

Competition Notice	Scottish and Southern Energy Power Distribution (SSEPD) - 21 January 2013
Date of determinations	29 April 2013

1 Background

- 1.1 Under the terms of its Electricity Distribution Licence (Licence) Standard Licence Condition 14.16 (SLC 14.16) Scottish and Southern Energy Power Distribution (SSEPD) must set its Connection Charges at a level that will enable it to recover –
- the appropriate proportion of the costs directly or indirectly incurred in carrying out any works for the extension or reinforcement of its Distribution System, or for the provision and installation, maintenance, repair and replacement, or (as the case may be) removal following disconnection, of any electric lines or electrical plant; and
 - such a margin as it is allowed to charge under Charge Restriction Condition 12 (CRC 12).
- 1.2 In accordance with the requirements of CRC 12 SSEPD gave us a Regulated Margin Notice on 12 August 2010.¹ We accepted this Notice which entitled SSEPD to charge a Regulated Margin at four per cent in relation to all of their Connection Activities in the Local Connections Market² when it makes an offer of connection terms within each of the Relevant Market Segments (RMSs).³
- 1.3 On 21 January 2013, in accordance with the requirements of CRC 12, SSEPD gave us Competition Notices, on behalf of its two licensees: Scottish Hydro Electric Power Distribution plc (SHEPD) and Southern Electric Power Distribution plc (SEPD) (herein referred to as SSEPD's two Distribution Service Areas (DSAs)).
- 1.4 The Competition Notices related to three of the Relevant Market Segments set out in Charge Restriction 12 of their Electricity Distribution Licence: metered demand High Voltage (HV) work; metered demand HV and Extra High Voltage (EHV) work; and distributed generation HV and EHV work.
- 1.5 The Competition Notices stated that SSEPD considered both the Legal Requirements Test and the Competition Test (the Tests) to be satisfied in respect of the three RMSs in SSEPD's two DSAs. It sought determinations from us that SSEPD be entitled to charge an Unregulated Margin in relation to these three RMSs in each of SSEPD's two DSAs.
- 1.6 Upon receipt of the Competition Notices and before making these determinations, we undertook a consultation exercise with SSEPD and other persons and we have considered responses received.

¹ On behalf of Scottish Hydro Electric Power Distribution plc and Southern Electric Power Distribution plc.

² As defined in CRC 12: means the market that exists for the procurement and provision of Connections Activities within the Licensee's Distribution Services Area.

³ Connection Activities as defined in CRC 12 – means any and all of such activities comprising or associated with the provision, modification, or retention of a connection to a DNO's distribution system as may, in accordance with the Connection Charging Statement of that DNO, be undertaken by persons other than the DNO, where those activities are fully funded by the Customer. Note that, for the avoidance of doubt, the delineation of a RMS for these purposes is without prejudice to any assessment of a relevant market which may separately be undertaken for competition law or other purposes.

- 1.7 We are required to determine whether an Unregulated Margin should be allowed in the RMSs by way of separate determinations in respect of SSEPD's two DSAs. We are required, in each Determination, to state whether the Legal Requirements Test and the Competition Test have been satisfied.⁴ We are also required, if we find that one or both of the Tests have not been satisfied, to include reasons for our conclusions in our determinations.
- 1.8 This is a regulatory decision and does not amount to or imply, and should not be interpreted as implying, 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.

2 The Authority's Determinations

- 2.1 In accordance with the provisions of CRC12, in respect of all three of the RMSs listed below in both of SSEPD's DSAs (SHEPD and SEPD), we hereby determine that, whilst the requirements of the Legal Requirements Test have been satisfied, those of the Competition Test have not. The RMSs are:
- (i) Metered demand connections – high voltage work;
 - (ii) Metered demand connections – high voltage and extra high voltage work; and
 - (iii) Metered distribution generation – high voltage and extra high voltage work.
- 2.2 Our reasons for concluding that the requirements of the Competition Test have not been met are set out in our document 'The reasons for our decision on Scottish and Southern Energy Power Distribution's 21 January 2013 application to charge an unregulated margin on certain contestable connections services'. This document can be found on the Ofgem website.
- 2.3 In respect of these RMSs and for each of the two SSEPD's DSAs accordingly and as provided for by CRC 12, SSEPD must continue to charge the Regulated Margin of four per cent (but no more than that Margin) in its Connection Charges in relation to its Connection Activities.
- 2.4 Further, in accordance with the provisions of CRC 12, at any time after four months from the date of these determinations SSEPD may give us Notices stating that it considers that the Competition Test has come to be satisfied in respect of any of the above RMSs. Any such Notices must be submitted in accordance with the provisions set out in CRC 12.
- 2.5 These determinations and our decision document constitute publication of the Notices required of us by section 49A of the Electricity Act 1989.



Andrew Burgess
Associate Partner, Transmission and Distribution Policy
Signed on behalf of the Authority and authorised for that purpose
29 April 2013

⁴ As set out in CRC12.