



Competition in connections - Consultation on SSEPD's Competition Notices

Consultation

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Overview:

This consultation seeks views on the development of competition in connections in Scottish and Southern Energy Power Distribution's (SSEPD) Distribution Services Areas (DSAs). It follows the submission to us by SSEPD of 'Competition Notices' on 21 January 2013 on behalf of Scottish Hydro Electric Power Distribution plc (SHEPD) and Southern Electric Power Distribution plc (SEPD) in relation to three Relevant Market Segments (RMSs).

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 for connection services where SSEPD has demonstrated that effective competition exists by satisfying both a Legal Requirements Test and a Competition Test. We intend to make determinations on whether SSEPD has satisfied these tests in the three RMSs in each of its DSAs in April 2013.

In this document we highlight the information we are looking for to help us to assess whether effective competition exists in the three RMSs in each of SSEPD's Distribution Services Areas. SSEPD'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 barriers and 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 for 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 can 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
- 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 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. We are currently considering Competition Notices submitted by Western Power Distribution (WPD) on 26 October 2012 and Electricity North West Limited (ENWL) on 11 January 2013. Details of our previous decisions and the Competition Notices we are currently considering can be found on our website (see associated documents below).

In our previous decisions we have emphasised that we will not lift price regulation until we have seen sufficient evidence that customers' interests will 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 SSEPD. This consultation seeks views on SSEPD's application which relates to three RMSs in both of its DSAs.

Associated documents

SSEPD's Competition Notices, our decisions on previous Competition Notices and the Competition Notices we currently considering can be found at:

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

DPCR5 Final Proposals - Incentives and Obligations

http://www.ofgem.gov.uk/Networks/ElecDist/PriceCntrls/DPCR5/Documents1/FP_2_Incentives%20and%20Obligations%20FINAL.pdf

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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 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 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 further facilitate competition. Previously, DNOs were prevented from earning a margin on connection activities. DNOs can now earn a margin of four per cent on contestable connection services in those RMSs 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 RMSs where they can show that effective competition exists.^{1,2}

SSEPD is applying for price regulation to be lifted in three RMSs. Its application covers both of its licensed DSAs.³ We have four months from the date of SSEPD's application⁴ to determine whether to lift price regulation.

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. We are also currently considering an application by Western Power Distribution (WPD) and a further application by Electricity North West Limited (ENWL) - our consultation on WPD's notices and a copy of ENWL's notice can be found on our website.

³ The DSAs for Scottish Hydro Electric Power Distribution (SHEPD) and Southern Electric Power Distribution (SEPD) are North Scotland and South England respectively. See Appendix A of SSEPD's Competition Notice for a map these areas.

⁴ 21 January 2013.

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 demonstrated that we will not lift price regulation until we have seen sufficient evidence that customers' interests, in the whole of a RMS, will be protected in its absence. We will conduct a separate analysis of each of the three RMSs covered by SSEPD's application in each of its DSAs.

One important indicator of whether competition is effective in each of the RMSs is SSEPD's market share. Another is the number of alternative providers active in the market. SSEPD's application suggests that in some segments where it considers that there is effective competition it retains a significant proportion of the market. SSEPD's application also suggests that in some segments SSEPD is facing competition from as many as 33 active participants, whilst in others there are considerably fewer active competitors.

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 SSEPD'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 three RMSs across SSEPD'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 SSEPD or its competitors).

We also seek the views of those companies competing with SSEPD 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 SSEPD's application. In particular, we would like to



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understand whether SSEPD 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 SSEPD operating appropriately if price regulation is lifted in the three RMSs in each of its DSAs. Responses to this consultation should be sent to us by **18 March 2013** at the latest. Appendix 1 provides a template to assist interested parties in providing responses.

1. SSEPD's Competition Notices

Chapter Summary

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

- 1.1. SSEPD's Competition Notices serve as applications to have price regulation lifted on competitive connection activities in three of the RMSs set out in Charge Restriction Condition 12 (CRC 12) of the Electricity Distribution Licence.
- 1.2. On 21 January 2013 SSEPD submitted Competition Notices⁵ in respect of its licensed distribution networks -
 - Scottish Hydro Electric Power Distribution plc (SHEPD); and
 - Southern Electric Power Distribution plc (SEPD).

The Notices relate to the following three RMSs⁶:

Metered Demand Connections

- High Voltage (HV) work
- HV and Extra High Voltage (EHV) work

Metered Distributed Generation (DG)

- HV and EHV work

- 1.3. CRC 12 and our DPCR5 Final Proposals set out the process we must follow in assessing the Competition Notices submitted by SSEPD. We must determine whether the Legal Requirements Test and the Competition Test (set out in CRC 12) have been met for each of the three RMS in each of SSEPD's DSAs.⁷ We must make these determinations within four months of receiving SSEPD's Competition Notices. CRC 12 requires us to consult with parties that we believe have an interest prior to making our determinations.
- 1.4. Our DPCR5 Final Proposals set out key issues that DNOs should consider in making their case. In addition, our previous decisions on DNOs' Competition Notices have demonstrated 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 SSEPD's Competition Notices.⁸ These are -

⁵ Whilst the licence requires DNOs to submit separate Competition Notices for each licensee, for administrative convenience we agreed that SSEPD could submit a single document covering both of its licensed areas. We will make separate determinations for each licensee.

⁶ Appendix 4 sets out the details of all nine RMSs.

⁷ The Legal Requirements Test and the Competition Test are set out at Appendix 3.

⁸ Note that this is not intended to be an exhaustive list of requirements.

- 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 the DNO is 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.
- 1.5. We intend to publish our decision on the Competition Notices submitted by SSEPD, with details of our determinations in respect of the three RMSs covered by the Notices, in April 2013.

Consultation responses

- 1.6. In making our determinations we will, amongst other relevant information, consider responses to this consultation.
- 1.7. We are required to make separate determinations for each of the three RMSs and two DSAs covered by SSEPD's application.
- 1.8. **We ask respondents to this consultation, wherever possible, to submit their responses using the template at Appendix 1 of this document.** In any case, we ask them to clearly explain which of the three RMSs and which of SSEPD's DSAs each section of their response relates to.
- 1.9. Unless consultation responses are marked confidential they will be put 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.**
- 1.10. Consultation responses must be submitted to us by **18 March 2013**.

Structure of this document

- 1.11. While you 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.
- 1.12. Chapter 4 presents a summary of SSEPD's market share analysis and we seek views on the market data provided in SSEPD's Competition Notices.
- 1.13. Chapter 5 describes SSEPD's current position against the Legal Requirements Test.
- 1.14. Appendix 1 provides a template to assist you in providing responses to this consultation document.
- 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 interested parties to read the document containing SSEPD's Competition Notices which is available on our website as an associated document to this consultation.

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

Chapter Summary

This chapter seeks customers' views on 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

Question 1: Are customers aware that competitive alternatives exist?

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

Question 3: Does SSEPD take appropriate measures to ensure that customers are aware of competitive alternatives?

Question 4: Are quotations provided by SSEPD 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 SSEPD's price or service quality or have they been able to source a superior service or better price from SSEPD's competitors?

When considering your responses to all of the above questions:

- please consider your experiences, the actions that SSEPD has undertaken and the actions that you consider it could reasonably undertake.
- please only consider the three RMSs covered by SSEPD's application and in your response please indicate the RMS(s) and DSA(s) to which your experiences relate.⁹

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;

⁹ Wherever possible please provide your response using the template at Appendix 1 of this document.

- the ability of customers to make informed decisions; and
- whether competitive alternatives to SSEPD 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. SSEPD has provided information in its Competition Notices which shows that the number of competitive alternatives varies by RMS and DSA. The following table shows the number of competitors who requested quotations in the period August 2010 to May 2012.

Table 2.1 – number of active competitors by RMS and DSA

RMS	SHEPD	SEPD
Metered demand HV	11	33
Metered demand HV & EHV	8	5
Distributed generation HV & EHV	Not available ¹⁰	28

- 2.3. Further detail on the number of competitors active in each of the three RMSs in SSEPD's DSAs can be found in SSEPD's Competition Notices and in Chapters 3 and 4 of this consultation.
- 2.4. We would expect customers in any RMS for which SSEPD is seeking to pass the Competition Test to face an effective choice of competitive providers when they are seeking a connection.
- 2.5. 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 alternative providers? We are also interested in whether customers are confident that they have a real choice between connections providers.

Promoting awareness of competition

- 2.6. While the figures presented by SSEPD 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.
- 2.7. We consider that SSEPD has a role to play in promoting awareness of competitive alternatives to customers.

¹⁰ SSEPD advised that data on the number of different alternative providers is not available for this RMS because in this RMS it is SSEPD's practice to issue, in every case, an "all works quotation" together with a "non-contestable works" only quotation. This means that developers can choose to accept a non-contestable only quotation and then appoint the alternative provider themselves; therefore SSEPD does not hold the details of the alternative provider chosen by the developer. (From December 2012, SSEPD states that it takes this approach in all three of the RMSs covered by its Notices across both its DSAs.)

2.8. SSEPD considers that, in all of the three RMSs, there is a good awareness of competitive alternatives demonstrated by the number of quotations issued to alternative providers. SSEPD makes the following points in its Competition Notices about its promotion of customer awareness:

- SSEPD states that it highlights the alternative provider option on its website¹¹ which includes an explanation of the options available under competition in connections and a link to the Lloyds Register of suitable accredited service providers;
- SSEPD states that it includes a paragraph on all quotations reminding customers that elements of the quotation could be provided by an alternative provider and providing a web link to the Lloyds Register of alternative providers;
- SSEPD states that it has placed a large advertisement in the Yellow Pages and online at 'www.yell.com' which more easily guides customers to contact the right department for connections and presents customers with their option of appointing an alternative provider;
- SSEPD states that its dedicated business improvement teams regularly facilitate training in order to increase the knowledge/skills of its call handlers so they are able to provide advice on how to fill out application forms and on more detailed aspects of the connections process, including alternative providers; and
- a survey of 260 customers conducted by SSEPD in May and June 2011 found that 67.5% of customers were aware that elements of their quotation could be provided by an alternative provider. Thirty-four of these customers (or 13 per cent) were in the metered demand HV segment and all of the customers surveyed from this segment responded that they were aware of competitive alternatives. There were no customers surveyed in the other two segments which are the subject of SSEPD's Notices.

2.9. We seek customers' views on the points made by SSEPD. In particular, we are interested in whether customers consider that SSEPD 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 website, connections literature, application forms, quotations etc. When responding please consider your experiences, the actions that SSEPD has undertaken and the actions that you consider it could reasonably undertake.

¹¹ <http://www.ssepd.co.uk/Connections/>

Customer choice

2.10. In addition to the existence of alternative connections providers in SSEPD'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. Where customers are not able to easily make this choice they may be less likely to use competitive alternatives.

2.11. We note the following from SSEPD's Competition Notices –

- In the distributed generation HV and EHV RMS in the SHEPD DSA, SSEPD states that all customers are issued with both an 'all works' and 'non-contestable works only' quotation. (SSEPD states that it has extended this practice to all of the other RMSs to which its Competition Notices relate across both of its DSAs from the start of December 2012).
- Historically, in these other RMSs, SSEPD states that it offered customers a choice of either an 'all works' quote or a 'non-contestable works only' quote. A 'non-contestable works only' quote could be accepted while the customer enquired about appointing an alternative provider. If the customer later decided not to appoint an alternative provider, the customer needed to go back to SSEPD and request that the quotation be converted to an 'all works' quotation (without needing to re-apply).
- Market research commissioned by SSEPD indicated concerns by competitors about the length of time quotes remained valid for. Some respondents were concerned that SSEPD's quotations are valid for a short period of time (30 days) where other DNOs quotes are valid for up to 90 days. Respondents suggested that SSEPD's timeframes did not allow competitors enough time to liaise with their customers, causing delays due to the need to re-apply for quotations.
- SSEPD states that it introduced a 're-validation' process in August 2012 to address these concerns. SSEPD says it will revalidate an expired quote, at no additional cost, if the original quotation was issued in the same financial year, no other quotation has been accepted on the common network in the interim and no elements of the application have changed. Quotes can be re-validated up to three times. SSEPD states that it also now offers to extend quotations by 10 working days where requested before the expiry date of the quote and where the quote has not previously been extended.

2.12. We seek customers' views on these points made by SSEPD. In particular -

- Are quotations provided by SSEPD for connections clear and transparent?
- Do SSEPD's quotations enable customers to make an informed decision to accept or reject a quote?



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- Do customers consider that the 're-validation' process introduced by SSEPD for quotes makes customers more likely/able to choose competitive alternatives?
- 2.13. When responding please consider your experiences, the actions that SSEPD has undertaken and the actions that you consider it could reasonably undertake.

Benefits

- 2.14. 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 SSEPD'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

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

Question 2: Considering the organisational structure of SSEPD'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 SSEPD? Or do they offer SSEPD 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 SSEPD 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 SSEPD's DSAs, that by their nature, are not attractive to competition? Please explain your response.**

When considering your responses to all of the above questions:

- please consider your experiences, the actions that SSEPD has undertaken and the actions that you consider it could reasonably undertake;
- please only consider the three RMSs covered by SSEPD's application and in your response please indicate the RMS(s) and DSA(s) to which your experiences relate.¹²

¹² 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 three 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 three RMSs in each of SSEPD'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 with which competitors can enter the market and the number of competitors leaving the market are indicators of the potential for further competition to develop.
- 3.4. In its Competition Notices SSEPD provided details of the number of competitors active in the three RMSs in its DSAs in the period August 2010 to May 2012 on a monthly basis. In the overall HV market, SSEPD observes that the number of different alternative providers active in the market has remained steady over the period. A high level summary of the information provided on competitors requesting and accepting quotations can be found in Table 2.1 above. We encourage interested parties to review SSEPD's analysis.
- 3.5. SSEPD also commissioned independent market research to determine levels of participation in the market by competitors and to gauge the extent to which competitors plan to expand into other areas of the market. The independent research involved qualitative interviews with 8 competitors and quantitative interviews with 20 competitors active in either of the SEPD and/or SHEPD DSAs. The research also covered 12 alternative providers who are not yet active in either of the SSEPD's DSAs. The independent research report did not break down respondents by DSA; data and findings were provided for SSEPD overall rather than separately for SEPD and SHEPD.
- 3.6. SSEPD states that the independent research shows that, of the 20 respondents who were currently active in SHEPD and/or SEPD:
 - 61 per cent were currently active in the metered demand HV RMS;
 - 27 per cent were currently active in the metered demand HV and EHV RMS; and
 - 64 per cent were currently active in the distributed generation HV and EHV RMS.
- 3.7. SSEPD considers that this data shows there is a high level of participation in all of the three RMSs to which its Competition Notices relate.

- 3.8. The 20 respondents who were active in either SHEPD or SEPD were also asked about which RMSs they were intending to expand into and the research showed that:
- 46 per cent were intending to expand into the metered demand HV RMS;
 - 19 per cent were intending to expand into the metered demand HV and EHV RMS; and
 - 59 per cent were intending to expand into the distributed generation HV and EHV RMS.
- 3.9. Furthermore, the 12 alternative providers who were not active in either of SSEPD's DSAs were asked whether they were considering expanding into SSEPD's DSA. The responses showed that:
- 46 per cent were intending to expand into the metered demand HV RMS;
 - 27 per cent were intending to expand into the metered demand HV and EHV RMS; and
 - 36 per cent are intending to expand into the distributed generation HV and EHV RMS.
- 3.10. SSEPD considers that the independent research shows that the overall market for alternative providers is growing and appears that it will continue to grow. We encourage interested parties to review the independent market research.
- 3.11. We ask existing/potential competitors whether they consider that the level of competitive activity in each of the RMSs in each of SSEPD's DSAs in itself shows that there is the potential for further competition to develop.

Barriers to effective competition

- 3.12. Given the levels of market share SSEPD retains in the three RMSs (see Chapter 4) we consider that it is 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); or
 - prevent further competition in each of the RMSs (for example, barriers that may make entering a RMS in SSEPD's DSAs unattractive, or barriers that obstruct or delay entry to a RMS in SSEPD's DSAs).
- 3.13. In considering barriers to competition, we are not only considering potential barriers that are within the DNO's control to remove, but also natural or regulatory barriers that may obstruct competition from further developing.

Potential barriers to competition raised by the Electricity Connections Steering Group

- 3.14. In 2011, members of the Electricity Connections Steering Group (ECSG) identified issues that they considered to be potential barriers to competition.
- 3.15. 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.
- 3.16. 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.
- 3.17. The Competitive Networks Association (CNA) also developed and circulated a list of what they consider to be barriers to competition.
- 3.18. 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 number 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 number 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 SSEPD's DSAs

3.19. SSEPD commissioned independent market research to explore actual and potential barriers to competition in its DSAs. The research covered active competitors and potential competitors and is set out in Appendix C to SSEPD's Competition Notices.

3.20. SSEPD states that the key purpose of commissioning the market research was to enable it to address barriers as soon as possible, focussing on the issue and providing an improvement.

3.21. The actual or potential barriers to entry identified through the independent market research and SSEPD's response to each issue are summarised below:

- 'Quotation validity period'

Many respondents said that SSEPD's quotations were open for a short period (30 days) compared with other DNOs (up to 90 days). Respondents were concerned that the relatively short validity period does not give competitors enough time to go back to their client, leading to the need to re-apply and delays.

SSEPD states that it introduced a 're-validation' process in August 2012 to address these concerns. SSEPD will revalidate an expired quote, at no additional cost, if the original quotation was issued in the same financial year, no other quotations have been accepted on the common network in the interim and no elements of the application have changed. Quotes can be re-validated up to three times. SSEPD says it now also offers to extend quotations by 10 working days where requested before the expiry date of the quote and where the quote has not previously been extended.

- 'Timelines'

There was a common perception that customers' expectations of SSEPD's timescales were not met regularly.

SSEPD considers that this may be a perception issue. SSEPD states that, on average, it delivers well within the guaranteed standards of performance timeframe. It also states that its ongoing process improvements ensure that timescales are met.

- 'Activities are not open to competition'

Many respondents voiced opinions regarding activities not being open to competition.

Following a trial period, SSEPD states that it now has in place, as business as usual, the opportunity for alternative providers to carry out final connections to the LV or HV network in both SHEPD and SEPD. SSEPD states that it has also trialled a process under which alternative providers identify their point of common coupling, however SSEPD notes that there was limited interest in this trial. SSEPD also states that it has taken an active and positive approach to opening up competition in the provision of part funded connections reinforcement work and it expects, once guidelines are agreed by the industry, to be engaging in trials.

- 'Requesting information'

36 per cent of alternative providers who were active in SSEPD's DSAs found that requesting information was a barrier to entry.

SSEPD states that it allows alternative providers to access its maps online which give alternative providers the same source of information which SSEPD uses. SSEPD has also created a new website to improve the visibility and accessibility of information.

- 'Processes and procedures'

26 per cent of alternative providers active in SSEPD's DSAs felt the overall process was a barrier and 17 per cent said that SSEPD's internal processes were a barrier.

SSEPD states that it now offers a quotation for 'all works' and a separate 'non-contestable works only' quote for all projects in the three RMSs, allowing the customer to either accept only the non-contestable offer and appoint an alternative provider to carry out the contestable element, or to accept the all works quote. SSEPD says that it has also created a new, online, common application form as well as a comprehensive breakdown of quotations.

- 'Communication and ease of contact'

There were many comments relating to communication, including the notion that because SSEPD's coverage was smaller than other DNOs, contacts were harder to get in touch with.

SSEPD states that it has created a new website¹³ which includes maps and stakeholder engagement information.

SSEPD says that it has developed connection guides for domestic and small commercial supply which are distributed at different stages. When a customer enquires about a connection, the first booklet is delivered to the customer. This booklet describes the connection process, what information the customer needs, contact details for applications/forms and information about the location details such as the site layout plan. On the back page of the booklet there is a flowchart, showing what actions are required and by whom. A second booklet is delivered when a quotation is issued and a third once the quotation is accepted.

SSEPD is also carrying out internal training to encourage further stakeholder engagement and ensure staff are confident about its processes.

- 'Price'

There were mixed responses, with some respondents advising that SSEPD is too expensive, yet others stated that SSE are far more competitive than other companies.

SSEPD states that its prices are relatively low compared to other DNOs. SSEPD provides further details on pages 64-5 of its Competition Notices.

- 'Geography/location'

25 per cent of alternative providers who do not participate in SSEPD's DSAs said geography/location was a barrier.

SSEPD considers that although these are issues that SSEPD cannot directly change, it is hoping that by encouraging competition in its areas, there will be more exposure to projects and alternative providers will become more active.

- 'Not part of the business plan'

33 per cent of alternative providers who had not been active in SSEPD's DSAs indicated that entering SSEPD's markets was not part of their business plans.

¹³ <http://www.ssepd.co.uk/Home/>

SSEPD considers that this is not an issue that it can directly change.

- 'Obtaining necessary accreditation'

17 per cent of alternative providers who are not yet active in SSEPD's DSAs advised that obtaining necessary accreditation was a barrier.

SSEPD states that it only insists on National Electricity Registration Scheme (NERS) accreditation, with no additional requirement for any other form of 'trade testing'. It also provides information on its website about accreditation through a link to the Lloyd's Register.

- 3.22. We encourage interested parties to review the independent market research and the detailed analysis of the research in SSEPD's Competition Notices.¹⁴
- 3.23. We seek views on the extent to which interested parties consider that SSEPD's procedures and processes enable competitors to compete effectively. In particular we seek competitors' views on the organisational structure, including procedures and processes, of SSEPD's business –
- How does SSEPD compare to businesses which competitors encounter elsewhere in the gas and electricity markets or other industries? Do they reflect best practice?
 - Does SSEPD enable competitors to compete with its connection timescales (from quote to energisation)? Or does SSEPD have any inherent advantage or prevent existing competitors from competing effectively?
 - How does SSEPD assist, obstruct or delay connections providers entering the RMSs?
- 3.24. We also seek competitors' views as to whether the non-contestable charges levied by SSEPD for statutory connections are consistent with those levied for competitive quotations and easily comparable with competitive connections.
- 3.25. 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 SSEPD or is beyond its control. We also ask competitors to provide evidence to support their view and to suggest what SSEPD might reasonably do to remove the barrier.

The future growth of competition

- 3.26. 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

¹⁴ Refer to Section 5 of SSEPD's Competition Notice for SSEPD's analysis and responses and Appendix C of the Competition Notice for the independent market research conducted by Lorient Connect.

competitors intend to grow their market share/start competing in any of the RMSs in SSEPD's area. We are also interested in the factors that competitors take into consideration in deciding whether to compete with SSEPD in each RMS.

- 3.27. 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 confidential.

The potential for competition to develop

- 3.28. 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 SSEPD to its customers, economic conditions, the level of margin charged by SSEPD.
- 3.29. 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 SSEPD's DSAs.
- 3.30. For each RMS, we also seek the views of existing and potential competitors in SSEPD'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.
- 3.31. 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 SSEPD'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?

Efforts to open up non-contestable activities to competition

- 3.32. Connections works are split between works that are contestable (competitive) and those that are non-contestable (can only be completed by the DNO).
- 3.33. 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 provide essential services and it increases the scope of works for which competitors can compete.
- 3.34. 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.
- 3.35. 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 mains¹⁵;
 - consulted on introducing competition to part funded connections; and
 - set up a working group to consider the extension of contestability to self determination of the Point Of Connection.¹⁶
- 3.36. 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.
- 3.37. 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.¹⁷
- 3.38. We note from its Competition Notices that SSEPD now has in place, as business as usual, the opportunity for alternative providers to carry out final connections to the LV or HV network in both SHEPD and SEPD. SSEPD has also trialled a process under which alternative providers identify their point of common coupling, however SSEPD notes that there was limited interest in this trial. SSEPD also states that it has taken an active and positive approach to opening up competition in the provision of part funded connections reinforcement work and it expects, once guidelines are agreed by the industry, to be engaging in trials.
- 3.39. We seek views on SSEPD's activities to open up non-contestable activities to competition. In particular, we seek views on how SSEPD 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.
- 3.40. 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 SSEPD's DSAs.

¹⁵ <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=355&refer=Networks/Connectns/CompinConn>

¹⁶ Details of these working groups can be found on the Ofgem website.

¹⁷ 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.

4. SSEPD's assessment of its market share

Chapter Summary

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

Question box

Question 1: Do you agree with the methods used by SSEPD to analyse the level of competition in each of the RMSs covered by its application? In particular, do you consider that SSEPD 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?

When considering your responses to these questions please only consider the three RMSs covered by SSEPD's application. In your response please indicate the RMS(s) and SSEPD DSA(s) to which your experiences relate.¹⁸

- 4.1. In this chapter, we provide a brief summary of the market share analysis set out in SSEPD's application. We are seeking views on SSEPD's assessment of its market share.
- 4.2. In order to facilitate an assessment of the level of active and potential competition in SSEPD's DSAs and the RMSs, SSEPD has provided its competition analysis over a variety of different measures.
- 4.3. The data SSEPD has provided relates to the period August 2010 to May 2012 and includes:
 - the number of different alternative providers competing for work in its DSAs (showing 68 active competitors across the three RMSs);
 - the relative volume and value of work available in each RMS and DSA; and
 - the number of quotations issued to, and accepted by, alternative providers (showing that the level of market share held by competitors varies by RMS).
- 4.4. Tables 4.1 and 4.2 below summarise the data provided by SSEPD by RMS/DSA.

¹⁸ Wherever possible please provide your response using the template at Appendix 1 of this document.



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- 4.5. SSEPD has presented its analysis of market data for each RMS/DSA and has also presented a consolidated analysis of all three RMSs. We note that although SSEPD states that it could be said that the three RMSs are one overarching market for HV works, it has not suggested that we should view that market in this way for the purpose of deciding whether to lift price regulation.
- 4.6. SSEPD notes that the data referred to in its Competition Notices comes from its project management system which went live on 1 August 2010. SSEPD considers that the count of quotations issued to, and accepted by, alternative providers is slightly deflated during August and September 2010 as the data does not include quotations requested before 1 August 2010 but which were issued or accepted in August 2010 or September 2010.
- 4.7. We encourage interested parties to refer to SSEPD's Competition Notices for full details of its market data analysis.

Table 4.1 – Summary of market data provided for SHEPD (August 2010 to May 2012)

RMS	Quotes ¹⁹			Acceptances ²⁰			% new jobs won by competitors	Active competitors
	SHEPD	Av. value	Competitors	SHEPD	Av. value	Competitors		
Demand HV	3,012	£23,945	125	1,105	£17,023	22	2%	11
Demand HV and EHV work	67	£104,750	19	18	£26,651	3	14.3%	8
Distributed generation HV&EHV	872	£121,095	899	239	£95,956	122	33.8%	Data not available ²¹

Table 4.2 – Summary of market data provided for SEPD (August 2010 to May 2012)

RMS	Quotes			Acceptances			% new jobs won by competitors	Active competitors
	SEPD	Av. value	Competitors	SEPD	Av. value	Competitors		
Demand HV	3,382	£50,223	410	1,052	£39,115	16	1.5%	33
Demand HV and EHV work	21	£1,249,925	7	5	£1,109,429	0	0%	5
Distributed generation HV&EHV	285	£144,064	89	76	£28,645	21	21.6%	28

¹⁹ Shows the number of quotes issued where SHEPD will conduct all works, the average value of those quotes, and the number of quotes issued by SHEPD where competitors will undertake the contestable works.

²⁰ Shows the number of quotes accepted where SHEPD will conduct all works, the average value of those accepted quotes and the number of quotes accepted where competitors will undertake the contestable works.

²¹ SSEPD advised that data on the number of different alternative providers is not available for this RMS because in this RMS it is SSEPD's practice to issue, in every case, an "all works quotation" together with a "non-contestable works" only quotation. This means that developers can choose to accept a non-contestable only quotation and then appoint the alternative provider themselves; therefore SSEPD does not hold the details of the alternative provider chosen by the developer.

5. SSEPD's compliance with the Legal Requirements Test

Chapter Summary

This chapter contains our assessment of the position of SHEPD and SEPD against the Legal Requirements Test.

- 5.1. CRC 12 and the Final Proposals Document contain a Legal Requirements Test which 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 test requires the DNO to have no enforced breaches in the given regulatory year of:
 - 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.

SSEPD's current position

- 5.3. For the purposes of this assessment of SHEPD and SEPD's Competition Notices, as the notices were submitted on 21 January 2013, 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 SHEPD or SEPD 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 SHEPD or SEPD no longer meet the Legal Requirements Test after price regulation has been lifted, we can issue a clawback direction under Special Licence Condition CRC 12.40. The clawback direction would require SHEPD or SEPD 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

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 SSEPD'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 SSEPD 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 SSEPD, 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?

When considering your responses to these questions please only consider the three RMSs covered by SSEPDs' application. In your response please indicate the RMS and DSA to which your experiences relate.²²

- 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 SSEPD retains the majority of the market in all 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.

²² 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 SSEPD's compliance with competition law and we will take seriously any evidence of anti-competitive behaviour.
- 6.4. We seek interested parties' 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 SSEPD'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 SSEPD'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 SSEPD's application (for example, if SSEPD 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 SSEPD'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 SSEPD, can we have confidence in them to operate appropriately in the circumstance that price regulation were lifted?
- 6.5. We also seek interested parties' 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 SSEPD's application.
- 6.6. In conclusion, we encourage all interested parties to read SSEPD's Competition Notices which are available on our website as an associated document to this consultation.
- 6.7. We would like to remind interested parties that since we are required to make separate determinations for each RMS in each SSEPD 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 that, wherever possible, interested parties 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 March 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 SSEPD's Competition Notices in April 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 SSEPD 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.

RMS	SHEPD DSA (North Scotland)	SEPD DSA (South England)
2. Metered High Voltage work (HV)	<input type="checkbox"/>	<input type="checkbox"/>
3. Metered HV and Extra High Voltage (EHV) work	<input type="checkbox"/>	<input type="checkbox"/>
6. Distributed Generation (DG) HV and EHV work	<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 HV <input type="checkbox"/>	SHEPD <input type="checkbox"/>	
	Metered HV/EHV <input type="checkbox"/>	SEPD <input type="checkbox"/>	
	DG HV/EHV <input type="checkbox"/>		
Two: Do customers have effective choice (ie are customers easily able to seek alternative quotations)?	Metered HV <input type="checkbox"/>	SHEPD <input type="checkbox"/>	
	Metered HV/EHV <input type="checkbox"/>	SEPD <input type="checkbox"/>	
	DG HV/EHV <input type="checkbox"/>		
Three: Does SSEPD take appropriate measures to ensure that customers are aware of the competitive alternatives available to them?	Metered HV <input type="checkbox"/>	SHEPD <input type="checkbox"/>	
	Metered HV/EHV <input type="checkbox"/>	SEPD <input type="checkbox"/>	
	DG HV/EHV <input type="checkbox"/>		
Four: Are quotations provided by SSEPD clear and transparent? Do they enable customers to make informed decisions whether to accept or reject a quote?	Metered HV <input type="checkbox"/>	SHEPD <input type="checkbox"/>	
	Metered HV/EHV <input type="checkbox"/>	SEPD <input type="checkbox"/>	
	DG HV/EHV <input type="checkbox"/>		

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Question	RMS(s)	DSA(s)	Response
Five: Have customers benefitted from competition? Have they seen improvements in SSEPD's price or service quality or have they been able to source a superior service or better price from SSEPD's competitors?	Metered HV <input type="checkbox"/>	SHEPD <input type="checkbox"/>	
	Metered HV/EHV <input type="checkbox"/>	SEPD <input type="checkbox"/>	
	DG HV/EHV <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 HV <input type="checkbox"/>	SHEPD <input type="checkbox"/>	
	Metered HV/EHV <input type="checkbox"/>	SEPD <input type="checkbox"/>	
	DG HV/EHV <input type="checkbox"/>		
Two: Consider the organisational structure of SSEPD's business and its procedures and processes – (a) how do they compare to those you encounter elsewhere in the gas and electricity markets or other industries? Do they reflect best practice?	Metered HV <input type="checkbox"/>	SHEPD <input type="checkbox"/>	
	Metered HV/EHV <input type="checkbox"/>	SEPD <input type="checkbox"/>	
	DG HV/EHV <input type="checkbox"/>		

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Question	RMS(S)	DSA(S)	Response
<p>(b)do they enable competitors to compete with the timescales for connection (from quote to energisation) offered by SSEPD? Or do they offer SSEPD 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>Three: Are the non-contestable charges levied by SSEPD for statutory connections in the RMSs consistent with those levied for competitive quotations? Are they easily comparable with competitive quotations?</p>	<p>Metered HV <input type="checkbox"/></p> <p>Metered HV/EHV <input type="checkbox"/></p> <p>DG HV/EHV <input type="checkbox"/></p>	<p>SHEPD <input type="checkbox"/></p> <p>SEPD <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,</p>	<p>Metered HV <input type="checkbox"/></p> <p>Metered HV/EHV <input type="checkbox"/></p> <p>DG HV/EHV <input type="checkbox"/></p>	<p>SHEPD <input type="checkbox"/></p> <p>SEPD <input type="checkbox"/></p>	

Consultation on Scottish and Southern Energy Power Distribution's (SSEPD)
Competition Notices

Question	RMS(S)	DSA(S)	Response
<p>or grow your share of an RMS you already operate in?</p> <p>(b)are there are any types of connection in any of the RMSs, or geographic locations in SSEPD's DSAs, that by their nature, are not attractive to competition? Please explain your response.</p>			

Chapter Four

Question	RMS(S)	DSA(S)	Response
<p>One: Do you agree with the methods used by SSEPD to analyse the level of competition in each of the RMSs covered by its application? In particular, do you consider that SSEPD gives a clear indication of the current level of competitive activity?</p>	<p>Metered HV <input type="checkbox"/></p> <p>Metered HV/EHV <input type="checkbox"/></p> <p>DG HV/EHV <input type="checkbox"/></p>	<p>SHEPD <input type="checkbox"/></p> <p>SEPD <input type="checkbox"/></p>	
<p>Two: Do you consider that competitive activity is at a level that in itself indicates that effective competition exists?</p>	<p>Metered HV <input type="checkbox"/></p> <p>Metered HV/EHV <input type="checkbox"/></p> <p>DG HV/EHV <input type="checkbox"/></p>	<p>SHEPD <input type="checkbox"/></p> <p>SEPD <input type="checkbox"/></p>	

Chapter Six

Question	RMS(S)	DSA(S)	Response
<p>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 SSEPD's ability to earn a margin is removed?</p>	<p>Metered HV <input type="checkbox"/></p> <p>Metered HV/EHV <input type="checkbox"/></p> <p>DG HV/EHV <input type="checkbox"/></p>	<p>SHEPD <input type="checkbox"/></p> <p>SEPD <input type="checkbox"/></p>	
<p>Two: Do you consider that there is scope for competitors to grow their market share (for example, if SSEPD put up its prices or if its quality dropped), or are there factors constraining this?</p>	<p>Metered HV <input type="checkbox"/></p> <p>Metered HV/EHV <input type="checkbox"/></p> <p>DG HV/EHV <input type="checkbox"/></p>	<p>SHEPD <input type="checkbox"/></p> <p>SEPD <input type="checkbox"/></p>	
<p>Three: Do you consider that there is scope/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?</p>	<p>Metered HV <input type="checkbox"/></p> <p>Metered HV/EHV <input type="checkbox"/></p> <p>DG HV/EHV <input type="checkbox"/></p>	<p>SHEPD <input type="checkbox"/></p> <p>SEPD <input type="checkbox"/></p>	

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Question	RMS(S)	DSA(S)	Response
Four: Given your overall view of SSEPD, do you consider that we can have confidence in them to operate appropriately in the event that price regulation is lifted?	Metered HV <input type="checkbox"/> Metered HV/EHV <input type="checkbox"/> DG HV/EHV <input type="checkbox"/>	SHEPD <input type="checkbox"/> SEPD <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 HV <input type="checkbox"/> Metered HV/EHV <input type="checkbox"/> DG HV/EHV <input type="checkbox"/>	SHEPD <input type="checkbox"/> SEPD <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 competition²³ 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 entrants²⁴ 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 2008-09.²⁵

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).²⁶

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)²⁷ 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

²³ Competition was introduced in gas connections in 1998 and electricity connections in 2000.

²⁴ ICPs and Independent Distribution Network Operators (IDNOs).

²⁵ Note that market penetration by new entrants (metered connections) rose to 23 per cent in 2010-11.

²⁶ Charge Restriction Condition 12 - <http://epr.ofgem.gov.uk/index.php?pk=folder575248>

²⁷ Previously under DNO approved connection charging methodologies their connection charge were limited to recovery of reasonable costs.

connections (one off industrial and commercial work at low voltage and domestic LV 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, SSEPD, as the owner of the local distribution network, and provider of non-competitive connections services,²⁸ has an important role to play. If actual and potential alternative providers are going to be able to put genuine competitive pressure on SSEPD 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 SSEPD's own connection business. In considering whether an alternative provider is at a disadvantage to SSEPD, we note that it is irrelevant whether any disadvantage is due to the actions of SSEPD or an inherent feature of the connections market (for example, limited access to SSEPD'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 SSEPD's Competition Notices. They are -

²⁸ 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.



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- 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.); and
- 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 (ie 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; and
- 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 -



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- barriers to competition (including parts of the market where competition is not feasible and the reasons why);
- 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; and
- efforts to open up non-contestable activities to competition.

Appendix 4 – The Relevant Market Segments

1.27. This section reproduces all of the 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.



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LV **Low Voltage**

Does not exceed one kV

P

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

SSEPD **Scottish and Southern Energy Distribution plc**

A collective name for the two licensed Distribution Network Operators
to whom this consultation relates – Scottish Hydro Electric Power
Distribution plc and Southern Electric Power Distribution plc.

SLC **Standard Licence Condition**

A Condition of the Electricity Distribution licence.

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:

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