

All those with an interest in competition in the market for new connections to electricity distribution networks

Direct Dial: 020 7901 3869
Email: connections@ofgem.gov.uk

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Our decision on the suitability of the Competition in Connections Code of Practice

This letter contains our conditional decision to approve the Competition in Connections Code of Practice (CoP).¹ The CoP has been developed by distribution network operators (DNOs) in consultation with competitors and stakeholders and had to meet requirements that we specified. Our approval is conditional on DNOs updating the CoP to include a firm commitment to review and revise sections of the document in six months' time. This is when certain new processes have been tried and tested.

This decision follows our review of the electricity distribution connections market and our conclusions on the actions that were necessary to ensure competition can operate effectively to benefit customers in this market. We are pleased that the DNOs have worked quickly and in conjunction with stakeholders to develop our proposed remedy.

We will launch a statutory consultation on a proposed licence condition once a satisfactory final draft of the CoP has been provided. This licence condition will make the CoP legally enforceable. We require this final draft to be provided to us no later than 8 July 2015. This would enable us to launch the statutory consultation in the week commencing 13 July 2015.

Based on this timetable, we expect that the licence condition would have legally binding effect from mid October 2015. However, we expect the DNOs to begin acting now to ensure compliance with the CoP. There will not be a "grace period" following the implementation of the licence condition.

Background

In January 2015, we consulted on the details of a remedy to deal with issues we identified during our review of the market for new electricity distribution connections.² The regulatory remedy has two parts -

- **A new licence condition** – which will place a duty on distribution network operators (DNOs) to have in place and comply with an enforceable Code of Practice.
- **A detailed Code of Practice** – which specifies how the DNOs must provide services to its competitors in the connections market.

¹ [See the CoP on the ENA website.](#)

² [See our findings document.](#)

In May 2015,³ we explained the factors we would assess when considering whether to approve the CoP developed by the DNOs. These factors included a set of minimum requirements, aimed at addressing issues limiting effective competition resulting from the DNOs' role in the connections process. We also said that if a suitable CoP was not developed in a timely manner we would reconsider the most appropriate way to resolve the issues in the market.

Following thorough consultation with a range of interested stakeholders (including competitors of the DNOs) the ENA submitted the CoP to us for approval on 5 June 2015.

The Code of Practice

We have carefully considered the proposed CoP against a range of criteria⁴ including the extent to which it met the minimum requirements and the way in which stakeholder feedback had been incorporated. A summary of our assessment against each of these criteria is contained in the annexes of this letter. **The outcome of this assessment is that we are conditionally approving the CoP.**

Overall, we consider that the CoP addresses the issues we identified in the market. However, there were areas where certain requirements were not sufficiently detailed. This is in part due to new processes having to be established quickly in order to deal with the issues our review identified. There were also some cases of a lack of referencing to subsidiary documents.

There are two areas where the CoP has not been developed sufficiently because of new processes needing to be developed. These are: (1) the self-determination of point of connection; and (2) design approval for competitors. For the CoP to be enforceable, it should have specific requirements in each of these areas. These processes need to be developed further before they can be defined fully.

While further work is needed in these areas, it is critical that the CoP is implemented and enforceable as soon as possible. As such, we have decided to approve the CoP as long as a revised final draft includes –

- 1) An absolute requirement for the DNOs to propose changes to the CoP which make the process for self-determination of POC (ie section 4.4-4.11 in the current draft) and the process for design approval (ie section 4.15 in the current draft) definitive. These terms must require modifications to be proposed by no later than 15 January 2016.
- 2) An absolute requirement for the DNOs to develop, with stakeholders, the detail of exactly how they will report on their performance against the various requirements of the CoP. These terms must:
 - require modifications to be proposed by no later than 15 January 2016; and
 - include an absolute requirement to report on appropriate aspects of the inspection regimes that the DNOs apply to all parties (including them and their competitors).
- 3) Further clarification in relation to the referencing of subsidiary documents.

We have given this feedback to the DNOs. They are already working on revising the CoP.

³ See our [May 2015 letter](#).

⁴ These criteria were detailed in our [May 2015](#) letter and included that the CoP covers the end-to-end connections process and contains existing best practice that would force DNOs to change their current practices.

Next steps

We expect the DNOs to finalise the CoP by 8 July 2015. Once a satisfactory CoP is produced, we will launch the statutory consultation on the licence condition which will give legal effect to the CoP. We expect the DNOs to begin acting now to ensure compliance with the CoP.

Once the CoP is live, DNOs will have an ongoing responsibility to ensure that it is fit for purpose. We also plan to undertake a further review of the market 18 months after the CoP has legal effect to determine the success of the remedy.

Yours faithfully,

A handwritten signature in blue ink that reads "Andy Burgess".

Andrew Burgess
Associate Partner, Electricity Distribution
For and on behalf of the Authority

Annex 1. Assessment against the Minimum Requirements

	Minimum requirement	Assessment of CoP against this requirement
1. Accreditation and authorisation		
A	DNOs must allow for a common or fully transferable accreditation and authorisation for work on their networks. Once an individual has been certified as competent on one DNO's network, they should not have to face any unnecessary requirement to be accredited again elsewhere.	<p>The CoP is clear that only National Electricity Registration Scheme (NERS) accreditations are required. There is a commitment within the CoP that DNOs will work with Lloyd's Register (who administer the scheme) to expand the scope of NERS where necessary.</p> <p>Three different approaches are included within the CoP for authorisation of independent connection provider (ICP) staff. These are: (i) ICPs authorising their own staff to work under their own safety management system (which must be of an equivalent standard to the DNOs), (ii) ICPs being authorised by the DNO to operate under the DNO's safety managements system and (iii) transfer of control of parts of the network.</p> <p>It is clear that training and authorisations relating to Engineering Recommendation G39 given by one DNO will be transferable to other DNOs.</p>
B	The charges to get accredited must be cost-reflective and opportunities to be accredited must be available on a sufficiently frequent basis.	This requirement is clear within the CoP.
C	These accreditations could be administered by the DNO, or an independent third party could provide all accreditation for the industry.	It is clear that NERS accreditations are administered by Lloyd's Register and DNOs or ICPs can provide authorisations (depending on option used).
2. Point of connection		
A	DNOs must have a common self-determination regime which allows competitors to identify their own point of connection to the network (where they want and are able to). This will allow competitors to determine their own point of connection for the majority of straightforward connections.	The CoP contains a regime where ICPs can determine their own point of connection (POC). However, the CoP allows each DNO to publish the criteria that determine when ICPs can do this on their website. Acknowledging this shortcoming, we consider the CoP should include a firm commitment that DNOs will revisit this section in six months' time, once the processes have been trialled and tested, and update this section to be more prescriptive.
B	To enable this self-determination, DNOs must provide competitors with equitable access to network information to allow them to determine the point of connection accurately.	The CoP makes clear that DNOs must provide certain information to ICPs to allow them to determine the POC. It identifies what types of information may be needed. We expect that following the review in six months' time, the CoP will clearly specify what information will be made available to ICPs. The CoP

		also specifies that the data will be available normally on a 24/7 basis.
C	There will be some cases, defined in the CoP, where self-determination will not be possible. These must be kept to a minimum and there must be clear explanation given for why this is the case.	Cases where the ICP can't determine POC not explicitly identified. There are references to DNOs publishing circumstances on their websites. Acknowledging this shortcoming, we consider the CoP should include a firm commitment that DNOs will revisit this section in six months' time, once the processes have been trialled and tested, and update this section to be more prescriptive.
3. Design approval		
A	DNOs have common mechanisms to allow independents' staff to become an approved designer or to become an approved design organisation.	The CoP contains a high level process for ICPs to approve their own designs. However, it doesn't provide specific criteria that determine how designers become accredited or when ICPs can approve their own designs. Acknowledging this shortcoming, we consider the CoP should include a firm commitment that DNOs will revisit this section six months' time and update this section to be more prescriptive.
B	Designs produced by an approved designer or approved design organisation do not require approval by the DNO's staff.	The CoP is clear that designs approved by the ICP do not require DNO approval before construction begins.
4. Link boxes		
A	The party which requires a link box on the boundary between two networks, based on its obligations and its assessment of risk, must fund it.	The CoP contains a clear requirement that the party who requires the link box will fund and own it.
5. Inspection		
A	DNOs have in place an inspection and audit regime which is consistent for all connections connected to the licensee's distribution network (both for where they have been responsible for the work or where an independent has undertaken the work).	The CoP makes it clear that auditing ICP compliance with NERS is Lloyd's Register's responsibility. The CoP states that inspections should not unduly restrict or delay an ICP and must be no more onerous than quality assurance on DNOs own connections.
B	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.	The CoP refers to the Common Connection Charging Methodology which dictates the frequency of inspection on the works of competitors. We expect the final version of the CoP to specify that reporting on the frequency of inspection for both the DNO's own work and its competitors will be part of the final arrangements.
C	This inspection regime could be administered by the DNO	The CoP states that DNOs should consider appointing a third party to do

	or an independent third party.	inspections.
6. Accepting non-contestable quotes		
A	DNOs must provide fully 'convertible quotes' for all contestable connection offers.	The CoP contains a clear requirement that where a connection offer could be contestable, the DNO will provide a convertible quotation.
B	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.	The CoP is clear that the customer can choose the DNO or an ICP to do the contestable work.

Annex 2. Assessment of other factors

Other factors	Assessment of CoP
The licensee minimising – to the fullest extent reasonably practicable – the scope and cost of its input services.	The CoP represents progress towards minimisation of the provision of input services. It will allow ICPs to determine their own POC, approve their own designs and authorise their staff to work safely under their own safety management systems. As competition in the market develops, we expect further versions to minimise the scope and cost of DNOs’ input services.
The provision of input services – where they are necessary – by the licensee on an equivalent basis to its competitors and its own connections business.	There are consistent references within the CoP to the provision of inputs on equivalent basis.
Harmonisation of its input services with those of all other GB DNOs.	The high-level processes contained in the CoP are common. Where we don’t consider DNOs are harmonising their process, we will consider the need to take enforcement action.
That the CoP covers the end-to-end connections process and best practice established through the competition test process or identified in the market review.	The CoP covers the end-to-end connections process.
That the CoP has clear, specific requirements or commitments in each area it covers.	The CoP does have requirements in each area it covers, however there are references to subsidiary documents and the requirements are not specific for determination of POC and design approval by ICPs. These are areas where we expect the CoP to be improved before it can be approved.
It needs to be clear enough to be enforceable against DNOs who don’t comply with it.	Generally the requirements of the CoP are clear. However, there are references to subsidiary documents and the requirements are not specific for determination of POC and design approval by ICPs. These are areas where we expect the CoP to be improved before it can be approved.
That the provisions reflect best practice in the market – not just the range of current approaches used by DNOs. Otherwise we consider, it would serve no purpose.	The CoP does appear to be attempting to move the industry forward for best practice in many areas eg provision of convertible quotes. Where we don’t consider DNOs are implementing best practice, we will consider the need to take enforcement action.
We expect some DNOs will need to change their approaches so that they conform to best practice specified in the CoP.	It appears that to comply with the CoP, all DNOs will need to establish new practices in some areas. It also seems likely that some DNOs will have to alter their existing processes.

Clear evidence that stakeholder feedback has been considered and acted on appropriately.	The ENA provided a response matrix alongside the CoP which logged the comments received, whether they had been incorporated into the CoP and why.
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