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18 March 2015

Dear James,

Ofgem connections market review findings - consultation on proposed remedies

In response to your consultation on proposed remedies we would make the following comments and can confirm they are not confidential and this response can be placed on the Ofgem website.

We agree with Ofgem's conclusion that fundamental structural reform or a referral to the Competition and Markets Authority is not appropriate at this stage. We believe we have demonstrated that Competition in Connections can be facilitated, as evidenced by our success in passing seven of the nine relevant market segments and are pleased that our efforts to do so have been recognised by stakeholders in their responses to your various consultations. We agree that Ofgem's proposed approach to develop a Code of Practice that will detail minimum requirements and can be enforced against should act as an appropriate incentive to create a level playing field across the country.

Despite being successful in the Competition Test process there is still a significant amount of work for us to do to ensure we can meet all the requirements in the Code of Practice. We have attached some detailed comments on the proposed drafting of the minimum requirements that we believe will add clarity to the requirements. We will also comment separately on the proposed draft licence.

We remain committed to ensuring that Competition in Connections can be facilitated in the north west and will be working with both national and regional stakeholders both on the specific elements of the Code of Practice but also to ensure we are responding to their needs. We were pleased that Ofgem outlined the governance principles for the Code of Practice in its consultation. Whilst there is quite a significant effort required to get the first Code of Practice developed we are keen that the minimum requirements do not stifle innovation and as we continue to improve our processes and services to third parties these can be accommodated within the Code of Practice as these become 'business as usual'.

Through the initial engagement with stakeholders on the development of the Code of Practice they have identified additional areas that they would like to see covered in it. We intend to consider these and include these in our work plan as part of the Incentive on Connections Engagement (ICE) and we would encourage Ofgem to not add any additional requirements to the scope of the Code of Practice at this stage. We see a natural evolution of the Code of Practice once DNOs have trialled and developed solutions through their ICE work plans these could be shared with the other DNOs and then included in the Code of Practice through the governance arrangements.

As always, if you require any further information, please do not hesitate to contact me.

Yours sincerely,

Brian Hoy
Head of Market Regulation

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

The text from the consultation is shown highlighted in grey with proposed changes shown as tracked changes, supporting comments then follow.

Design approval

☐ DNOs have common mechanisms to allow independents' staff to become an approved designer or to become an approved designer organisation.

☐ Designs produced by an approved designer or approved designer organisation do not require approval by the DNO's staff.

The Code of Practice should allow for the ICP organisation to be approved rather than just an individual designer.

Inspection

☐ DNOs have in place an inspection and audit regime which is consistent for all connections they will adopt connected to their network (both for where they have been responsible for the work or where an independent has undertaken the work and the DNO adopts it).

☐ The criteria used to dictate the frequency of inspection and reporting on the volume of inspections conducted (across both their business and their competitors) must be publicised.

☐ This inspection regime could be administered by the DNO or an independent third party.

The terminology to "adopt" does not normally refers to work undertaken by the DNO and is used only in relation to work undertaken by a third party and subsequently adopted by the DNO.

Accepting non-contestable quotes

☐ DNOs must provide fully 'convertible quotes' for all contestable connection offers.

☐ This means that when the customer accepts the non-contestable services offered by the DNO but chooses to use an independent for the contestable part of the connections, the DNO cannot reissue the quote for the non-contestable services.

It would be helpful to clarify whether the last sentence above relates to contestable or non-contestable services. Both situations could be valid requirements.