

1 October 2020

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By email only to RIIO2@ofgem.gov.uk

Re: RIIO-ED2 Sector Specific Methodology Consultation – Connections

Dear James

We are writing in response to the consultation that Ofgem have issued in relation to the Sector Specific Methodology for RIIO-ED2. BUUK Infrastructure are the parent company for two independent distribution network operators (“IDNOs”), the Electricity Networks Company Limited (“ENC”) and Independent Power Networks Limited (“IPNL”). BUUK Infrastructure also operates as an independent connections provider (“ICP”) through its subsidiary brands, GTC and PowerOn Connections. ENC and IPNL adopt new electricity networks constructed by either our own ICPs or by other ICPs operating in the competitive connections market.

We welcome the opportunity to respond to the consultation regarding the proposed methodology for RIIO-ED2. Networks adopted by ENC and IPNL provide connections to new residential and commercial developments and connect to incumbent DNOs’ distribution systems. The nature and quality of services offered by incumbent DNOs to facilitate the connection of IDNO networks has the potential to significantly impact on the competition in connections market. Therefore, the incentives placed on DNOs to fully facilitate (and to continue to do so) are of particular importance to us.

We recognise the breadth of the areas considered in your consultation document. This response focusses specifically on the questions that you have asked in respect to Connections (within Annex 1 of the consultation). Our responses to questions OUTQ7 to OUTQ18 are provided in Appendix 1 of this letter. We provide a summary of our views in the points below.

1. Development of competition for new connections has had a significant, positive impact on the connections’ market, improving the experience across a broad range of customers. The benefits of effective competition include driving down the costs of providing connections; improving the service to customers, and creating choice for customers to select optimal solutions that best meet their needs.

However, we think there is further scope for improving the framework for competition in a number of areas. Therefore, we think it is important that Ofgem continue to play a role in protecting the interests of consumers through targeted metrics and incentives.

2. Incumbent DNOs will continue to occupy a dominant position in the connections’ market and therefore still have potential opportunities now and in the future to distort or frustrate competition. This is even the case for those DNOs that have previously been at the

forefront of implementing frameworks to enable competition in connections to be successful. Therefore, we think it is important that Ofgem continues to provide a regulatory regime, including through DNO price controls, to ensure that incumbents continue to facilitate competition in an effective and efficient manner and do not develop or reintroduce undue barriers or hurdles.

We think that the incentives proposed for major connections are insufficient to ensure the continued facilitation and promotion of competition in connections as they are focussed on activities where the DNO provides the end connections without due regard to the connections market in its entirety (focussing on market segments which failed the competition tests without consideration of non-contestable activities). This would be to the detriment of customers seeking a connection where the connection works are competitive but the input of the DNO for non-contestable works is still required.

3. With the energy market transitioning to a net zero landscape, we think that delivering new connections in the future is increasingly likely to require new, innovative and non-traditional solutions. Competition has been at the core of developing innovation in the provision of services for new connection customers. It is important that DNOs, through incentives and/or penalties, are required to continue to develop the non-contestable services they provide (and to the fullest extent possible make such services contestable) to allow for the competitive market to innovate future solutions for customers.
4. The changing energy landscape will lead to areas of networks which are becoming increasingly constrained. We understand that DNOs have a role to play in ensuring that they develop their networks in an economic and efficient way to minimise unnecessary costs to customers and that there is a need to ensure that unutilised capacity is not sterilised and unavailable for use by other customers. However, any process to reclaim underutilised capacity (as suggested in the principles of Appendix 4 in Annex 1) needs to be fair, proportionate, reasonable and consistent with the provisions of the Act. DNO policies need to take a long term, holistic view of capacity and network development to ensure the best outcomes for new and existing customers. Sometimes network constraints occur because of poor network investment decisions. We are concerned that practices may evolve that result in capacity being withdrawn in circumstances where there is a realistic future need (e.g. new housing developments) and that if policies to withdraw capacity are implemented poorly, they may unduly constrain the construction of connections to new housing developments.

We are aware of the work undertaken previously by IDNOs, ICPs and Ofgem to ensure that competition in the connections market has been able to develop to provide a better service to connections customers. We would welcome the opportunity to discuss our response further with Ofgem so that we can ensure that there are no unintended adverse impacts on competition arising from the development of these proposals to introduce different incentives for RIIO-ED2.

Yours sincerely

Mike Harding
Regulation Director

Appendix 1 – Responses to Questions

OUTQ7. Do you agree with our proposal to expand the connections element of the customer satisfaction survey?

Yes, we feel that it is appropriate to broaden the scope of the customer satisfaction surveys. The additional inclusions are likely to benefit from their inclusion with the CSS.

OUTQ8. Do you consider that we have identified the relevant considerations to determine which customers should be captured in its scope?

Yes. We note through experience that the introduction and increase in competition has resulted in significant improvements in the services delivered by DNOs and their competitors to connection customers. We believe that, overall, competition is the best mechanism to drive performance (both in terms of costs and service) and innovation. We agree that customers need the additional protection afforded by this incentive, particularly where competition is undeveloped and is unlikely to occur. However, we do not think it is necessary to include in scope, those market segments where there is a competitive framework, competition is “flourishing” and where customers have genuine choice.

We think that it would be beneficial to wider connection customers to introduce a similar incentive (or broaden the scope of the existing incentive) to include non-contestable services and works that DNOs provide to facilitate the ‘downstream’ competitive connections process. Non-contestable services are a natural monopoly for the DNO where there is no competition. We believe that DNOs should be incentivised to monitor, assess, and improve performance and where possible, minimise the scope of services reserved as being non-contestable. As a DNO customer we think that this is an area which would significantly incentivise DNOs to improve their performance in the services offered to suitably accredited IDNOs and ICPs.

OUTQ9. Do you agree with our proposal to retain the TTC incentive as a financial ODI in RIIO-ED2?

Yes, the TTC incentive drives efficient performance where competition has not, nor is not likely to, develop.

OUTQ10. Do you agree with our proposal to include a reopener which allows us to revisit targets, and potentially introduce penalties, in the period?

Whilst we understand that there is a need for a degree of flexibility in the price control period, we are unsure why this means any decision to introduce penalties needs to be deferred and considered as part of a reopener (as opposed to including such penalties alongside incentives at the outset of the price control settlement.)

We do not foresee that the increase in connections requests resultant from a change in the connection charging boundary is likely to have a material impact on the DNOs’ ability to deliver timely connections. The number of connection requests is much more likely to be driven by other factors, e.g. the economy in a post Brexit, post COVID-19 climate; the transition to a net zero climate. Additionally, a significant number of connections are delivered through market sectors where competition is prevalent, and which would not be applicable to the time to connect incentive. Therefore, we think it is appropriate for Ofgem to be able to set both the incentives and penalties at the outset of the price control period. If the use of penalties is seen

to be inappropriate because of other factors, then these can be removed under any potential reopener.

OUTQ11. Do you agree with the methodology we propose to use to set the new TTC targets?

We are supportive of the methodology used to propose the new TTC targets. We note that there has been a significant improvement in the performance of DNOs in the areas which are subject to this incentive and it is right that this increase in performance sets an average benchmark for DNOs. We consider the targets for the TTC incentive being based, as a minimum, on the second half of RIIO-ED1 to be appropriate as these targets are likely to be reasonably stretching.

OUTQ12. Do you have views on our proposed Connection Principles and associated standards (in Appendix 4) for RIIO-ED2? Do you disagree with any of the standards we have proposed? If so, why?

We do not believe that the principles, as currently drafted, are in the best interests of all connection customers. We seek some clarity from Ofgem on their proposed application of the BPI for connection. ICPs and IDNOs do not appear to be considered connections' customers in the definition of major connections. We believe that this is an important area to address and that any incentives should apply to all connections to the DNOs' networks, irrespective of the party undertaking the final connections work.

We believe that it is more pertinent for incentives to apply, in respect of major connection works, in respect of all non-contestable elements in all segments. We make the point earlier in our response to this consultation, that that competition, in the areas where it has developed, has been incredibly beneficial for customers. Much of the work to deliver new connections is now facilitated through independent connection providers and/or IDNOs. We do not think that the incentive, and by extension the principles, should only apply to market segments which have not passed the competition test. We believe they should also apply to non-contestable works in market segments that have passed the competition test. We applaud the significant movement in the connections market since the competition test were undertaken; however, we question their applicability of an incentive which will be introduced 10 years after they were conducted.

The provision of a point of connection to a DNO's distribution system is a process which is on the critical path for any major connection customer, irrespective of whether the work is carried out by an ICP, IDNO or the DNO's own connection business. Although we have seen improvements in performance in this area, we still believe that it is important to incentivise DNOs to ensure that they meet the connection needs of all customers and not just those in market segments where their own connections business is more likely to be providing the end connections. Removing incentives for DNOs to perform efficiently and effectively for all customers has the potential to frustrate the new connections process for thousands of customers and developments, this is a significant concern which needs to be addressed.

We think this issue could be addressed by including all non-contestable works for all market segments within the scope of the incentive and by developing a fourth principle to apply to all market segments which would centre around the facilitation of competition. We recognise the challenges faced by the transition to facilitate net is likely to bring about constraints and challenges for electricity networks. However, we think that competition in connections has an

important role to play in facilitating the development of solutions to meet those challenges and that the development of competition remains an important principle for the delivery of new connections for customers. Below, we have suggested some possible wording for the fourth principle.:

“Principle 4: Facilitate competition in the delivery and adoption of new connections

The purpose of this principle is to ensure that DNOs take appropriate steps to highlight and facilitate competition in the delivery of all new connections where a competitive market for the provision of those connections exists. This should include ensuring that Independent Connection Providers and Independent Distribution Network Operators have sufficient information readily available to them to enable them to meet the needs of connection customers and develop innovative solutions to constraints on networks.

As a baseline standard we expect DNOs to:

- Have processes in place to ensure the equitable treatment of connections delivered by ICPs and IDNOs compared to connections delivered by the DNO’s own connection business.*
- Make information available to ICPs and IDNOs on an equivalent basis to their own connection business, to enable ICPs and IDNOs to develop their own, competitive solutions*
- Put in place processes to ensure that new connections being delivered by ICPs and IDNOs are not unduly impacted by the promotion of customers in connection queues.*
- Provide opportunities to ICPs and IDNOs to engage with DNOs on their connection policy and business plans to ensure that all parties are able to address connection issues for the benefit of connection customers.*
- Put in place steps and processes to identify and implement improvements to the Competition in Connections Code of Practice.”*

Whilst we recognise that there has been significant strides in the facilitation of the competitive market throughout the ED1 price control period we think that it is important to ensure the continuation of this development and not to lose sight of the benefits that it can bring to customers through the improvement of customer service and the development of innovative solutions to meet technical constraints and facilitate the delivery of net-zero.

We would also like to draw out a specific bullet point within the third principle that we think may have a detrimental impact to connections customers –

“Where there are slow moving projects, and where these are impacting on other customers, or existing customers that are materially underutilising capacity in constrained parts of the network, have processes in place for releasing capacity that is not being used.”

On the existing principles, we understand that the delivery of a low carbon electricity network is likely to place increasing burden on the existing network, that this may lead to more constraints developing, and that it is important that distribution systems are developed in an efficient and economic manner. However, we think that Ofgem needs to be mindful of protecting existing customers and those customers who are developing their connections to the networks. We believe that the term “slow moving” is subjective and does not provide any

certainty to connection customers that the capacity which they have contracted for will be available to them at the time when they need it.

Therefore, whilst we agree that unutilised capacity on a network should not be “stranded” and that connectees and consumers should not have an evergreen right to capacity that they do not use, we believe there needs to be a fair and equitable process in place for reclaiming and reallocating capacity, and that where capacity is proposed to be withdrawn, customers should have a right of appeal.

Large housing or commercial developments generally build out over a period of many years and it is almost certainty that, during this time period there will be delays in the development, caused by planning constraints, the economic landscape for example. However even though such delays may occur, it will be clear that the capacity for the development will still be required. In such circumstances it does not seem proportionate that the allocated capacity is removed and utilised for other customers. This is especially the case where the original customer has paid for the capacity through their connection charge (or through DUoS).

We think it is imperative that any process does not place undue burdens on customers or create any uncertainty that capacity will not be available, and as a consequence inhibit the Government ambitious targets for new housing.

The principles and standards established under or pursuant to any baseline standard must be consistent with the provisions of the Electricity Act 1989. We are concerned that the principle appears to be suggesting that the DNOs put in place processes which are ultra vires of the Act. We note that under section 16 of the Act a distributor is required to make (and maintain) a connection to a premise or another distribution system for the purpose it is required. We believe that the wording in Ofgem’s baseline principle may conflict with this area of the Act insofar as introducing processes to release capacity may lead to distributors being unable to maintain the connection for the purpose for which it is required.

We would welcome further refinement of this principle to ensure that there are no perverse outcomes or unintended consequences which damage connection customers or existing customers. We are continuing to engage with DNOs and Ofgem in this area.

OUTQ13. Do you have views on our proposal to use the Business Plan Incentive to encourage companies to reveal higher baseline standards of performance and to apply this, where appropriate, to all DNOs?

We agree that the use of the Business Plan Incentive can reveal higher baseline standards of performance and that these should be applied equally to all DNOs. We would reiterate the points made in our response to the previous question that we believe that these baselines should not be restricted to market segments where the competition tests were passed. All connections customers should be able to expect to receive a high level of engagement and service from DNOs. We think that rewarding engagement with customers through the CVP element of the BPI in only those, limited, market segments, by its nature, disincentivises engagement with other connection customers and so it is likely not to result in improved baseline standards being applied (across all DNOs) for these customers.

We would welcome the application of consistent metrics and measures applied to all DNOs and believe that using the BPI to encourage companies to reveal higher baseline standards of performance will ensure that DNOs are measured against each other, rather than to the standards that they have set themselves. We believe that it is important to incentivise those

DNOs that consistently push the boundary of delivering high levels of service to connection customers. Those who set their sights lower should be penalised on an equivalent basis.

OUTQ14. Do you agree with our proposal to use an ex post assessment to penalise/reward companies who fail to deliver their strategies in line with our guidance/exceed performance targets?

We agree with this approach on the proviso that the business plans are designed with all customers' needs in mind. We would not agree with an assessment of a performance and incentives which do not take into account the needs of all connection customers and incentives/penalties being applied thereon.

OUTQ15. Do you consider that an assessment of performance in the middle and at the end of the price control is a proportionate approach?

We agree that this is a proportionate approach. One issue that we have found with the current incentive, ICE, is that it may miss immediate term improvements and that it does not encourage longer term, strategic developments. By undertaking the performance assessment in the middle and at the end of the price control we believe that DNOs can be assessed against a longer-term plan which can encompass broader objectives.

We think that it is important that DNOs are still accountable for delivery of their plan against the initial proposed timescales. That is to say, we do not believe that the assessment period should define delivery timescales of initiatives. Assessments should be made against delivery on specific timescales throughout the price control period.

OUTQ16. Do you agree with our proposal to retain the Connections GSoPs for all connection customers in RIIO-ED2?

Yes, these standards and the associated payments provide a useful backstop for customers to ensure that services are delivered on time or customers are financially recompensed for the inconvenience.

OUTQ17. Do you agree with our proposed approach to uplifting the Connections GSoP payment values in line with inflation, indexing payment levels to inflation, and rounding to the nearest £5?

Yes, this is appropriate indexation and provides the correct payment level for customers.

OUTQ18. Do you agree with our proposal to remove the Incentive on Connections Engagement for RIIO-ED2?

We agree with the proposal to remove ICE to the extent that it is replaced with something which is fit for purpose and in the interest of all connection customers. We have highlighted any reservations about Ofgem's proposed approach in our responses to earlier questions. We agree that the ICE incentive did provide a clear incentive for DNOs to develop plans to improve their connections engagement and, broadly, we have seen improvements over the RIIO-ED1 price control period across DNOs.

The progress made by DNOs to engage with customers and to listen to their customers is promising but we are keen to see that this is not reduced or diminished in any way. The electricity connections market is likely to be on the brink of rapid evolution and it is imperative that DNOs are incentivised to ensure that competition is allowed to drive solutions rather than

DNOs being focussed on their own connection businesses and on areas where competition tests were not passed.