

Competition Notice	Scottish and Southern Energy Power Distribution – 23 December 2013
Date of determinations	23 April 2014

1 Background

- 1.1 This document sets out the Authority’s decision on Scottish and Southern Energy Power Distribution’s 23 December 2013 application to charge an unregulated margin on certain contestable connections services in seven Relevant Market Segments (RMSs). It is accompanied by a separate document which can be found on our website¹ setting out the reasons for our determination.
- 1.2 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).
- 1.3 In accordance with the requirements of CRC 12 SSEPD gave us a Regulated Margin Notice on 12 August 2010. We accepted these Notices 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
- 1.4 On 23 December 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 (SHEPD) and Southern Electric Power Distribution (SEPD) (herein referred to as SSEPD’s two Distribution Service Areas (DSAs)).
- 1.5 The Competition Notices submitted on behalf of Southern Electric Power Distribution (SEPD) related to seven RMSs set out in CRC 12 of its Electricity Distribution Licence: Metered demand High Voltage (HV) work; Metered demand HV and Extra High Voltage (EHV) work; Metered demand EHV work and above; Metered Distributed Generation – HV and EHV work; Unmetered connections Local

¹ <http://www.ofgem.gov.uk/Networks/Connectns/CompinConn/Pages/CompinCnnctns.aspx>

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.

Authority (LA) work; Unmetered connections Private Finance Initiative (PFI) work; and Unmetered connections Other work.

- 1.6 The Competition Notices submitted on behalf of Scottish Hydro Electric Power Distribution (SHEPD) related to four RMSs set out in CRC 12 of its Electricity Distribution Licence: Metered demand High Voltage (HV) work; Metered demand HV and Extra High Voltage (EHV) work; Metered demand EHV work and above; and Metered Distributed Generation – HV and EHV work.
- 1.7 The Competition Notice stated that SSEPD considered both the Legal Requirements Test and the Competition Test (the Tests) to be satisfied in respect of these RMSs. It sought a determination from us that SSEPD be entitled to charge an Unregulated Margin in relation to these RMSs.
- 1.8 Upon receipt of the Competition Notice and before making these determinations, we undertook a consultation exercise with SSEPD and other persons and we have considered the responses received.
- 1.9 We are required to determine whether an Unregulated Margin should be allowed in each RMS in each DSA by way of separate determinations. 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.
- 1.10 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

Where both the Competition Test and the Legal Requirements Test have been satisfied

- 2.1 We consider that the following RMSs have satisfied both the Legal Requirements Test and the Competition Test –
 - (i) Metered Distributed Generation – HV and EHV work in the SEPD DSA only, and
 - (ii) Unmetered connections Private Finance Initiative (PFI) work in the SEPD DSA only.
- 2.2 In regards to the RMSs and DSA referred to in paragraph 2.1 above, we accordingly further Determine that, from the date of these Determinations, SSEPD shall be entitled (but not obliged) to charge an Unregulated Margin in its Connection Charges in relation to its Connection Activities.
- 2.3 In accordance with CRC 12, Part J, by 30 June 2015 and 30 June in each subsequent Regulatory Year, SSEPD shall submit to us reports relating to the RMS, explaining:
 - the extent to which the evidence relied upon by SSEPD to establish that the Tests were satisfied is still accurate; and

⁴ As set out in CRC 12.

- where appropriate, any change that has occurred in the RMS since the date of these Determinations or since its last report in this regard.
- 2.4 Our reasons for concluding that both of the Tests have been met are set out in our document - 'The reasons for our decision on Scottish and Southern Energy Power Distribution's 23 December 2013 application to charge an unregulated margin on certain contestable connections services'. This document can be found on our website.

Where only Legal Requirements Test have been satisfied

- 2.5 In respect of the RMSs listed below, in accordance with the provisions of CRC 12, we hereby determine that whilst the requirements of the Legal Requirements Test have been satisfied, those of the Competition Test have not:
- (i) Metered demand connections – HV work in both DSAs,
 - (ii) Metered demand connections – HV and EHV work in both DSAs,
 - (iii) Metered demand connections – EHV and above work in both DSAs,
 - (iv) Metered Distributed Generation – HV and EHV work in the SHEPD DSA,
 - (v) Unmetered connections – LA work in the SEPD DSA,
 - (vi) Unmetered connections – Other work in the SEPD DSA.
- 2.6 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 23 December 2013 application to charge an unregulated margin on certain contestable connections services'. This document can be found on our website.
- 2.7 In respect of the RMSs and DSAs referred to in paragraph 2.5, accordingly and as provided for by CRC 12, SSEPD must continue to charge the Regulated margin of four per cent in its Connection Charges in relation to its Connection Activities.
- 2.8 This determination and our decision document constitute publication of the Notices required of us by section 49A of the Electricity Act 1989.