

November 4th 2014
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 Power On Connections (POC) to set out our group's approach and to set out our group's response to Ofgem's consultation published on 7th October 2014. Our answers to the questions posed in your consultation document are included in Appendix 1.

POC has been working, both bilaterally and through the MCCG, with each of the DNOs to ensure that they are clear on our views what we believe is required to take competition forward and to offer any assistance we can to enable them to improve competition in connections in their distribution services area.

We believe that all of the DNOs are well aware of what needs to be done to improve the market and some have been more successful than others in taking the necessary steps to improve the situation. 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 us to provide the levels of service they wish to their customers. All companies have more work to do as far as we are concerned and we fully expect Ofgem to make the necessary intervention to ensure this happens.

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

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

Yours sincerely



Neil Fitzsimons
On behalf of the Power on Connections

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 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 some of the barriers when considered in isolation may appear insignificant, their cumulative effect is not. We have provided some further detail in Appendices 2 and 3 on our experiences.

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.

Individual DNOs can act now on this issue, and use the learning to feed into a national solution. We would accept that a national approach is the best way forward, however any working group tasked with dealing with this issue must be set firm target dates and DNOs must be incentivised to meet those target dates. Our previous experience with working groups has been that the progress is painfully slow.

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. Our experience has been that this is due to the trials being too narrow in scope, insufficient information being made available to get it right, the risk of getting it wrong sitting with the competitor and the concept not yet being proven to be effective. In practice if a DNO makes a connection that turns out to have a detrimental impact on the network due to incorrect assumptions it has made, the DNO rectifies the issue from its DUoS funded General Reinforcement CAPEX budget. As far as we are aware all of the trials to date did not give this level of protection to competitors. Clearly most competitors will be reluctant to get involved with trials or pilots where they are exposed to commercial risk.

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 reject the notion 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

We believe that the removal of this requirement will open parts of the market to ICPs that had previously been inaccessible.

How DNOs inspect and monitor new assets provided by their competitors

We have provided Ofgem with evidence of the poor treatment we have received from 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 also believe the evidence we have provided should be sufficient to enable Ofgem to take action against the guilty party.

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. We regularly hear DNOs complain about poor quality designs received from some competitors and this may well be the case. However DNOs have established a regime that assumes all DNO competitors are incompetent. This must change without any further delay. When we complete a design, our designer continues to hold the Designer's responsibilities under the CDM regulations regardless of whether the design is approved by the DNO. The adoption agreement also provides a sufficient incentive on the ICP to get it right.

We find that we are often required to go to great lengths to prove that the perfect design cannot be constructed in practice yet the DNOs' 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

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 took part in a pilot project with UKPN which for the most part in our view worked well. UKPN did raise a number of concerns although we believe that this issue can be addressed by taking a simple approach. Where the ICPs charge for carrying out the entire scheme is lower than the DNOs' 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 are 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.

We expect that this issue will not progress without the intervention from Ofgem.

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.

APPENDIX 2: UPDATE ON PROGRESS ON THE DEVELOPMENT OF SELF SERVICE FOR COMPETITORS

Item	Description	What we said in previous responses about DNOs that causes most concern	Progress Update
1	Availability of G81 information - online and current		–still no progress although we are assured work is underway
2	Easy Access to DNO network records		–still no progress although we are assured work is underway
3	Easy Access to DNO network data (including details of committed load) for the purpose of A and D (Self Determination)		talking about change by middle of 2015
4	Design Approval Process - ICP to control via a self-certification of the design similar to GIRs in gas industry where the design is approved by the ICP's Designated Designer. DNO only validates that the relevant information is available as an ADMIN exercise		UKPN and WPD are making some positive indications although we need to see this implemented soon. ENW and SSE operating a reject only once regime, although no real progress delivered yet on Self Certification from any DNO. There is still work to be done in this area.

			<p>The current NERS process makes reference to IEng status or similar for design approval. The onus is on the Provider to ensure that a regime is being followed which is covered by Lloyd's audit. So long as a Competitor retains NERS accreditation for design, there should be no need for DNO's to approve standard HV and LV networks especially if these are for IDNO's.</p>
5	Terms in adoptions agreements including the types of agreements available		<p>To date we have argued with most of the DNOs that the terms they were offering in their adoption agreements have been unduly biased in their favour. As the entry into an adoption agreement is a condition precedent to energisation of the connection we and other ICPs have had limited success in getting the DNOs to increase their share of the adoption risks more fairly with the ICP; ultimately if an ICP does not sign the agreement, the connection is withheld.</p> <p>We believe that the DNOs resolve to leave the terms of their adoption agreements unchanged should enable them to use the benefits they gain through the adoption agreement to take a more hands off approach with Competitors as the agreement protects the DNO if we get it wrong. This negates much of the need for man marking of ICPs by DNOs and DNOs should be instead relying upon the agreements they resisted so hard to change.</p>

6	Self-Connect Connection Activities LV	Process should be the same as when their own sub-contractors self-connect. Easy access to network records is a barrier. WPD are closest to this goal than the other DNOs.	No progress.
7	Self-Connect Operations Activities LV	No DNO allows operational activity for LV Self Connect.	UKPN are making some positive indications that they will allow competitors to undertake LV Operations Activities which will be a very positive step if implemented.
8	Self-Connect Operations Activities HV	The process should be the same as when their own subcontractors self-connect. ENW are closest to this goal than the other DNOs.	UKPN have made progress in this area.
9	ICP to be in control of delivery of the connection	All DNOs	There is still work to be done in this area. DNOs can change their practices now. UKPN, SSE and WPD are making positive noises but nothing yet implemented.
10	Contestability of Disconnections on Brown Field Sites	All DNOs	NPG agree with us that this should be contestable and are planning to change their Charging Statement to this end.

11	Self Determination of Assessment and Design	All DNOs, trials in place so far have scopes that are too narrow to be attractive enough for ICPs to get involved	Still no progress here
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APPENDIX 3: OTHER ISSUES IMPACTING ON COMPETITION IN CONNECTIONS

Item	Description	What we said in previous responses about DNOs that caused most concern	Progress Update
1	DNO inspection and monitoring, policy and practices - I and M must be proportionate and similar to audit regimes of the DNO's internal staff and contractors		<p>– still a major concern.</p> <p>We believe this issue exists in other DNO areas and, until such time as ICP audits continue to be undertaken by the DNOs, we would expect other DNOs to undertake joint audits of their own connections business' construction activities with their competitors, perhaps through the MCCG. This action, supported by evidence of audits from the DNOs own connections businesses, could be used by the DNO to demonstrate that an even handed approach is taken between DNO's own connections businesses and that of their competitors.</p> <p>Our experience with UKPN has improved in recent months.</p> <p>Other DNOs, including UKPN are introducing a new regime although we still believe that auditing should be undertaken by independent 3rd parties.</p>

2	Non SLC 15 Service Timescales (e.g. NTRs and reinforcement works)	All DNOs	No Progress, DNOs must at least provide voluntary standards
3	Customer Engagement		We have met with all DNOs in recent months to set out our position, either as POC or through the MCCG.
4	Slick application processes similar to DNO's service to its own connections business	All DNOs	No real progress yet.
5	Behaviour of Upstream Operator doesn't cause loss of work	All DNOs	All DNOs have more work to do to resolve this issue. WPD and ENW are leading the way. We note that we still come across instances where the DNO's own connections business design and construct solutions that we as an ICP would struggle to get approval for. We believe that examples of non-standard solutions should be made available to competitors as the only way we currently see them is if one of our clients shows us a design they have received from the DNO's own connections business. The impact of this approach is that customers can gain the perception that they need to deal directly with the DNO if they have a complex scheme.
6	Self Determination of Assessment and Design	All DNOs, trials in place so far have scopes that are too narrow to be attractive enough for ICPs to get involved	Still no progress here

7	Letters of Authority to make connection requests		<p>Many companies now requiring LOAs for DG schemes. [REDACTED] also requesting for demand and insisting that the prospective client can only nominate a sole agent to apply for a firm quotation for a connection. We believe this approach is flawed as it prevents the customer from getting more than one ICP involved in the early stages of a project.</p>
8	Land rights process guaranteed standards of performance	All DNOs	<p>No progress on either voluntary or guaranteed standards of performance for land rights. With the exception of [REDACTED], the incorporated process has made land rights significantly easier for IDNO schemes as the DNO is largely excluded from the process. However ICP only schemes would benefit from guaranteed standards of service by DNOs.</p> <p>Furthermore, on ICPs schemes [REDACTED] still require a Letter of Undertaking from the grantor of the land rights confirming that land rights will be completed prior to the proposed connection date; this is a pre-requisite to the ICP even being allowed to book the final connection. As a result it makes it very difficult for the ICP to effectively plan the works leading up to the final connection. Other DNOs allow the connection date to be provisionally booked in and they allocate the required resources on the basis that the connection will be cancelled if the land rights don't complete 5 days prior to the proposed connection date. There is no requirement for a letter of undertaking for</p>

		the grantor of the land rights. We believe this position should adopted by [REDACTED] without delay and that all DNOs should at least commit to voluntary standards of service for the areas of the land rights process within their control.
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