

04th November 2014

Our ref: NF/MCCG/OFGEM 1114

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Sent by email only.

Dear Sam

Response to: Ofgem Consultation - Update on competition in connections market review: issues limiting effective competition

I am writing on behalf of the Metered Connection Customer Group (MCCG) to set out our group's response to Ofgem's consultation published on 7th October 2014. Our response has been developed through consultation with our members which is listed in Appendix 2.

Since our last letter we ran a workshop in September this year where we set out our views on what needed to be done to help improve competition in connections. We have also met with each of the DNOs to ensure that they are clear on our views and to offer any assistance we can to enable them to improve competition in connections in their distribution services area.

We expect to see a significant improvement in the approach taken by all DNOs to competition in connections to date. We believe that the best way to achieve this is to remove the DNO points of intervention as far as possible from the end to end process to enable ICPs and IDNOs to provide the levels of service they wish to their customers.

We continue to hold the view that a step change improvement is unlikely to be achieved without some intervention by Ofgem.

We have provided our response to the questions raised in the consultation in Appendix 1.

Should you wish discuss any aspect of our response please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read 'N Fitzsimons', is written over a light blue horizontal line.

Neil Fitzsimons
On behalf of the MCCG membership

Appendix 1

Consultation Questions

Question 1: Please let us know if any of our issued descriptions do not adequately reflect your experience of the market.

The description in the consultation accurately reflects our members experience in the market place. We have provided evidence of examples of such incidents during the call for evidence process. We are pleased that Ofgem has recognised that whilst these are some of the barriers when considered in isolation they may appear insignificant, their cumulative effect is not. This is felt by our members on a day to day basis to a greater or lesser extent in all DNO areas and has the effect of making it more difficult to compete against the DNOs.

Question 2: Please provide comments on the solutions that stakeholders have suggested to deal with the issues that have been identified. Let us know if you have other ideas.

The nature of DNO accreditation regimes:

We agree that there should be a standard approach that enables the free movement of accredited companies and persons across DNO boundaries. We would also argue that the accreditation should be sufficient in its own right to allow accredited competitors and their sub-contractors to operate without the need for further assessment unless the competitor requests it. Furthermore we don't see the need for accredited competitors to be subject to audit by the DNO, instead an independent body should be responsible for auditing DNO staff, contractors and competitors with the same level of scrutiny.

This is something that MCCG members have called for over many years. Experience to date has shown that when we attempt to develop a national approach progress is slowed by some DNO's lack of engagement and the process tends to move at the pace of the least pro-active DNO. A good example of this is the work that was done by ENA working group that eventually developed the Self Connect framework. This work took two years to complete and even following its completion it took each company at least a further 12 months before self-connect was available in any DNO area in practice. This was despite competitors being actively involved in the working group to keep the pressure on to make progress. We would therefore recommend that any intervention by Ofgem to bring about a national solution has strict enforceable time limits set out to ensure the self-connect experience is not repeated.

DNOs determine the Point of Connection (PoC)

We would not support the introduction of an independent third party to provide points of connections to DNO networks in the absence of clarity as to how such an arrangement would be funded. Instead a better approach is to make this service fully and practically contestable for a majority of connection types. It is crucial that any solution makes it easy for competitors to determine their own points of connection. DNOs have argued that the uptake on their trials to date has been poor. In our view this is down to the trials being too narrow in scope, the risk of getting it wrong sitting with the competitor and the concept not yet being proven to be effective. A good example of this is in self connect for UMS connections which has turned out to be a great success. But this was only after the early trials were replaced by effective business as usual processes that made it easier for competitors to complete this work themselves rather than rely upon the DNO for the service.

The way in which DNOs approve connection designs

We agree that removing the approval requirement for straightforward designs would be a positive step forward. We would also argue that depending on demand this would be extended to more complex arrangements. The GIRs Designated Designer procedure in gas has proved effective for a number of years now and we see no reason why any DNO would not introduce a similar arrangement immediately.

We are less convinced by the idea of seeking design approval after the construction event as this means that the competitor is required to construct an asset and carry the liability that the construction may need to be altered at some later stage. This is no different to the current arrangements where competitors already can construct an asset for adoption without design approval of the DNO, but they do so knowing that if their construction design is not approved by the DNO they will have to alter the constructed asset to meet the approved design. We would see no benefit for competitors or customers in such an approach.

The requirement for IDNOs to fund and install link boxes

Our IDNO members have engaged with DNOs in recent weeks since our workshop in September and most DNOs have made positive indications that they will remove the requirement for link boxes and/or fund link boxes where they insist one is required. IDNOs acknowledge that where there is a request for a link box to be provided that they should fund its installation. We expect DNOs to follow through on these indications without further delay.

How DNOs inspect and monitor new assets provided by their competitors

Our members have suffered a heavy handed approach by some DNO auditors in the past and continue to do so in some areas. We are confident that not all DNOs provide the same level of scrutiny to their own connections business as they do to work of their competitors.

We would support the implementation of an independent auditing regime similar to the GIRs process. We believe that continuation of auditing by DNO staff of competitors construction works leaves DNOs open to accusations of preferential treatment for their own connections businesses. In the gas connections market the auditing role is carried out consistently by a totally independent party and this seems to work very well.

Inconsistent application of planning and design standards

We acknowledge that two different engineers can come up with different solutions to the same problem. Our experience to date has been that competitors are required to go to great lengths to prove that the perfect design cannot be constructed in practice yet the DNO's own connections business can take a more pragmatic approach.

The best way around this in our view is to allow the competitor to take full design responsibility for their works. The DNO should be available to provide advice on preferences or interpretation of design policy but not to approve every design.

Customers do not know they can use alternatives

DNOs must ensure that any information they provide about competitive alternatives must be carefully worded to ensure they make the competitive alternative sound no less attractive than having the DNO carry out all of the work. We believe that some DNOs have more work to do on this front.

Customers are reluctant to use alternatives

We believe customers would be more likely to use alternatives if they believed that the competitor was entirely in control of the delivery of the connection. Until such time as the DNO is completely removed from the critical path of the completion of the connections works there will always be reluctance by some customers to use an alternative provided to the host DNO.

Customers that want to use a competitor find difficulty in accepting just the non-contestable part of the DNO's quote

Some DNOs have introduced so called convertible quotations which is a welcome development. All quotations by default should be convertible and it should be easy for the customer to use the quotation to accept any non-contestable elements only and crucially be able to appoint an ICP or an IDNO to construct and/or adopt the extension assets. Most of the convertible quotes we have seen to date only allow for the adoption of the extension

assets by the DNO only. DNOs must ensure that the convertible quotes can be used by the applicant to offer the extension assets to the DNO or an IDNO.

The licensees' statutory powers

MCCG members would welcome the extension of statutory powers to ICPs to enable them to operate in the highway; however we acknowledge that this is beyond Ofgem's remit. It may be possible that the Licence be amended to progress this issue by allowing an ICP to work under the DNOs statutory powers although this will need to be explored in more detail. There is no doubt the requirement for ICPs to apply for Section 50 opening notices does place ICPs at a disadvantage to licensees which does effect competition particularly in lower value market segments.

We would welcome the inclusion of the acquisition of land rights into the Guaranteed Standards of Performance Regulations to incentivise DNOs to take a less conservative view when it comes to deciding what land rights they require for their assets. Our members experience in the gas connections market shows that land rights rarely delays gas connections so there may be some good practice to learn from this market.

The DNOs and IDNOs' licence requirement to provide an emergency response service

We agree with the proposals outlined in the consultation that emergency response services should be provided by the host DNO in a similar manner to the gas industry. Ofgem should use their regulatory powers to make this happen.

The ability of DNOs to provide part-funded connections

We believe that this issue can be addressed by taking a simple approach. Where the ICP's charge for carrying out the entire scheme is lower than the DNO's charge for the same work then the ICP should be entitled to compete as awarding the works to the ICP will deliver value to both the new connecting customer and DUoS customers. The ICP charges to complete the work should include its direct and indirect costs only and similarly the DNO charges where they to carry out the work should include its direct and indirect costs only. DNOs have claimed that they should be able to recover their indirect costs on the DUoS portion of the investment even where they do not carry out the works. We don't agree with this approach as if this principle were to hold through then DNOs would be entitled to apply their connections business overheads (indirect costs) to fully funded network extension schemes also. Where an ICP can complete the same work for a lower charge to both the new connection customers and DUoS customers then we see no reason to add any additional overhead to this cost.

Competition not viable for certain types of connection

We believe that where self-service models are in place that competition can exist in all market segments as the entire job cost will be contestable. Again the gas connections market has shown this to be possible.

Transparency of pricing

We would support the idea of clearer connection charging methodologies that allow customers to easily cross reference their quotation against the DNO connection charging statement. This is likely to be most effectively implemented through licence changes by Ofgem.

Our members also have concerns relating to the Open Governance arrangements with regard to the DCUSA and associated voting rights, noting that currently connection customers, developers, TA's and generators are specifically excluded from voting on Change Proposals. We would suggest that this is unacceptable, goes against the principle and spirit of open governance, and disenfranchises those groups that are actually affected by the CCMS.

Appendix 2

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