators to whom this consultation relates – Western Power Distribution (East Midlands) plc, Western Power Distribution (West Midlands) plc, Western Power Distribution (South Wales) plc, and Western Power Distribution (South West) plc.

Appendix 6 - Feedback Questionnaire

1.32. Ofgem considers that consultation is at the heart of good policy development. We are keen to consider any comments or complaints about the manner in which this consultation has been conducted. In any case we would be keen to get your answers to the following questions:

1. Do you have any comments about the overall process, which was adopted for this consultation?
2. Do you have any comments about the overall tone and content of the report?
3. Was the report easy to read and understand, could it have been better written?
4. To what extent did the report's conclusions provide a balanced view?
5. To what extent did the report make reasoned recommendations for improvement?
6. Please add any further comments?

1.33. Please send your comments to:

Andrew MacFaul
Consultation Co-ordinator
Ofgem
9 Millbank
London
SW1P 3GE
andrew.macfaul@ofgem.gov.uk