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Dear Sam,

Review of the electricity connections market: consultation on proposed remedies

We appreciate the opportunity to respond to your consultation, dated 21 January 2015, and to provide comments on the proposed remedies to improve competition in the electricity connections market.

As stated by the ENA in its letter of 16 February, we understand the rationale for encouraging DNOs to adopt and maintain best practice in the provision of non-contestible services to third party connection providers and believe the introduction of a Code of Practice (CoP) will contribute to achieving this objective. We are actively participating in the working group to develop the CoP and the licence drafting process to ensure that the CoP and associated licence requirements achieve the intended outcomes as far as possible. We are also continuing our own initiatives to facilitate an open and competitive market based on our stakeholders' views of what actions would be most useful. As well as leading on the introduction of convertible quotes, we were the first DNO to propose the removal of the requirement for a link box between network operators and have, for some time, provided emergency response to IDNOs via our contracting business, all of which feature in the new CoP. During 2014/15, we have continued to support an open connections market through initiatives such as the development of a register of accredited alternative connection providers willing to work in our areas on our website, and the provision of dedicated assistance to customers to help them explore alternative options. Going forward, our Incentive on Connections Engagement (ICE) plan will include initiatives in addition to the best practice in the CoP to address our stakeholders' requirements,

including, for example, staged or partial design approval to assist independent connections providers, together with a meeting whenever a design is rejected.

Whilst we understand the thinking behind Ofgem's proposals and we are committed to actions within our power to improve the market, we still have concerns that the remedies are based on the assumption that the development of competition is largely within the DNOs' control. We voiced these concerns in our letter to James Veaney of 10 December 2014 and while factors apart from DNO behaviour are acknowledged in Ofgem's findings, there is a strong expectation that changes in the DNOs' behaviour will result in changes to the current level of competition. We still consider that industry charging arrangements, the regulatory environment, alternative provider practices and customer behaviour are having a significant impact on the level of competition, and that actions taken by DNOs without action to address these other factors, may not result in the desired level of change. Any review of the impacts of the CoP over time would benefit from a wider objective view of the market to ensure that the results are considered in context.

Answers to the consultation questions follow:

Question 1: Please provide your comments on the proposed structure and content of the CoP licence condition.

We are generally comfortable with the high-level structure and content of the licence condition, but will feed back specific comments jointly through the DNOs. However, in brief, our comments at this stage are as follows:

- (i) In our view, the use of the term "input services" potentially risks driving DNOs to minimise the service that they provide rather than simply minimising the non-contestible element. Instead, we believe the title and definition would be better explicitly referencing the non-contestible element of the service.
- (ii) We welcome the recent revisions to the drafting to replace "best endeavours" with "all reasonable steps" in terms of compliance with the licence condition. Moreover, we consider it may be more appropriate for licensees to provide an annual certification statement assuring compliance rather than providing detailed evidence of processes and procedures that are in place to ensure compliance.
- (iii) We are concerned that a drive towards harmonisation in the provision of equivalent services could stifle the development of best practice as a result of licensees being held to the lowest common denominator. To date, this concern has been mitigated by the inclusion of best

practice examples in the drafting of the Code of Practice, but the wording of the licence must not preclude this.

With regard to governance, we recommend consideration of options for CoP governance to be managed within the scope of existing governance arrangements for other industry codes, for example the Distribution Code. This could minimise requirements for set up and maintenance of new administrative arrangements and also ensure that best practice in terms of open governance is followed.

Question 2: Please provide your comments on the minimum requirements we have proposed for inclusion in the CoP.

We believe the minimum requirements address many of the issues identified in the findings of the review and correctly identify examples of best practice, where these have emerged.

Question 3: In addition to the minimum requirements, what else should be included in the Code of Practice?

In the timescales set to put the CoP in place, we believe it would be very challenging to introduce additional requirements at the end of April for incorporation into the CoP by the end of May. We therefore recommend that any additions are put forward through the governance process for modifications once the initial CoP goes live. This will ensure that additions go through a similar process to that which has been used to develop the initial minimum requirements. In this way, we will also continue to develop initiatives to facilitate competition and would expect to be able to pioneer new ideas based on feedback from our own stakeholders, many of which will eventually form part of the CoP.

I hope this is useful input to the process. Should you wish to discuss any of the above, please do not hesitate to get in touch.

Yours sincerely,

Gillian Hilton
Regulation, Networks