

6th November 2013

James Veaney
Head of Distribution Policy
Ofgem, 9 Millbank,
London,
SW1P3GE

By email only to: Connections@Ofgem.gov.uk

Dear James

Response to: Consultation on Scottish power's Competition Notice

Brookfield Utilities UK, through its subsidiary businesses The Electricity Network Company Limited and Independent Power Networks Limited, owns and operates distribution networks that connect to the distribution systems of incumbent distributors. Since being granted licences in 2004 and 2006 we have faced, and continue to face, significant barriers to the development of an open and equitable framework that facilitates competition. Progress to resolving issues has been slow, punctuated by procrastination and with an apparent lack of urgency to resolve issues. Whilst progress has become quicker by most DNOs over the last two years, the performance of Scottish Power Licensees to address issues has lagged far behind that of most DNOs.

The SP region has always been one of the main hubs where Competition in Connections started. However this was principally due to the creation by SP of the Core connections business, and not by the performance of SP to facilitate the competition in connections for non SP organisations

SP contend that their processes and organisation for competition in connections were established as a result of the Ofgem investigation out into the relationship between SP and Core. SP state the intent of their processes was to ensure that they that *'do not treat anyone differently'*. The CRAM system, now being replaced, has proven to be totally inflexible; its design and operation inhibiting rather than facilitating the connections process. The process has no focus on meeting customers' needs. Notwithstanding SP's stated intention of CRAM, we frequently see examples where some companies (such as ICPs for example) appear to be able to circumnavigate the system and processes through the use of personal contacts within SP and thereby receive more favourable treatment. We contend that such discrimination is undue. Facilitating arrangements with some customers for the use of short cuts is further testament to the failure of current systems and processes.

When we have met with other DNOs to discuss the development of frameworks to facilitate competition we note that they have committed resource at a senior level to address concerns. This has not been the case with SP, where we are aware of only one occasion where a legal director of SP attended a meeting. We therefore question the commitment that SP have given in practice at the senior management or director level to resolve issues.

BUUK have been working with all DNOs to streamline the legal process for securing land rights for its distribution assets to establish a least cost efficient and effective process. To date SP have been the most difficult company to deal with. The proposed process was discussed at ECSG after

a trial with one DNO, following which all DNOs with the exception of SP signed on to the process and procedure. We have been in discussions with SP for over two years to establish the process in SP. Whilst SP has now agreed in principle to use the process for their SPM DSA they are still to put this into practice. We have recently reached agreement with respect to the SP DSA in Scotland. Whilst we acknowledge that there are some differences between Scottish law and law in England and Wales, this has not prevented us from agreeing and implementing procedures for land rights with SSE in a far shorter timescale. The current SP process for securing land rights imposes significant costs (twice as much as in other DNOs) and delays in providing competition. This inhibits competition. We have examples where developers and ICPs have remained with the incumbent to avoid these issues.

At the end of 2012 BUUK completed the process of acquiring IPNL. In analysing IPNL projects we discovered a number of projects where land rights have never completed, but where SP have nonetheless been willing to allow connection works to be completed and for final the energisation substation to be undertaken.

Equally we understand that SP have negotiated preferential rates for progressing land rights with another IDNO and yet did not offer either IPNL or ENC these rates.

This undue discriminatory treatment contrasts with SP's statements that we treat everybody the same. Further, it makes SP's stance on requiring GTC to secure agreement with other IDNOs to join in on the process before SP would enter into negotiations on the legal process for land rights hard to understand.

We also find that when we raise an official complaint it does not get dealt with until we complain again. Normally this is after the date that our customer required a response so we cannot deliver the level of customer service that we provide in other parts of the UK.

On the basis of the above and the comments made in the response in the next section we do not support SP's submission for the Competition Test and rank them lowest when compared with other DNOs in providing Competition in Connection. It is equally disappointing to see that they have not learnt any lessons from their involvement in the gas market or looked at the improvements that every other DNO has made in the last two years.

If Ofgem require any additional information to support our comments we are more than happy to meet and discuss these matters. It is clearly not in our interest to see a DNO not passing the Competition Test and we welcome meeting with SP Directors to help develop true competition in their DSAs.

Yours sincerely

Mike Harding
Head of Regulation

Annex 1 Responses to Ofgem Questions

RMS	SP Distribution Ltd (SPD)	SP Manweb plc (SPM)
1. Metered low voltage work (LV)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2. Metered high voltage work (HV)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
3. Metered HV and Extra High Voltage (EHV) work	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
4. Metered EHV and above work	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
5 Distributed Generation (DG) Low Voltage (LV) work	<input type="checkbox"/>	<input type="checkbox"/>
6 Distributed Generation (DG) HV and EHV voltage work	<input type="checkbox"/>	<input type="checkbox"/>
7. Unmetered local authority (LA) work	<input type="checkbox"/>	<input type="checkbox"/>
8. Unmetered PFI work	<input type="checkbox"/>	<input type="checkbox"/>
9. Unmetered Other	<input type="checkbox"/>	<input type="checkbox"/>

In providing details for the Competition Test BUUK can confirm that we are involved in the highlighted RMS's within the DSAs shown in the table and hope to be involved in the 'Metered EHV work and above work' for both the SPD and SPM region in the future. BUUK consider that we are able to respond on the relevant questions for all of these sectors.

Chapter Two

Question	RMS(s)	DSA(s)	Response
One: Are customers aware that competitive alternatives exist?	Metered LV <input checked="" type="checkbox"/>	SPD <input checked="" type="checkbox"/>	Due to the length of time that Competition has been operating in the SP RSMs most Developers are aware that competition exists. Unfortunately the feedback we receive is that they still see SP as being in charge of the timescale for connection and this can be longer, due to the process that is used. This is the question that we are asked more than any other in SP's DSAs.
	Metered HV <input checked="" type="checkbox"/>	SPM <input checked="" type="checkbox"/>	
	Metered HV/EHV <input checked="" type="checkbox"/>		
	Metered EHV & above <input checked="" type="checkbox"/>		
	DG LV <input type="checkbox"/>		
	DG HV/EHV <input type="checkbox"/>		

Question	RMS(s)	DSA(s)	Response
	Unmetered (LA) <input type="checkbox"/> Unmetered PFI <input type="checkbox"/> Unmetered (Other) <input type="checkbox"/>		
Two: Do customers have effective choice (ie are customers easily able to seek alternative quotations)?	Metered LV <input checked="" type="checkbox"/> Metered HV <input checked="" type="checkbox"/> Metered HV/EHV <input checked="" type="checkbox"/> Metered EHV & above <input checked="" type="checkbox"/> DG LV <input type="checkbox"/> DG HV/EHV <input type="checkbox"/> Unmetered (LA) <input type="checkbox"/> Unmetered PFI <input type="checkbox"/> Unmetered (Other) <input type="checkbox"/>	SPD <input checked="" type="checkbox"/> SPM <input checked="" type="checkbox"/>	Customers have choice in terms of who carries out the site work but all choices revolve around the SP process which is long winded and cumbersome. It is also used to ensure that SP do not fail any GS rather than look to help customers or deliver a timely service.
Three: Does SPEN take appropriate measures to ensure that customers are aware of the competitive alternatives available to them?	Metered LV <input checked="" type="checkbox"/> Metered HV <input checked="" type="checkbox"/> Metered HV/EHV <input checked="" type="checkbox"/> Metered EHV & above <input checked="" type="checkbox"/> DG LV <input type="checkbox"/> DG HV/EHV <input type="checkbox"/>	SPD <input checked="" type="checkbox"/> SPM <input checked="" type="checkbox"/>	We understand that SP tells customers via the website that there is a competitive market. With other DNOs we have been actively involved in seminars with customers and the DNOs' Directors explain how the market works. Some DNOs have added web links to their web site so that customers can directly contact ICPs and IDNOs that wish to offer services in their DSAs. We are not aware that SP have undertaken such seminars. As they have had competition in their DSAs for the longest period of time it is surprising that they have not engaged at this level. To this end we believe that SP are at the lower end

Question	RMS(s)	DSA(s)	Response
	Unmetered (LA) <input type="checkbox"/> Unmetered PFI <input type="checkbox"/> Unmetered (Other) <input type="checkbox"/>		of the DNO involvement with customers.
Four: Are quotations provided by SPEN clear and transparent? Do they enable customers to make informed decisions whether to accept or reject a quote?	Metered LV <input checked="" type="checkbox"/> Metered HV <input checked="" type="checkbox"/> Metered HV/EHV <input checked="" type="checkbox"/> Metered EHV & above <input checked="" type="checkbox"/> DG LV <input type="checkbox"/> DG HV/EHV <input type="checkbox"/> Unmetered (LA) <input type="checkbox"/> Unmetered PFI <input type="checkbox"/> Unmetered (Other) <input type="checkbox"/>	SPD <input checked="" type="checkbox"/> SPM <input checked="" type="checkbox"/>	We do not see SP quotes to customers. However, the quotes we receive for points of connection are not as transparent as other DNOs. They do not provide us with all the information we require to completely understand the proposition. Equally the legal costs for securing their land rights are always provided after the work has been completed and is far higher than the costs we experience across the rest of the UK.
Five: Have customers benefitted from competition? Have they seen improvements in SPEN's price or service quality or have they been able to source a superior service or better price from SPEN's competitors?	Metered LV <input checked="" type="checkbox"/> Metered HV <input checked="" type="checkbox"/> Metered HV/EHV <input checked="" type="checkbox"/> Metered EHV & above <input checked="" type="checkbox"/> DG LV <input type="checkbox"/> DG HV/EHV <input type="checkbox"/>	SPD <input checked="" type="checkbox"/> SPM <input checked="" type="checkbox"/>	In some ways they have. With IDNOs taking some of the contestable connection work in the RMSs the customers have seen how independents can deal with them without being tied down to SP's process. This has allowed a comparison to be made and customers generally appreciate this difference. But the initial connection is still tied into SPs view of how conditions precedent need to be treated which is different and far more time consuming than other DNOs and means that SP are lagging behind the rest of the DNOs in this respect.

Question	RMS(s)	DSA(s)	Response
	Unmetered (LA) <input type="checkbox"/>		
	Unmetered PFI <input type="checkbox"/>		
	Unmetered (Other) <input type="checkbox"/>		

Chapter Three

Question	RMS(S)	DSA(S)	Response
One: Does the level of competitive activity in the RMSs show that there is the potential for further competition to develop?	Metered LV <input checked="" type="checkbox"/>	SPD <input checked="" type="checkbox"/>	<p>There is potential for further competitive activity in the DSAs but SP need to engage with the market at a higher level within their organisation and make the commitment to work with the competitors.</p> <p>All of the other DNOs have engaged at a Director level and made commitments to improve process and service. Unfortunately this does not appear to be happening in SP and despite the efforts of the Competition in Connection team they do not appear to have the support to make the changes that will allow self-serve and unrestricted access to deliver customer service that is due to our ability rather than SP's.</p>
	Metered HV <input checked="" type="checkbox"/>	SPM <input checked="" type="checkbox"/>	
	Metered HV/EHV <input checked="" type="checkbox"/>		
	Metered EHV & above <input checked="" type="checkbox"/>		
	DG LV <input type="checkbox"/>		
	DG HV/EHV <input type="checkbox"/>		
	Unmetered (LA) <input type="checkbox"/>		
	Unmetered PFI <input type="checkbox"/>		
Unmetered (Other) <input type="checkbox"/>			

Question	RMS(S)	DSA(S)	Response		
<p>Two: Consider the organisational structure of SPEN's business and its procedures and processes –</p> <p>(a) how do they compare to those you encounter elsewhere in the gas and electricity markets or other industries? Do they reflect best practice?</p> <p>(b) do they enable competitors to compete with the timescales for connection (from quote to energisation) offered by SPEN? Or do they offer SPEN 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>	Metered LV	<input checked="" type="checkbox"/>	SPD	<input checked="" type="checkbox"/>	<p>SP have a long history of working in a competitive market, mainly using their own pseudo contracting organisation – Core.</p> <p>Unfortunately this led to many complaints about the way they dealt with the market which resulted in improvements and commitments being made to ensure that there was no further bias within the market.</p> <p>The effect this has had is that SP do not open up in the same way that other DNOs have done and despite having one of the longest period of all DNOs to develop the market they have worked to ensure that they cannot be criticised for discrimination rather than looking to improve.</p> <p>It is only in the last few months that we have seen any improvements in the way they facilitate competition in connections. This has meant that, despite the early start, they have fallen further back and now we would consider them the most difficult DNO to deal with.</p> <p>They do not appear to want to learn from other DNOs progress and despite working in the gas market through Core for many years none of this learning has been transferred into the electricity business. This is very disappointing as we believe that SP are in an unrivalled position to use this learning to improve their RMSs.</p>
	Metered HV	<input checked="" type="checkbox"/>	SPM	<input checked="" type="checkbox"/>	
	Metered HV/EHV	<input checked="" type="checkbox"/>			
	Metered EHV & above	<input checked="" type="checkbox"/>			
	DG LV	<input type="checkbox"/>			
	DG HV/EHV	<input type="checkbox"/>			
	Unmetered (LA)	<input type="checkbox"/>			
	Unmetered PFI	<input type="checkbox"/>			
Unmetered (Other)	<input type="checkbox"/>				
<p>Three: Are the non-contestable charges levied by SPEN for statutory connections in the RMSs consistent with those levied for competitive quotations? Are they easily comparable with competitive</p>	Metered LV	<input checked="" type="checkbox"/>	SPD	<input checked="" type="checkbox"/>	<p>The charges we receive are normally within the range that we see across the UK with the exception of charges for securing land rights. The biggest non-contestable cost we see is the legal cost for SP's sub lease. This is out of proportion with other DNOs and makes it difficult to compete due to the additional cost this puts on our offering. The other hidden cost in this area is the additional cost we spend</p>
	Metered HV	<input checked="" type="checkbox"/>	SPM	<input checked="" type="checkbox"/>	
	Metered HV/EHV	<input checked="" type="checkbox"/>			
	Metered EHV &	<input checked="" type="checkbox"/>			

Question	RMS(S)	DSA(S)	Response
quotations?	above DG LV <input type="checkbox"/> DG HV/EHV <input type="checkbox"/> Unmetered (LA) <input type="checkbox"/> Unmetered PFI <input type="checkbox"/> Unmetered (Other) <input type="checkbox"/>		in dealing with SP's systems and process for obtaining a connection. We expend more time and effort dealing with a project in SPs area than we do with any other DNO in the UK.
<p>Four: What factors are key influences on development of competition in the RMSs? In particular, if you are an existing/potential competitor</p> <p>(a) what is the potential for you to enter new RMSs, or grow your share of an RMS you already operate in?</p> <p>(b) are there are any types of connection in any of the RMSs, or geographic locations in SPEN's DSAs, that by their nature, are not attractive to competition? Please explain your response.</p>	Metered LV <input checked="" type="checkbox"/> Metered HV <input checked="" type="checkbox"/> Metered HV/EHV <input checked="" type="checkbox"/> Metered EHV & above <input checked="" type="checkbox"/> DG LV <input type="checkbox"/> DG HV/EHV <input type="checkbox"/> Unmetered (LA) <input type="checkbox"/> Unmetered PFI <input type="checkbox"/> Unmetered (Other) <input type="checkbox"/>	SPD <input checked="" type="checkbox"/> SPM <input checked="" type="checkbox"/>	At the present time we know that we could grow our market share in all of the RMSs within the SP DSAs. We believe that we can offer services to our customers that are beneficial in terms of cost and customer service that our customers would welcome. The biggest barrier to this is dealing with the SP bureaucracy and timescales. If these barriers were similar to that which we experience in other DNO DSAs we believe we could provide services to lots more customers.

Chapter Four

Question	RMS(S)	DSA(S)	Response
One: Do you agree with the methods used by SPEN to analyse the level of competition in each of the RMSs covered by its application? In particular, do you consider that SPEN gives a clear indication of the current level of competitive activity?	Metered LV	<input checked="" type="checkbox"/> SPD	<p>SP have tried to show that the level of IDNO activity is higher in their areas compared to other DNOs. In truth the reason that this is higher is that the IDNOs began in their areas when most of the people involved left SP and Core. The market now is very different as most of the activity is outside of SP and the other DNOs are seeing far higher penetration of IDNOs and ICPs compared to SP.</p> <p>As most of the first IDNO groups were born out of SP it is not surprising that these were the markets they first targeted. At the present time the largest IDNO in the SP DSAs is based in their footprint area and now how to work the SP systems to their advantage. Across the UK IDNOs are winning a far larger share year on year than is won in SP indicating that rather than growing the competitive market SP has seen a dramatic slowdown in competition compared to their peer groups.</p>
	Metered HV	<input checked="" type="checkbox"/> SPM	
	Metered HV/EHV	<input checked="" type="checkbox"/>	
	Metered EHV & above	<input checked="" type="checkbox"/>	
	DG LV	<input type="checkbox"/>	
	DG HV/EHV	<input type="checkbox"/>	
	Unmetered (LA)	<input type="checkbox"/>	
	Unmetered PFI	<input type="checkbox"/>	
Unmetered (Other)	<input type="checkbox"/>		
Two: Do you consider that competitive activity is at a level that in itself indicates that effective competition exists?	Metered LV	<input checked="" type="checkbox"/> SPD	<p>No, we believe that competition is very low considering the time that competition has been active in the DSAs and this is due to the lack of push from the senior management at SP to facilitate an open framework to enable competition to grow.</p> <p>We do not see any practical evidence to suggest that SP are committed to opening up the market compared to other DNOs. With the recent discussions on unmetered supplies on IDNO networks SP have been very vocal in their opposition to assisting in resolving this industry issue. They have told IDNOs privately that they have no interest in resolving this matter.</p> <p>It is also noticeable in the recent consultation that the only supplier that was against the proposal was SP despite all of</p>
	Metered HV	<input checked="" type="checkbox"/> SPM	
	Metered HV/EHV	<input checked="" type="checkbox"/>	
	Metered EHV & above	<input checked="" type="checkbox"/>	
	DG LV	<input type="checkbox"/>	
	DG HV/EHV	<input type="checkbox"/>	
	Unmetered (LA)	<input type="checkbox"/>	
	Unmetered PFI	<input type="checkbox"/>	

	Unmetered (Other) <input type="checkbox"/>		their Local Authority customers expressing a desire to resolve this matter and SP Distribution expressed a very vocal opposition to do anything despite the view from customers that this needed to be resolved. Equally when Boundary Metering was consulted on SP expressed very strong opposition to assisting the IDNOs and were very reluctant to take this on board. With a corporate view like this it is not surprising that SP are considered the most difficult and intransigent DNO in the UK.
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Chapter Six

Question	RMS(S)	DSA(S)	Response
One: Do you consider customers have an effective choice of connections provider? In particular, do you feel that levels of choice, value and service will be protected and will improve if the restriction on SPEN's ability to earn a margin is removed?	Metered LV <input checked="" type="checkbox"/>	SPD <input checked="" type="checkbox"/>	The customers have effective choice providing an IDNO wins their project and after the initial connection has been completed. Only then, when SP are not involved, can customers truly see the ability of the competitor to deliver a better/ more cost effective service. This will not change whilst SP have the ability to influence the cost and timing of the initial connection.
	Metered HV <input checked="" type="checkbox"/>	SPM <input checked="" type="checkbox"/>	
	Metered HV/EHV <input checked="" type="checkbox"/>		
	Metered EHV & above <input checked="" type="checkbox"/>		
	DG LV <input type="checkbox"/>		
	DG HV/EHV <input type="checkbox"/>		
	Unmetered (LA) <input type="checkbox"/>		
	Unmetered PFI <input type="checkbox"/>		
Unmetered (Other) <input type="checkbox"/>			
Two: Do you consider that there is scope for competitors to grow their market share (for example, if SPEN put up its prices or if its quality dropped), or are there factors constraining	Metered LV <input checked="" type="checkbox"/>	SPD <input checked="" type="checkbox"/>	There is scope for competitors to grow the market but the examples given are not the issues. SP needs to change their systems and have visible Director commitment to change the way they operate and relax their systems to the levels that their own business enjoys.
	Metered HV <input checked="" type="checkbox"/>	SPM <input checked="" type="checkbox"/>	
	Metered HV/EHV <input checked="" type="checkbox"/>		

Question	RMS(S)	DSA(S)	Response
this?	Metered EHV & above <input checked="" type="checkbox"/> DG LV <input type="checkbox"/> DG HV/EHV <input type="checkbox"/> Unmetered (LA) <input type="checkbox"/> Unmetered PFI <input type="checkbox"/> Unmetered (Other) <input type="checkbox"/>		For example we cannot connect a substation until the legal documents are completely released yet we have found examples where SP have not applied these stringent measures to their own business. All of their process' need to be reviewed and fundamental changes applied to their CRAM (soon to be RADAR) system as this is one of the biggest barriers.
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?	Metered LV <input checked="" type="checkbox"/> Metered HV <input checked="" type="checkbox"/> Metered HV/EHV <input checked="" type="checkbox"/> Metered EHV & above <input checked="" type="checkbox"/> DG LV <input type="checkbox"/> DG HV/EHV <input type="checkbox"/> Unmetered (LA) <input type="checkbox"/> Unmetered PFI <input type="checkbox"/> Unmetered (Other) <input type="checkbox"/>	SPD <input checked="" type="checkbox"/> SPM <input checked="" type="checkbox"/>	At the present time there is not the appetite to enter the market further as the timescales and cost to connect and the inability to deliver a service to our customers cannot be guaranteed. The effect of this is that we are then seen to provide a poor service and put at risk our other markets that are far easier and more cost effective to connect. This barrier needs to be resolved otherwise the market will not grow.
Four: Given your overall view of SPEN, do you consider that we can have confidence in them to operate appropriately in the event that price regulation is lifted?	Metered LV <input checked="" type="checkbox"/> Metered HV <input checked="" type="checkbox"/> Metered HV/EHV <input checked="" type="checkbox"/>	SPD <input checked="" type="checkbox"/> SPM <input checked="" type="checkbox"/>	We do not believe that SP have shown any commitment to open their market up. The only competitors that operate effectively in their DSAs are mainly ex-employees that can 'go through the backdoor' which we have witnessed on a number of occasions. To operate using the systems and process that SP have developed means that they will always

Question	RMS(S)	DSA(S)	Response
	Metered EHV & above <input checked="" type="checkbox"/> DG LV <input type="checkbox"/> DG HV/EHV <input type="checkbox"/> Unmetered (LA) <input type="checkbox"/> Unmetered PFI <input type="checkbox"/> Unmetered (Other) <input type="checkbox"/>		have a competitive advantage over a new entrant.
Five: Do you consider that there are factors not addressed in this consultation that should be taken into consideration in determining whether price regulation should be lifted?	Metered LV <input checked="" type="checkbox"/> Metered HV <input checked="" type="checkbox"/> Metered HV/EHV <input checked="" type="checkbox"/> Metered EHV & above <input checked="" type="checkbox"/> DG LV <input type="checkbox"/> DG HV/EHV <input type="checkbox"/> Unmetered (LA) <input type="checkbox"/> Unmetered PFI <input type="checkbox"/> Unmetered (Other) <input type="checkbox"/>	SPD <input checked="" type="checkbox"/> SPM <input checked="" type="checkbox"/>	We feel that SP need to embrace competition at a Director level and provide personal commitments to open up their markets in the same way that all of the other DNOs have taken on board over the last one or two years. They have not moved forward from the first connections that we won in their DSAs and we cannot see anything that indicates that they are looking to improve what they are doing. The staff we deal with on a day to day basis have normally tried to help us but there seems to be a corporate reluctance to improve their service and a belief that they are helping to facilitate competition. This is not born out in the reality of the day to day connection process and leaves SP languishing in last place of all the DSAs in the RSMs that we are operating in.