

18 March 2015

Our ref: 180315-ECM



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Dear Sam

Response to Ofgem Consultation: The findings of our review of the electricity connections market

This response is provided for and on behalf of the Electricity Network Company Limited (ENC) and Independent Power Networks Limited (IPNL), both subsidiary electricity distribution licensee businesses of The Gas Transportation Company (GTC) and is in response to Ofgem's consultation of the 21 January 2015.

In general we concur with Ofgem's findings and welcome the proposal for the requirement on DNOs to develop, and comply with, a Code of Practice (CoP) that removes DNO involvement as far as possible from the process of competitors obtaining and/or carrying out connections. In the appendix to this letter we have answered the questions from the consultation and summarised our thoughts on what we believe is required within the CoP. We support the introduction of a licence condition to mandate compliance with the CoP. We would have preferred the licence condition to include the development of the CoP but recognise to do so may have delayed the development of the CoP. However, we take some comfort that failure to develop the CoP promptly may result in a Market Investigation Reference to the Competition and Markets Authority.

We note from Ofgem's letter of the 25 February that DNOs have given their commitment to the development of such CoP and are encouraged that they have already initiated work on this.

The minimum requirements described by Ofgem provide a good starting point. However, we believe there are other requirements that need to be included. These are set out in the work undertaken by the MCCG and previous responses by the industry. In summary these requirements are:

- Publication of required specifications and standards to be used in design (e.g. content in DNO Design Manuals).
- Requirements for adoption of best practice across all of the DNOs.
 - These practices can be derived from other industries and not just across the DNO community.
- Requirements and standard agreements for land rights etc.

- Requirements for final connections to be wholly run by the competitor including Operational work required to facilitate the connection.
- Provision of call handling and emergency response to IDNOs.
- Governance and change control procedures.
- Include details on how compliance with the CoP and the Licence Condition will be monitored and reported to industry participants and Ofgem.
- Systems and processes that support the CoP must be required to be accredited through NERS itself, this will provide a more robust control than ISO 9001 accreditation and will go some way to assuring compliance with the CoP.

We have seen initial drafts of the DNOs' CoP and are concerned that the level of detail being drafted so far is insufficient to ensure the objectives of the CoP are met.

In delivering the CoP DNOs will need to ensure that they have the appropriate, "fit for purpose" systems and procedures in place to enable them to deliver the requirements of the CoP. However, we note that the DNO team assembled to deliver the CoP appears to only consist of representatives from across the respective DNOs' Competition in Connections teams. At this stage of the development there appears to be very limited, or perhaps, no representation or input from the DNO team members who will have to facilitate system and business process changes that will be essential to deliver the changes that will be required within each DNO organisation.

In delivering the CoP for September go live, we would expect the systems and processes underpinning the CoP to be fully implemented. This is an area of significant risk as we are concerned that sufficient resource may not have been committed to these areas early enough by the DNOs.

Effective governance arrangements will form a crucial component of the CoP. We note that Ofgem has suggested that these will be incorporated into the licence condition. Whilst we support that the licence condition should set out the principles of governance we think the detail should be included in the CoP. This is because it is inappropriate to include detail in the licence condition and that should such detail be included and found to be deficient, changing the licence condition is a much more onerous and lengthy process than the changing the CoP. The governance is key in ensuring that any areas found to be deficient can be quickly and easily changed to further support the development of competition.

We can confirm that this response is not confidential and are happy for this to be hosted on the Ofgem website.

Yours sincerely

Mike Harding

Head of Regulation

Appendix

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

We agree that the areas Ofgem has indicated as the key parts of the connection process are the most important and that the DNOs must address these within the Code of Practice licence condition.

We believe it is important that NERS is used as the consistent accreditation process for all competition in connection requirements rather than allowing DNOs to retain their own systems.

The overarching governance arrangements for the Code of Practice is a significant area of concern for us. We agree that the CoP needs to be a "living document" and that the governance arrangements will be critical in ensuring this. We question what aspects of the governance and change process should be prescribed in the licence and what aspects should be prescribed within the CoP. The CoP will be a new document and having all the administrative requirements and processes of the CoP prescribed in the licence makes changing them more difficult.

We have been provided a copy of the MCCG's requirement for the Code of Practice we are in support of their requirements.

We are also advised that the MCCG's offer for assistance in developing the Code of Practice has been rejected. It is disappointing that the DNOs do not want direct input from the companies that are actively engaged in delivering services for customers and are the people that have raised the issues in the market.

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

We have seen the DNOs' first draft of the CoP. We recognise that this is at an early stage, however, we are concerned that the draft is a more like a policy document than a code of practice. It does appear that the DNOs are looking to create a document that does the minimum to "tick the box" rather than one that sets out how they will deliver the services required to meet the objectives of the CoP.

We would suggest that the DNOs' current draft offering for the CoP does not go far enough and will not deliver what is required to open the market up in the same way that the gas market has been opened up. This market was opened following investigations by the regulator at the time and because of this the pace of change was far quicker.

As we have indicated in our response to Question 1, governance of the CoP is also a very important area as there have been such delays built into changes within the connection markets for so many years. We believe governance needs to incorporate ancillary documents to the CoP (e.g. Engineering recommendations G88 and G81) as well as the CoP itself.

Governance arrangements must set out the criteria for managing the change process and must be accessible to all relevant parties. Our experience of changes to documents held by the dCode or DCUSA take an unduly long period of time when they could be amended far sooner if a timescale was determined to deliver the change. This must be identified as a risk and the necessary measures put in place to ensure that this does not occur within the governance of the CoP.

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

We believe the following areas need to be considered and incorporated into the CoP. These include:

- The commitment to provide call handling and emergency response needs to be included as a commitment in the CoP. WPD have demonstrated this as best practice for several years but others have been slow or have repeatedly refused to offer these services.
- The need for a barrier (link box) between DNO and IDNO networks needs to be removed with the option of having one if one party believes it will benefit the customer. If this is deemed necessary then the party that requires this must pay the cost of installation.
- The CoP needs to have a commitment that all areas that are deemed barriers to competition are removed. For the IDNO community this includes the additional costs levied by the industry on unmetered supply costs for the Local Authorities.
- There does not appear to have been a commitment to a quality standard. We would want the CoP to be written in a style fitting the British Standard on Codes of Practice structure. The standard also needs to be checked against other Codes of Practice so that it is consistent and ensures that the objectives of the CoP are measurable and reportable against so that competitors can judge performance both individually and against the DNOs as a whole.
- The NERS scheme needs to be bolstered to remove the need for the DNOs to impact on any delivery timescales. This needs to be the measure used to ensure that an ICP can work to the quality and standards required by both DNO and IDNO. In a similar way to the gas market there must be an independence to the measurement of performance otherwise the DNOs are in danger of being accused of double standards. This is a major issue for us and a threat to the credibility of the CoP if the DNOs are still left in charge of the measurement of their competitors.
- The Governance of the CoP needs to be open, transparent and accessible to all participants in the market. It also needs to be timely in its response to changes.
- The areas identified in 2011 by the CNA need to be reviewed and built into the CoP.
- The CoP, supporting systems and processes must be required to be accredited through NERS itself. This will provide a more robust control than ISO 9001 accreditation and will go some way to assuring compliance with the CoP.

The DNOs need to provide a CoP that is a useful tool for the market and which allows the proposed licence objectives to readily be achieved and that it needs an overarching statement of intent that states the following:

- Ensure that competition in the market for electricity distribution connections is maximised through:
 - Minimising to the fullest extent practicable - the scope and cost of input services.
 - The provision of input services – where they are necessary or requested – to be provided on an equivalent basis to its competitors and its own connections business.
 - Harmonisation of its input services across all GB DNOs.
 - Continually looks to improve by benchmarking against all DNOs and other related industries.