

The reasons for our decisions on Western Power Distribution's 26 October 2012 application to charge an unregulated margin on certain contestable connections services

1 Summary

- 1.1 This document relates to decisions made by the Gas and Electricity Markets Authority¹ on 25 February 2013. The decisions are about whether Western Power Distribution (WPD), a distribution network operator (DNO), should be allowed to earn an unregulated margin on certain connections work.
- 1.2 The application by WPD (in the form of "Competition Notices") was made for nine² different market segments in each of its four Distribution Service Areas (DSAs)³. These are referred to throughout this document as Relevant Market Segments (RMSs).
- 1.3 Having considered the WPD Competition Notices and responses to our consultation, we have allowed an unregulated margin in the following RMSs because we consider there is sufficient evidence of competition and of buyer power:
- metered demand High Voltage (HV) and Extra High Voltage work (EHV) (East Midlands and West Midlands DSAs only);
 - metered demand EHV work and above (East Midlands and West Midlands DSAs only);
 - unmetered connections Local Authority work (LA) (all four DSAs); and
 - unmetered connections Private Finance Initiatives work (PFI) (all four DSAs).
- 1.4 We have not allowed an unregulated margin in the remaining RMSs because we have not seen sufficient evidence at this stage that customers' interests would be protected if we removed price regulation.
- 1.5 Our decisions can be found on our website.⁴ This document provides reasons for our decisions. Appendix one summarises the responses received to our consultation and our views on the issues raised by interested parties.

2 Background

- 2.1 We have been working to facilitate competition in electricity connections since 2000. New entrants can compete with DNOs to give customers a real choice over their connections provider and an opportunity to shop around to get good service and value for money. We consider that competition can deliver customer benefits that are difficult to achieve through regulation, such as innovation in the type of services on offer and a focus from providers on meeting customer needs.

¹ The terms 'the Authority', 'Ofgem' and 'we' are used interchangeably in this document. Ofgem is the Office of the Gas and Electricity Markets Authority.

² Metered demand Low Voltage (LV) work; Metered demand High Voltage (HV) work; Metered demand HV/Extra High Voltage (EHV) work; Metered demand Extra High Voltage (EHV) work and above; Metered Distributed Generation (DG) LV work; Metered DG HV and EHV work; Unmetered Local Authority (LA) work; Unmetered Private Finance Initiative (PFI) work; and Unmetered other work.

³ WPD's Competition Notices relate to its four licensees each of which cover a distinct distribution services area (DSA) – 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. They take the form of a single document.

⁴ <http://www.ofgem.gov.uk/Networks/Connectns/CompinConn/Pages/CompinCnnctns.aspx>

- 2.2 In 2009-10 we explained that we had been disappointed with the pace at which competition had developed in the electricity connections market. This was against a backdrop of 87 per cent of metered electricity connections (across Great Britain) being completed by the incumbent DNO, compared to 41 per cent in the gas connections market.
- 2.3 To encourage further competition to develop, we introduced an incentive for DNOs to do all that is within their control to facilitate competition in connection services.⁵ For the purpose of this incentive we defined nine RMSs in which we considered competition to be viable.⁶ DNOs are able to apply to have price regulation lifted in an RMS where they can demonstrate that competition is effective. We have made it clear to DNOs that where effective competition has not developed by 31 December 2013, we will review the market and consider whether to take any action. This could include a referral to the Competition Commission.
- 2.4 We have already considered applications made by three DNOs - Electricity Northwest Ltd (July 2011), Northern Powergrid (June 2012) and UK Power Networks Ltd (July 2012). Our decisions on these applications can be found on our website. We are also currently considering applications made by Scottish and Southern Electricity Power Distribution (January 2013) and a further application by Electricity Northwest Ltd (January 2013).

3 Our assessment

- 3.1 Our decisions on whether to lift price regulation are based on consideration of our statutory duties and the extent to which WPD has met two tests - a Legal Requirements Test and a Competition Test. This is a regulatory decision and does not amount to or imply any particular view as to the application or interpretation of the Competition Act 1998, and/or Articles 101 and 102 of the Treaty on the Functioning of the European Union, or any other law, either prior to this regulatory decision or once this regulatory decision is in place.

Legal Requirements Test

- 3.2 WPD has satisfied the Legal Requirements Test in all of the RMSs as it currently has no enforced breaches of the Competition Act 1998 or of the relevant connections related licence conditions in the 2012-13 regulatory year.

Competition Test

- 3.3 In assessing whether the Competition Test has been satisfied, we have considered a number of factors, including:
- actual and potential levels of competition;
 - procedures and processes in place to facilitate competition;
 - barriers to competition;
 - customer awareness of competition; and

⁵ Introduced at Distribution Price Control Review 5 (DPCR5) - further information can be found in our document DPCR5 Final Proposals Incentives and Obligations (REF: 145/09) which is available on the Ofgem website at: <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=348&refer=NETWORKS/ELECDIST/PRICECENTRLS/DPCR5>

⁶ A policy decision was made at DPCR5 to establish the RMSs after consideration was given to the different types of connection (ie by size, type and customer base) for the purposes of this test. While we consider that they are relevant in that context, any definition of the "relevant market" for the purposes of competition law would not necessarily segment the market in the same way.

- WPD's efforts to open up non-contestable activities to competition.
- 3.4 In making our assessment we considered the nature of each RMS, the analysis provided by WPD on the current level of competitive activity in its area, as well as information about the processes it has in place to support competition. We also considered responses to our consultation which provided us with further insight into the competitive environment in WPD's four DSAs.⁷
- 3.5 Our assessment is set out in this document and is based on all of the factors listed above. The actual level of competition in the RMSs is discussed under the heading 'existing competitive activity'. Customer awareness of competition is discussed under the heading 'customer awareness of and ability to choose competitive alternatives'. Potential levels of competition, procedures and processes in place to facilitate competition, barriers to competition and efforts to open up non-contestable activities to competition are discussed under the heading 'the potential for further competition'.

Existing competitive activity

- 3.6 WPD's Competition Notices provided information on levels of competitive activity in the RMSs in the 2011-12 regulatory year.⁸ The RMSs, established for the purpose of the Competition Test, were only defined in April 2010 and historical analysis of competitive activity in the RMSs is therefore not necessarily available, although WPD provided some information about the volumes of connections completed by competitors in its four DSAs for the period 2004-05 to 2011-12.
- 3.7 Having reviewed the market analysis provided by WPD it is clear that current levels of competition vary considerably by RMS and by DSA. In conducting our analysis of the current levels of competition in each of the RMSs in WPD's DSAs, we have considered:
 - the market share retained by WPD;
 - the number of competitors active in the market (as indicated by those requesting quotations from WPD for contestable services);
 - the number of competitors that are accepting quotations (ie the number of competitors actually winning projects⁹);
 - the number of competitors completing connections¹⁰; and
 - the relative size of competitors active in WPD's area and their ability to move between RMSs and DSAs.

- 3.8 A high level summary of our analysis is set out below.

Metered demand LV work RMS

- 3.9 In the metered demand LV work RMS, WPD's market share and the number of active competitors varies between DSAs. Whilst there are encouraging numbers of active competitors in this RMS, WPD retains a significant proportion of the market and is winning a very high percentage of new projects.

⁷ A summary of consultation responses can be found at Appendix one and responses are available on our website.

⁸ WPD's full analysis can be found in its Competition Notices which are available on our website.

⁹ Note that a project can cover multiple connections.

¹⁰ Refer to note 9.

Table 1: metered demand LV work RMS

	WPD market share (new projects)	WPD market share (completed connections)	Active competitors
South West	99%	85%	16
South Wales	99%	96%	8
East Midlands	87%	58%	31
West Midlands	90%	62%	35

Metered demand HV work RMS

- 3.10 In the metered demand HV work RMS, WPD's market share and the number of active competitors varies between DSAs. Like the metered demand LV RMS, there is a high number of active competitors but WPD retains a high proportion of the market, especially in the South West and South Wales DSAs.

Table 2: metered demand HV work RMS

	WPD market share (new projects)	WPD market share (completed connections)	Active competitors
South West	95%	77%	14
South Wales	99%	58%	16
East Midlands	68%	12%	42
West Midlands	74%	20%	40

Metered demand HV and EHV work RMS

- 3.11 This RMS comprises large-scale, high value projects and the level of activity is very low in this RMS across all four of WPD's DSAs. In addition to showing WPD's market share, we have shown in table 3 below the total number of projects won and total number of completed connections in this RMS. There are significantly less active competitors in the South West and South Wales DSAs when compared to the East and West Midlands DSAs.

Table 3: metered demand HV & EHV work RMS

	New projects		Completed connections		Active competitors
	Total	WPD	Total	WPD	
South West	2	100%	-	-	0
South Wales	-	-	21	0%	0
East Midlands	2	100%	-	-	10
West Midlands	2	0%	2	0%	4

Metered demand EHV work and above RMS

- 3.12 In the metered demand EHV work and above RMS, the level of activity is very low. In the South West and South Wales DSAs there were no new projects or connections completed and there were no active competitors. In the East and West Midlands DSAs, WPD faced competition from 15 alternative providers and it did not win any new jobs or complete any connections.

Table 4: metered demand EHV work and above RMS

	New projects		Completed connections		Active competitors
	Total	WPD	Total	WPD	
South West	-	-	-	-	0
South Wales	-	-	-	-	0
East Midlands	1	0%	-	-	9
West Midlands	1	0%	-	-	6

Metered distributed generation LV work RMS

- 3.13 The level of activity varies by DSA in the DG LV work RMS and WPD retains the entire market across its four DSAs. WPD did not face any competition in the South West or South Wales DSAs. WPD faced some competition in the East Midlands and West Midlands DSAs but it retained 100 per cent of the market.

Table 5: metered DG LV work RMS

	New projects		Completed connections		Active competitors
	Total	WPD	Total	WPD	
South West	61	100%	26	100%	0
South Wales	28	100%	28	100%	0
East Midlands	15	100%	14	100%	3
West Midlands	12	100%	7	100%	2

Metered distributed generation HV and EHV work RMS

- 3.14 In the distributed generation HV and EHV work RMS, WPD faced active competition from a number of active competitors but it retained a very high percentage of the market across its four DSAs.

Table 6: metered DG HV and EHV work RMS

	New projects		Completed connections		Active competitors
	Total	WPD	Total	WPD	
South West	277	93%	111	96%	11
South Wales	317	97%	12	100%	4
East Midlands	25	93%	17	100%	9
West Midlands	24	96%	12	100%	6

Unmetered connections LA RMS

- 3.15 In the unmetered connections LA work RMS, WPD has relinquished significant market share in its four DSAs. We also note that a proportion of the market in the East Midlands and West Midlands DSAs was completed under WPD's 'Rent-a-Jointer' scheme, where WPD conducts the non-contestable jointing work and the contestable work is conducted by an Independent Connections Provider (ICP).

Table 7: unmetered connections LA RMS

	Completed connections		
	Total	WPD	WPD Rent a Jointer
South West	5,356	37%	-
South Wales	1,854	48%	-
East Midlands	8,716	20%	10%
West Midlands	8,950	48%	7%

Unmetered connections Private Finance Initiatives work RMS

- 3.16 In the unmetered connections Private Finance Initiatives (PFI) RMS, the only market share retained by WPD in the East Midlands and West Midlands DSAs related to its 'Rent-a-Jointer' scheme, which effectively meant that competitors had 100 per cent of the market. No unmetered PFI work was undertaken either by WPD or competitors in the South West or South Wales DSAs.
- 3.17 The number of competitors able to win work in the unmetered PFI RMS is constrained by the instances of PFI contracts being used to finance local authority investment. Across WPD's DSAs there are currently five competitors servicing PFI contracts.

Table 8: unmetered connections PFI work RMS

	Completed connections		
	Total	WPD	WPD Rent a Jointer
South West	0	-	-
South Wales	0	-	-
East Midlands	10,882	0%	53%
West Midlands	10,337	0%	4%

Unmetered connections other work RMS

- 3.18 In the unmetered connections other work RMS, WPD completed all 3,446 connections across its four DSAs and there were no active competitors.
- 3.19 Market share is not a perfect indicator of competition. A DNO may retain a large proportion of a RMS because it offers a competitive connections service. Small pockets of competition may act as a sufficient constraining influence to protect customers even where market share is high, and a relatively low retained market share does not automatically indicate that effective competition exists. However, for the purposes of the Competition Test, we consider that where WPD has relinquished a significant proportion of the market to competitors, we are more likely to be able to conclude that the tests for our decision in this case have been met.¹¹
- 3.20 The Competition Test requires consideration of factors other than market share. Our analysis of these other considerations is set out in the remainder of this document. It takes account of the information provided in WPD's Competition Notices and responses to our consultation.

Customer awareness of and ability to choose competitive alternatives

- 3.21 We consider that for effective competition to exist customers must have a real choice of connection providers. For this, customers must be aware that alternative providers are available and be able to make informed decisions on whether or not to use these providers.
- 3.22 Responses to our consultation indicated that the level of customer awareness of competitive alternatives may be lower in the South Wales and South West DSAs than in the East and West Midlands DSAs, although most respondents considered that WPD is taking reasonable steps to promote customer awareness across all of its DSAs. We have also taken into account the outcomes of WPD's DG customer survey which showed that, of the 374 DG customers surveyed, 72 per cent said they were aware of competitive alternatives.
- 3.23 We note that WPD has taken steps to ensure that the option for customers to choose a competitive alternative is prominent on the connections section of its website; it states that its call centre staff provide customers with information about their ability to choose a competitive alternative and direct customers to information on its website; and all of its connection offers inform customers of their ability to choose their connection provider. Given this, we consider that the steps taken by WPD to provide customers with information should enable customers to explore competitive alternatives.

¹¹ This is without prejudice to any other assessment of competition that Ofgem might separately undertake, including any assessment under the Competition Act 1998 and/or Articles 101/102 of the Treaty on the Functioning of the European Union.

- 3.24 In having an effective choice, customers should be able to compare and contrast the costs that will be charged by the incumbent DNO with those that may be charged by a competitive provider. Historically, WPD only provided customers with a breakdown of the costs for the contestable and non-contestable elements for projects in excess of £20,000. In November 2012, WPD implemented a new connection offer which separately shows the scope and cost of contestable and non-contestable work and charges for all projects. We have not seen any evidence that the breakdown of costs provided by WPD prevents customers from choosing between WPD and competitive alternatives.
- 3.25 WPD's customers are currently not able to accept only the non-contestable portion of a WPD connection offer (instead they must separately apply for a non-contestable offer). Responses to our consultation indicated that having to reapply for a separate non-contestable only offer can delay the offer process and may discourage customers from seeking competitive offers. We understand that WPD is currently considering the viability of a connection offer that allows customers to choose to accept only the non-contestable portion. However, we note that until this is in place the added complexity of needing to apply for and receive a separate non-contestable offer could dissuade customers from exploring competitive alternatives.
- 3.26 We consider that, alongside the views of stakeholders who responded to our consultation, market share information can be a useful indicator of customer awareness of competitive alternatives. Where WPD has lost a significant proportion of the market in a RMS to competitors, it shows us that customers are aware of, and able to use, competitive alternatives. Where WPD retains considerable market share we must consider whether any factors exist that prevent customers exercising choice.
- 3.27 The benefits that customers in WPD's DSAs are able to gain from using an alternative provider are constrained by the current extent of contestability. We have considered the steps that WPD has taken to open up non-contestable activities to competition:
- WPD amended its Connection Charging Methodology in June 2012 to make jointing to existing LV underground radial mains contestable;
 - HV jointing is now open to competition in each of WPD's DSAs and it plans to modify its Connection Charging Methodology in the first quarter of 2013 to formalise this change;
 - WPD is engaged with competitors in developing processes to enable competitors operational access to its LV and HV network (with competitors being able to use their own Distribution Safety Rules); and
 - WPD has made it possible for competitors to determine their own points of connection for unmetered services and has a project underway to identify requirements for enabling competitors to determine their own points of connection on its network.
- 3.28 Responses to our consultation indicated that unmetered PFI customers have experienced the benefits of competition for some time. Customer responses to WPD's questionnaire also showed that a number of customers across WPD's DSAs believe they have benefitted from competition and seen improvements in WPD's service as a result of competition.

The potential for further competition

- 3.29 In this section we consider the potential for further competition to develop, the procedures and processes in place to facilitate competition, whether there are any barriers to competition and WPD's efforts to open up non-contestable activities to competition.
- 3.30 We recognise that where there appears to be a significant level of competition in a RMS, it has the potential to develop similarly across the other RMSs, where levels of competition are currently lower but WPD's processes and procedures are similar and the nature of work is broadly equivalent.
- 3.31 WPD states that its policies and procedures apply consistently across its four DSAs. Responses to our consultation, however, suggested there may be differences in approach and service levels across its DSAs. Responses suggested that WPD's 'decentralised' approach creates benefits for competitors and customers but it may also create greater potential for regional variances. In particular, responses suggested that there might be differences in the level of service provided in the South Wales and South West DSAs when compared with the East Midlands and West Midlands DSAs.
- 3.32 We also note that, currently, higher levels of competition appear in RMSs that consist of high value, large scale connections projects and in the unmetered LA and, where work is available, in the unmetered PFI RMSs. There is a significant disparity in the level of HV and EHV work available in the South Wales and South West DSAs when compared to the East Midlands and West Midlands DSAs.
- 3.33 We have taken into account WPD's view that alternative providers are less attracted to smaller projects, especially smaller projects that are outside their base area. Responses to our consultation indicated that smaller projects may be less commercially attractive to competitors because WPD's non-contestable charges make up a large proportion of the overall project.
- 3.34 We consider that the number of active competitors in each RMS is in itself an indicator of its attractiveness and we recognise that in some of WPD's RMSs there are high numbers of active competitors. However, responses to our consultation did not provide us with a sufficiently compelling indication of competitors' willingness to enter new RMSs/DSAs where there are currently fewer competitors.
- 3.35 WPD's Competition Notices included testimonials from three competitors working in RMSs in its DSAs. It also included testimonials from two customers in the unmetered connections RMSs. The testimonials welcomed and praised the effort that WPD has put into promoting and supporting competition in connections. Furthermore, they considered that WPD had been approachable, that it had listened to competitors' and customers' concerns and that it had delivered actions to improve arrangements.
- 3.36 Responses to our consultation show that WPD is considered to be relatively progressive, among DNOs, in tackling barriers to competition. Most respondents considered that WPD was proactive in engaging with competitors to ease access to the market. However, we note that some of WPD's initiatives have been implemented quite recently and some are yet to be fully implemented. This means that the effect of these initiatives on levels of competition may not yet be reflected in the market share analysis and in the experience of customers and competitors.
- 3.37 Competitors also raised concerns that a number of issues (some of which are generic across the industry) continue to prevent them from competing with WPD

on a level playing field. These included the limits placed on the activities that WPD will allow its competitors to carry out, concerns over the level of non-contestable charges, and concerns about certain aspects of WPD's access and adoption agreements.

- 3.38 A number of respondents to our consultation considered that it would be premature to lift price regulation before all potential barriers to competition had been addressed.
- 3.39 We are mindful that continued price regulation of WPD's connection services in the RMSs has the potential to stifle competition. However, without the reassurance that may have been provided by a significant presence of competitors in a market segment, or clear indications of an intention to enter a market segment in the future, we have to be mindful that the issues raised could reflect barriers that prevent competition from developing effectively in certain market segments.

Our conclusion

- 3.40 In making our determination we have taken account of all of the evidence that has been provided by WPD and the views expressed in response to our consultation.
- 3.41 While mindful of the concerns raised in response to our consultation regarding the continued existence of barriers to competition, we consider that in the metered demand HV and EHV work RMS and the metered demand EHV work and above RMS (in WPD's East Midlands and West Midlands DSAs) and in the unmetered connections LA RMSs (across WPD's four DSAs) we have seen sufficient evidence to suggest that customers' interests will be protected if we lift price regulation and evidence that customers are experiencing the benefits of competition. In the unmetered connections PFI RMS we note that where work is undertaken (currently this is only in WPD's East Midlands and West Midlands DSAs) alternative connection providers had completed 100 per cent of all recent connections. As WPD's processes and procedures are similar across its DSAs and the nature would be broadly equivalent, we consider that there should be effective competition for this work should it become available in other DSAs. Therefore, we have decided that the Competition Test has been satisfied in these particular RMSs.
- 3.42 We have made this decision as we consider that competitive activity in these RMSs (in the specified DSAs) is already at a level, or clearly has the potential to grow to a level, that indicates that customers are aware of and able to choose competitive alternatives. Given the level of competition and buyer power that exists in these RMSs, evidence that customers have been able to secure connections from competitive providers and the potential for price regulation itself to distort the market, we do not consider that it is appropriate to continue to regulate prices in these markets.
- 3.43 In the metered demand HV and EHV work RMS and in the metered demand EHV work and above RMS we recognise that the level of activity is very low as these RMSs typically consist of high-value, large-scale connections projects. Despite the small number of projects available, we have decided to lift margin regulation in the East and West Midlands DSAs in these RMSs. In reaching this decision, we have taken into account the following factors:
- WPD's efforts in making customers aware of competitive alternatives;
 - customers in these RMSs are likely to be well informed and have significant buyer power;

- there is sufficient evidence that customers have effective choice (ie there are a number of active competitors and many are winning projects); and
 - we have seen competition in these RMSs developing consistently across Great Britain as reflected in the evidence presented by DNOs who have submitted competition notices.
- 3.44 Although competitors did not win any work in the metered demand HV and EHV work RMS in the East Midlands DSA, we believe we can be confident in lifting price regulation in this RMS because:
- there was clear evidence of the threat of competition from 10 active competitors; and
 - we consider that WPD's processes in the East Midlands DSA are sufficiently similar to its processes in the West Midlands DSA to enable us to have confidence that competition will develop in the East Midlands DSA as it has in this RMS in the West Midlands DSA.
- 3.45 In the remaining segments, we do not consider that we have seen sufficient evidence at this stage that competition is at a level that will protect consumer interests in the absence of price regulation.
- 3.46 We note that WPD has made efforts to alert customers to the existence of competitive alternatives and responses to our consultation suggested that customers are able to choose alternatives where they exist. However, by currently not allowing customers to choose to accept only the non-contestable parts of a connection offer, WPD could be deterring customers from seeking alternative connection offers. Furthermore, the current level of competitive activity in these RMSs does not provide sufficient evidence that customers are aware of and able to choose to use competitive alternatives. While we recognise that WPD could retain market share because they are competitive, we do not consider that we have seen sufficient evidence that this is the case.
- 3.47 We note that WPD has made efforts to facilitate competition in its DSAs. However, a number of WPD's revised procedures and processes have been introduced quite recently and not all respondents to our consultation considered that they had sufficient experience of them to comment on their effectiveness.
- 3.48 Responses to our consultation indicated that there remained scope for increased competition in these RMSs. However, in the absence of existing competition, we have not seen sufficient indication or reassurance of competitors' willingness to enter these market segments at this time.
- 3.49 Given the above, we do not consider that the Competition Test has been satisfied at this point in the remaining RMSs.

4 Next Steps

For RMSs where the Competition Test has been satisfied

- 4.1 From the date of our determination (25 February 2013), we will no longer regulate the prices WPD may charge in respect of any contestable connections services (fully funded by the customer)¹² in the following RMSs:

¹² Under the DNOs' connection charging methodologies, connections work that is defined as 'reinforcement' or is over and above the minimum scheme may be part funded by the customer and the company.

- metered demand HV and EHV work and metered demand EHV work and above in WPD's East Midlands and West Midlands DSAs; and
 - unmetered connections LA work and unmetered connections PFI work in WPD's four DSAs.
- 4.2 In respect of these RMSs, WPD will submit to us annually a report explaining any changes that have occurred in the RMSs since the date of the determination.
- 4.3 We reiterate that, as part of our ongoing work, we have a general duty to keep the electricity markets under review and we will take seriously any breach of competition law and/or licence obligations.

For RMSs where the Competition Test has not been satisfied

- 4.4 We will continue to regulate the prices WPD may charge in respect of all of the connections services it provides in these RMSs. In respect of contestable connections services (fully funded by the customer), this means that WPD may continue to charge the regulated margin (fixed at four per cent) allowed by Charge Restriction Condition (CRC) 12.
- 4.5 WPD may reapply to have price regulation lifted by providing us with further Competition Notices. It can do this at any time from four months after the date of our determination. We would encourage WPD, and any other DNOs considering making an application, to consider carefully the reasons for our decisions provided in this document.

Future DNO applications

- 4.6 As we have said in our decisions on previous Competition Notices, we understand that DNOs are working both individually and collectively to address their competitors' concerns. However, we note that in many cases this work is not yet complete.
- 4.7 As our decisions illustrate, we expect Competition Notices to demonstrate that -
- there is nothing to prevent competitors from entering the RMS;
 - competitors intend to or are willing to enter the RMS; and
 - customers are aware of and able to choose competitive alternatives.
- 4.8 If a DNO does not consider that it can provide evidence of effective competition in the whole of an existing RMS, it may request that we accept an alternative market segment.

Appendix 1 – Responses to Ofgem’s consultation on WPD’s 26 October 2012 Competition Notices

- 1.1 On 20 November 2012 we issued a consultation seeking views from interested parties on WPD’s Competition Notices. This consultation and the 27 responses received to it can be found on the Ofgem website.¹³
- 1.2 20 of the 27 interested parties who responded (16 customers and four competitors) completed a questionnaire prepared by WPD. WPD’s questionnaire asked respondents to agree or disagree with certain statements and to provide comments. We note that WPD issued a different questionnaire to customers and competitors and three customers received a questionnaire containing extra questions which were not asked of other customers. Although we were not able to determine whether the questionnaire responses were representative of WPD’s customers and competitors, we have taken all of the questionnaire responses into account as indicating the views of the customers/competitors concerned.
- 1.3 Appendix two shows the numbers of respondents to WPD’s questionnaire by DSA and RMS.
- 1.4 In reaching our decision, we considered all of the stakeholder responses. This Appendix summarises stakeholder responses and our views on the main issues raised by stakeholders.

Assessment of existing competitive activity

- 1.5 In its Competition Notices, WPD provided data relating to the level of existing competitive activity in its DSAs for the 2011-12 regulatory year.
- 1.6 For the metered demand RMSs, WPD showed each of its competitors’ market shares both in terms of new projects won and completed connections. It also estimated competitors’ market share by project value for the metered demand LV and HV RMSs.
- 1.7 For the unmetered RMSs, WPD showed the number of active competitors and the proportion of completed connections performed by those competitors.
- 1.8 WPD also provided historical data showing the volumes of connections completed by competitors for the years 2004-5 to 2011-12.
- 1.9 In our consultation we asked stakeholders whether they agreed with the methods used by WPD to analyse the level of competition in each RMS. We also asked stakeholders whether they consider that competitive activity in each RMS is at a level that indicates that effective competition exists.

Consultation responses

WPD’s approach to analysing market share

- 1.10 Four respondents commented on WPD’s approach to analysing market share.
 - A competitor in the demand LV, HV and HV/EHV RMSs and the DG RMSs considered that the market share data provided by WPD was reasonably clear and the splitting of the data by number of schemes and the value of non-

¹³ <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=411&refer=Networks/Connectns/CompinConn>

contestable charges was useful.

- An IDNO operating in the metered demand RMSs considered that WPD's data reflected its understanding of the DSAs.
- A customer/competitor in the unmetered RMSs agreed with WPD's approach to reporting unmetered market share. (The organisation suggested that it would have been beneficial to see the numbers of alternative providers and local authority customers who were active in the market).
- A DG customer considered that WPD's approach to analysing competition for the DG HV and EHV RMS did not paint a complete picture. The DG customer stated that it was difficult for it to express a view on the level of competition in the DG HV and EHV RMS because WPD had presented a snapshot of one year and large DG HV and EHV projects can take several years to progress. The customer was also concerned that WPD did not provide historical data as a benchmark.

Levels of competition

1.11 Five respondents commented on the existing levels of competition in WPD's RMSs.

- A competitor in the demand LV, HV and HV/EHV RMSs and the DG RMSs stated that the level of competitive activity in the South West and South Wales DSAs did not demonstrate effective competition. The competitor stated that where WPD retains up to 99 per cent of the market it cannot be considered open and competitive.
- An IDNO operating in the metered demand RMSs expressed its view that competition is still patchy in the South Wales and South West DSAs due to geography and the lack of workload to encourage new entrants.
- A group representing metered connections customers expressed the view that some RMSs are not exposed to sufficient competition. For example, the group stated that it was disappointing that WPD provided little evidence of a loss of market share in the metered demand LV RMS in the South West and South Wales DSAs.
- A customer/competitor in the unmetered RMSs stated that it was satisfied with the level of competitive activity for the unmetered local authority and unmetered private finance incentive RMSs. It was, however, not satisfied that there was sufficient evidence of competition in the unmetered other work RMS. The organisation expressed concern that there may be isolated unmetered connection customers (such as parish council authorities) whose works ICPs may never see as attractive. The stakeholder considered that these customers should remain protected by regulation until alternative providers become more established.
- A DG customer stated that it did not consider that the current level of competitive activity showed effective competition. The customer acknowledged that there are competitors in the DG HV and EHV RMS; however it stated that the proportion of projects that competitors get involved in bidding (3 – 12 per cent) and their success rate (3 – 7 per cent) appeared very low on face value.

Our view

- 1.12 We recognise that the data provided by WPD do not allow us to conduct a detailed historical analysis of competition and the limits this places on our analysis of the competitive environment in each RMS. However, as we have noted in our previous decisions, the RMSs defined for the Competition Test only came into force in April 2010 and, because of this, historical data by RMS may not be available. We recognise that WPD has nevertheless provided some historical data on the number of connections made by competitors from 2004-05 to 2011-12.
- 1.13 We welcome the approach by WPD to analyse market share in the metered demand RMSs both in terms of the number of new projects won and number of connections completed, and also that it provided the market shares of each of the competitors active in these RMSs across its four DSAs.
- 1.14 The market share data provided by WPD indicate that, in some of the RMSs, there is evidence of competitive activity and the potential for competition to develop. Competitive activity in the following RMSs appears to be at a level, or has the potential to grow to a level, that indicates that customers are aware of and able to choose competitive alternatives:
- metered demand High Voltage (HV) and Extra High Voltage (EHV) (East Midlands and West Midlands DSAs);
 - metered demand EHV and above (East Midlands and West Midlands DSAs);
 - unmetered connections Local Authority (LA) (all four DSAs); and
 - unmetered connections Private Finance Initiatives (PFI) (all four DSAs).
- 1.15 In the remaining RMSs, we note that WPD retains a very high proportion of the market or retains the entire market. In some RMSs WPD did not face competition at all (eg in the DG LV RMS in the South Wales and South West DSAs).
- 1.16 However, we recognise that 'actual competition' (existing competitive activity) should not be considered in isolation to the other components of the Competition Test. This is because market share may be an imperfect indicator of competition.

Customer awareness of, and ability to choose, competitive alternatives

- 1.17 In our consultation we asked interested parties whether customers were aware that competitive alternatives were available and whether customers have an effective choice between competitive providers. We asked whether WPD took appropriate measures to ensure that customers are aware of the competitive alternatives available to them. We also asked whether the quotations provided by WPD allowed them to make informed decisions between competitive providers and whether customers had benefitted from competition.

Consultation responses

Level of customer awareness of competitive alternatives

- 1.18 A competitor in the demand LV, HV and HV/EHV RMSs and DG RMSs stated that customers in the WPD's South Wales and South West DSAs were less aware of competitive alternatives than customers in the East Midlands and West Midlands

DSAs. The competitor acknowledged, however, that WPD had taken steps to improve its website and guidance on competition in connections.

- 1.19 A competitor in the demand LV, HV and HV/EHV RMSs, the DG HV/EHV RMS and the unmetered other RMS considered that there were varying levels of customer awareness of competitive options but noted that, from its experience, this mixed level of awareness was UK-wide (rather than limited to any specific DNO area).
- 1.20 An IDNO operating in the demand RMSs considered that the majority of customers were aware that competition existed. It observed that some customers at the outer reaches of WPD's DSAs were not aware of competition which might be because it was too difficult or costly for new entrants to work in these areas.
- 1.21 A new entrant in the demand RMSs and the DG HV/EHV RMS stated that there was further work to do in making customers aware that competitive alternatives exist. The new entrant considered that although awareness of competition amongst housing developers was high, it had experienced the opposite with industrial and commercial customers. The new entrant does not believe this is due to any anti-competitive behaviour by WPD; it believes that more time is required to educate customers about alternatives.
- 1.22 A customer and competitor in the unmetered RMSs stated that local authority, PFI and some other unmetered customer groups were aware that competition existed across WPD's DSAs.
- 1.23 A DG customer operating in WPD's South Wales, South West and East Midlands DSAs advised that they handled a small number of very large windfarm projects and, in each case, they agreed to use WPD to provide the connection after considering alternative providers.
- 1.24 Another DG customer stated that it was aware of competitive alternatives via Lloyds Register and that it considered that the WPD website was clear and user-friendly.
- 1.25 The sixteen customers who responded to WPD's questionnaire all agreed with the statement - "I am aware that I have a choice when seeking a connection and that WPD is transparent in promoting choice".
- 1.26 Three out of the four competitors who responded to WPD's questionnaire agreed with the statement - "Customers are aware that competitive alternatives exist". The fourth competitor partially agreed with this statement (for the reasons set out in paragraph 1.19 above).
- 1.27 Three customers who responded to WPD's questionnaire agreed with the statements - "We have chosen WPD as our connection provider having considered and compared alternatives" and "We actively seek competitive alternatives". We note that the other thirteen customers who responded to WPD's questionnaire were not asked this question.

Measures taken by WPD to ensure that customers are aware of and easily able to use competitive alternatives

- 1.28 A competitor in the demand LV, HV, HV/EHV RMSs and the DG RMSs expressed its view that customers might not be able readily to identify alternative providers who were active in a particular area because the Lloyds NERS website did not provide this information. The competitor suggested that WPD could provide an annotated version of the NERS list showing which providers were active in WPD's DSAs.

- 1.29 A new entrant in the demand RMSs and the DG HV/EHV RMS stated that WPD informed the customer at quotation stage about competitive alternatives but suggested that WPD could do more to raise awareness at the initial contact stage. The new entrant pointed to the length of time between initial contact and producing a quote and suggested that the additional delay involved for a customer in seeking an alternative quote, after already waiting for the DNO's quote, might not be palatable. This view was supported by a group representing metered connections customers who considered that WPD (and most other DNOs) could do more to promote competition in connections effectively to customers at the application stage.
- 1.30 The sixteen customers who responded to WPD's questionnaire all agreed with the statement - "WPD provides sufficient information (website, leaflets, offer letters, staff awareness) about Competition in Connections".
- 1.31 Three out of the four competitors who responded to WPD's questionnaire agreed with the statement "WPD takes appropriate measures to ensure that customers are aware of the competitive alternatives available to them". One competitor partially agreed with this statement for the reasons set out in paragraph 1.29 above.
- 1.32 Fifteen of the sixteen customers who responded to WPD's questionnaire agreed with the statement - "It is straightforward to get a competitive offer from WPD".

Pricing and transparency

- 1.33 A DG customer and a demand competitor in the LV, HV and HV/EHV RMSs and the DG RMSs stated that customers/competitors should be able to accept the non-contestable elements of a quote without the need to obtain a new quote from WPD. The DG customer stated that the requirement to obtain a new quote for non-contestable work was an unnecessary "hassle" which had the potential to limit customers seeking competitive offers.
- 1.34 The sixteen customers who responded to WPD's questionnaire agreed with the statements - "WPD pricing on connection letters is transparent" and "WPD's offer letter allows them to make a comparison with competitive offerings".

Do customers have effective choice? Have they benefitted from competition?

- 1.35 A DG customer stated that it could easily seek alternative quotations but that this did not necessarily mean that it had effective choice. The DG customer considered that there were a range of factors which might deter DG developers from choosing to use alternative providers, including:
 - the fact that DNOs have deemed planning permission/wayleaving rights which alternative providers do not have (the DG customer stated that these rights significantly reduced the risk to the developer);
 - the hassle and expense of having to manage two parties rather than one; and
 - the competency of the potential alternative providers for the type and scale of connection, as well as their experience in working with the DNO. The DG customer stated that ICPs were still an unknown quantity for many customers and that DNOs had the advantage of being familiar.
- 1.36 A customer/competitor in unmetered connections stated that unmetered PFI customers had had effective choice for some time. It considered that PFI

customers had experienced significant benefits from competition in WPD's DSAs by being able to self-deliver connections at lower costs and with greater flexibility.

- 1.37 The same customer/competitor stated that very few local authorities had experienced ICP service delivery, partly because WPD limited its initial trials to PFI ICPs. However, the customer/competitor stated that now that WPD had moved out of initial trials it saw no reason why these other unmetered customers could not access competitive alternatives.
- 1.38 Fourteen out of the sixteen customers who responded to WPD's questionnaire agreed with the statement - "There is sufficient choice of alternative connection providers". One respondent operating in the DG HV/EHV RMS disagreed with this statement, commenting that they found ICPs to be variable in their competence and capacity. One customer in the demand LV RMS responded that it was too early to provide a comment.
- 1.39 Fifteen of the sixteen customers who responded to WPD's questionnaire agreed with the statement - "I have benefitted from the development of competition". One customer in the demand LV RMS responded that it was too early to provide a comment.
- 1.40 Fourteen of the sixteen customers who responded to WPD's questionnaire agreed with the statement - "I have seen service improvements resulting from the development of competition". One customer in the demand LV RMS responded that it was too early to provide a comment. A customer in the demand LV and HV RMSs in South West and West Midlands neither agreed nor disagreed with this statement.

Our view

- 1.41 We have considered the extent to which customers are aware of competitive alternatives. We note that some respondents to our consultation expressed concerns that not all customers were aware of competitive alternatives. However, we consider that WPD has taken reasonable steps to alert customers to the existence of competitive alternatives. WPD has taken steps to ensure that the option for customers to choose a competitive alternative is prominent on the connections section of its website; it states that its call centre staff provide customers with information about their ability to choose a competitive alternative and direct customers to information on its website; and its connection offers inform customers of their ability to choose their connection provider. Given this, we consider that the steps taken by WPD to provide customers with information should enable customers to explore competitive alternatives.
- 1.42 We have also considered whether customers are able to choose competitive alternatives where they currently exist. A respondent expressed the view that some customers might not consider competitors to be a viable alternative because, amongst other things, they might perceive that managing two parties was more difficult than working with the DNO. We consider that whilst WPD has a role to play in alerting customers to their service, competitors also have a role in changing customers' perceptions and in informing them of the benefits of using an alternative provider.
- 1.43 We note that WPD is currently in the process of exploring the viability of providing connection offers that will allow the non-contestable element of the offer to be easily transferred to competitors. However, we consider that, by not currently allowing customers to do this, WPD may deter customers from exploring competitive alternatives. Customers may not wish to make multiple applications or customers may not wish to delay their project.

- 1.44 We have also taken into account responses to our consultation which indicated that unmetered PFI customers have experienced the benefits of competition for some time. Customer responses to WPD's questionnaire also showed that a number of customers across WPD's DSAs believe they have benefitted from competition and seen improvements in WPD's service as a result of competition.
- 1.45 We consider that, alongside the views of stakeholders who responded to our consultation, market share information can be a useful indicator of customer awareness of competitive alternatives. Where WPD has lost a significant proportion of the market in a RMS to competitors, it shows us that customers are aware of, and able to use, competitive alternatives. Where WPD retains considerable market share, we must consider whether any factors exist that prevent customers exercising choice. We recognise however that an efficient company with good customer service could retain market share despite the existence of potential competition.

The potential for further competition

- 1.46 In our consultation we asked existing and potential competitors for their views on the potential for further competition to develop in each of the RMSs and what influenced their decisions on whether or not to work in a particular RMS. In particular we asked for views on the ease with which competitors can enter and compete and whether barriers to competition exist. We also invited views on how competition might develop in the future.

Consultation responses

WPD's processes and service levels

- 1.47 Responses to our consultation were generally favourable with respect to WPD's processes and service.
- An IDNO in the demand RMSs stated that WPD's decentralised approach was very useful because WPD's local staff were more receptive to suggestions and different ways of working.
 - A competitor in the demand LV, HV and HV/EHV RMSs and the DG RMSs also recognised the benefits of WPD's decentralised approach but noted that, in some regional areas, there was a lack of experience of competition in connections causing conflict and additional work by alternative providers. The competitor expressed its satisfaction with WPD's timescales for design approvals.
 - A competitor in the LV, HV and HV/EHV RMSs, the DG HV/EHV RMS and the unmetered other RMS considered that the assistance and guidance provided by WPD during the design approval and installation stage is a key strength. They also considered that WPD provided an efficient response within timescales and with sufficient detail to enable design completion.
 - An unmetered connections competitor in the East and West Midlands DSAs stated that it found WPD to be proactive in resolving issues and providing the opportunity for regular meetings. The competitor stated that it was pleased that WPD's overall process was consistent across all of its DSAs.
 - A customer/competitor in the unmetered RMSs stated that WPD's end-to-end unmetered ICP process was the most efficient and flexible they had experienced

of the four DNOs they had worked with. However, it noted that WPD's regional network management approach had the potential to result in regional variances in policy, practice and emphasis.

- A DG customer stated that it preferred to work directly with WPD's delivery teams compared to alternative providers because of their knowledge and proactive attitude. The customer stated that WPD had gone well beyond required service levels to assist the customer who had been let down by an alternative provider. It also considered that WPD's application process was straightforward and that WPD was more engaged than other DNOs in helping to screen applications for feasibility.

1.48 Three out of the four competitors who responded to WPD's questionnaire agreed with the statement - "WPD compares favourably with other DNOs". One competitor in the demand RMSs and DG RMSs commented that it was too early in their history to form a judgment on this question. These four competitors all agreed with the statement in WPD's questionnaire - "WPD's procedures and processes allow competitors to compete effectively including access to network data and policy documents".

1.49 Some respondents identified opportunities for improvement in WPD's processes and service levels.

- A competitor in the demand LV, HV and HV/EHV RMSs and DG RMSs stated that WPD's processes in South Wales and South West were not as good as those in the East and West Midlands DSAs. The competitor also stated that there were marked differences in the technical information provided on non-contestable quotes between WPD's four DSAs. The competitor stated that WPD provided less technical information in its South Wales and South West DSAs which resulted in more time spent communicating with WPD about the quote.
- A group representing unmetered customers expressed concerns about WPD's performance against the Guaranteed Standards of Performance; in particular, the group considered that WPD's repair response times could be improved.

Efforts to remove barriers to competition

1.50 According to responses to our consultation WPD is considered to be relatively progressive, among DNOs, in tackling barriers to competition and most respondents considered that WPD was proactive in engaging with competitors to ease access to the market.

- A new entrant in the metered demand RMSs and the DG HV/EHV RMS stated that it had not experienced any barriers to entry from WPD.
- An IDNO operating in the metered demand RMSs stated that WPD had always worked with it to open up markets and look at ways of operating. The IDNO also stated that WPD supported its entry into the market by providing emergency cover and, without this support, it would have found it far harder to enter WPD's DSAs due to the geography of the regions involved.
- A competitor in the East and West Midlands DSAs for unmetered connections commended WPD's access and adoption agreement, stating that a single agreement covering all WPD's DSAs, inclusive of all customers, was the best it had experienced.

- 1.51 However, a competitor in the demand LV, HV and HV/EHV RMSs and the DG RMSs raised an issue about clauses in WPD's agreements which provide for competitors to be liable for WPD's costs where they fail in their obligations. The competitor considered that this should also apply in reverse, that is, WPD should be liable for the competitor's costs where it failed in its obligations. The competitor considered that this presented a barrier to openly competing with WPD on a level playing field.
- 1.52 The same competitor also raised a concern about the high cost of WPD's charges for non-contestable work. The competitor considered that these charges were not truly reflective of the costs involved and alternative providers struggle to compete on smaller schemes because WPD's non-contestable charges represent such a large proportion of the project. The competitor also claimed that WPD charged too much for witness testing on substation installations which reduced its ability to compete with WPD.
- 1.53 In relation to unmetered connections, a customer/competitor stated that WPD's standard unmetered non-contestable charges were lower than other DNOs. However, two unmetered respondents raised concerns about a lack of transparency in pricing, particularly about the lack of a breakdown or baseline cost figures to explain or justify price increases.
- 1.54 Three out of the four competitors who responded to WPD's questionnaire agreed with the statement - "WPD's non-contestable charging regime compares favourably with others". One competitor partially agreed with this statement but considered that it did not have sufficient market intelligence to respond to the question.
- 1.55 These four competitors all agreed with the statements - "WPD provides assistance to competitors entering the RMSs" and "WPD listens to our requirements and responds positively and acts pro-actively to improve processes" and "Our experience of working with WPD gives us confidence that they will operate appropriately if price regulation is lifted".

Efforts to extend contestability

- 1.56 Five respondents commented on WPD's efforts to extend contestability.
- A competitor in the demand LV, HV and HV/EHV RMSs, the DG HV/EHV RMS and the unmetered other RMS welcomed WPD's recent approach to extending contestability. The competitor acknowledged workshops recently held by WPD to understand the views of alternative providers on the extension of contestability of connections to the LV and HV networks.
 - A customer/competitor in the unmetered RMSs stated that it was pleased with WPD's stakeholder engagement and considered that WPD had become a leader in facilitating competition. In particular, the competitor commended WPD for encouraging alternative providers to operate under their own distribution safety rules, rather than WPD's rules.
 - However, a group representing unmetered customers expressed a concern that WPD's trials for the extension of contestability had focussed on PFI activities. The group also expressed a concern that the process for jointer authorisation is, in their view, long winded and expensive.
 - A group representing metered connections customers observed that participation in the extension of contestability had been very low in metered connections and the group considered that this had to be 'business as usual'

before an unregulated margin in the metered RMSs was allowed.

- A competitor in the demand LV, HV and HV/EHV RMSs and DG RMSs felt that WPD should always be looking at schemes to see if there was a reason why an ICP could not undertake the work and, if not, even if that work was not currently deemed contestable, WPD should allow the ICP to complete the work.

Attractiveness of the RMSs

- 1.57 An IDNO operating in the four metered demand RMSs across WPD's four DSAs stated that the main issue affecting its potential to expand its work in WPD's DSAs was the amount of work available. The IDNO believed that the amount of work in the South West and South Wales DSAs was insufficient to encourage new entrants to move into these DSAs.
- 1.58 A competitor in the demand LV, HV and HV/EHV RMSs and the DG RMSs challenged WPD's view that ICPs only target larger schemes. The competitor expressed the view that WPD's non-contestable charges were too high and prevent ICPs from competing for smaller schemes.
- 1.59 A competitor in the East and West Midlands DSAs for unmetered connections stated that it had an aspiration to increase its geographic coverage and also to progress into other works such as LV connections.
- 1.60 A customer/competitor in the unmetered RMSs stated that there was scope for competitors to grow their market share if WPD continued to offer unmetered ICPs an efficient process and reasonable non-contestable costs. The customer/competitor also considered that there was scope for new participants to enter the market. It noted that although the market was currently dominated by large street lighting contractors with ICP service delivery capacity, there was scope for smaller ICPs to compete on price and service.

Our view

- 1.61 We expect DNOs to do everything within their power to ensure that barriers to competition do not prevent competitors from competing with them on a level playing field.
- 1.62 Responses to our consultation show that WPD is considered to be relatively progressive, among DNOs, in tackling barriers to competition and most respondents considered that WPD is proactive in engaging with competitors to ease access to the market. However, we note that some of WPD's initiatives have been implemented quite recently and some are yet to be implemented fully. This means that the effect of these initiatives on levels of competition may not yet be reflected in the market share analysis and in the experience of customers and competitors.
- 1.63 We also recognise that some competitors have highlighted concerns that barriers to competition exist which prevent them from competing effectively. We have not formed a view as to whether the barriers to competition raised in response to our consultation are preventing competition. In the absence of conclusive evidence either way, we do not consider that we can be confident that potential competitors in each RMS always have the ability to compete with WPD on a level playing field.
- 1.64 We have considered WPD's efforts to extend contestability and, in particular, we welcome the extension of contestability to the jointing of existing LV and HV mains in WPD's DSAs. We consider that increasing the scope of work which competitors may undertake provides further opportunities for competition to develop and

increased opportunities for innovation in the services competitors can offer. We recognise that a number of consultation responses praised WPD's work in extending contestability and its approach to stakeholder engagement.

- 1.65 Finally, we have considered whether work in the RMSs is attractive to competitors. At DPCR5, small scale metered LV connections were excluded from the RMSs as we recognised that competition for these low value connections was not viable for the foreseeable future. While all other work was included in the RMSs, we note that it is possible that some other sub-segments of the RMSs may not be attractive to competition, despite DNOs' work to remove barriers.
- 1.66 In its competition notice WPD said that there might not be sufficient volumes of work in the demand LV and demand HV RMSs in the South Wales and South West DSAs for competitors to build economies of scale. In WPD's view, competitors will generally not compete for smaller jobs that are outside of their base area. Furthermore, responses to our consultation suggested that alternative providers struggle to compete on smaller schemes because WPD's non-contestable charges are such a large proportion of the project.
- 4.9 We acknowledge that a respondent to our consultation who is currently operating in the unmetered RMSs across the Midlands DSAs aspired to extend its geographical coverage and move into the LV RMS. We also note that another respondent considered that there was scope for competitors to increase their market share in the unmetered RMSs. However, responses to our consultation did not provide us with a sufficiently compelling indication of competitors' willingness to enter new RMSs/DSAs where there are currently fewer competitors.
- 4.10 Where DNOs consider that the whole of a RMS is attractive to competition, we expect them to provide evidence of this in their competition notice. Where a DNO considers that effective competition cannot exist in a RMS because a sub-section of the RMS is unattractive to competition, it should consider requesting that we accept an alternative market segment.

Appendix 2 – Respondents to WPD’s questionnaire by RMS and DSA

	South West		South Wales		East Midlands		West Midlands	
	Customers	Competitors	Customers	Competitors	Customers	Competitors	Customers	Competitors
Demand LV	5	2	4	3	4	2	5	2
Demand HV	4	2	4	2	5	2	4	2
Demand HV/EHV	-	2	-	2	-	2	0	2
Demand EHV and above	1	1	1	1	1	1	1	1
DG LV	2	-	2	-	3	-	3	-
DG HV/EHV	3	2	4	2	5	2	5	2
Unmetered LA	-	-	-	1	-	1	-	1
Unmetered PFI	1	-	1	-	-	1	-	1
Unmetered other	-	1	-	1	-	2	-	2

Note: One customer in the West Midlands DSA did not specify which RMS it operated in.