

December 2001 - 80/01

**Competition in Connections to
Electricity Distribution Systems**

An Update Document

Executive Summary

This document details the work undertaken by Ofgem to introduce effective competition in the electricity connections market since the publication in July 2000 of its "Competition in Electricity Connections- A Decision Document".

It provides a commentary on the work undertaken by the Electricity Connections Steering Group (ECSG) and Unmetered Connections Steering Group (UCSG) which were set up towards the end of 2000 to take forward Ofgem's July 2000 proposals and to advise Ofgem on the development of competition.

The ECSG has concentrated on the development of competition in provision of electricity networks on new housing estates while the UCSG has concentrated on issues relating to streetlighting.

Discussions at the groups' meetings have been robust, which is to be welcomed in an area of work where the maintenance of high standards of work and safety are a priority. Ofgem has listened to the views expressed by the members of the groups, which include distribution licensees, independent contractors, customers and the Health and Safety Executive. Where agreement between the various stakeholders has not been reached Ofgem has had to make decisions based on the evidence available and in accordance with its duties under the Electricity Act to protect the interests of customers, wherever appropriate by promoting effective competition. Such a process inevitably leads to certain stakeholders' views being rejected by Ofgem as inappropriate and/or potentially anti-competitive.

Ofgem intends to consider representations made in respect of this document before issuing a further document incorporating its final view on the way forward during February 2002. In the event that distribution licensees do not accept certain or all of those proposals it may be appropriate for the issue to be referred to the Competition Commission

Comments are invited by 31 January 2002.

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1 Introduction

Purpose of this document

- 1.1 The purpose of this document is to inform interested parties of the work being undertaken by Ofgem for the provision of a competitive connections market. This document outlines decisions of the steering groups set up to assist Ofgem in the development of a competitive connections market. The document also outlines the different views of Distribution Licence Holders (DLHs) and new entrants and sets out Ofgem's view on issues following discussions with these parties.
- 1.2 Ofgem supports the statutory functions of the Gas and Electricity Markets Authority ("the Authority"). The Authority's principle objective, set out in section 3A of the Electricity Act 1989, introduced by the Utilities Act 2000, is to protect the interests of consumers in relation to electricity conveyed by distribution systems, wherever appropriate by promoting effective competition between persons engaged in, or in commercial activities connected with generation, transmission, distribution or supply of electricity.
- 1.3 In December 1998 the Office of Electricity Regulation (OFFER) (merged with The Office of Gas Supply (Ofgas) to create Ofgem in June 1999) published a consultation document "Competition in Connections". In July 2000, Ofgem published a decision document 'Competition in Connections to Electricity Distribution Systems: Ofgem's Proposals', which set out Ofgem's proposed way forward for competition in connections. In October 2000 Ofgem set up the Electricity Connections Steering Group (ECSG) and Unmetered Connections Steering Group (UCSG) to advise Ofgem on how best to implement its proposals. Both groups are chaired by Ofgem. Since the publication of the decision document in July 2000 Ofgem has effectively engaged in an ongoing consultation process through the steering groups and the publication of all minutes and papers developed by the groups via Ofgem's connections web page. Ofgem has received a variety of comments through the web page concerning the groups work. Ofgem also wrote to the chief executive of each DLH in October 2001 to draw their attention to the work of the groups.

- 1.4 The composition of the steering groups is intended to be representative of the stakeholders affected by the proposals. As it was not practical to have all DLHs represented on the steering groups the Electricity Association (EA) selected 6 DLH representatives to provide views on behalf of the distribution industry. These representatives provide feed back from the steering groups to the EA support group where these proposals have been debated. This ensures that all the ECSG and UCSG draft policies and procedures have been circulated to all DLHs via the EA support group who have been able to provide feedback to the groups. Other representatives include new entrants¹, the Health and Safety Executive (HSE), customer representatives (namely the House Builders Federation (HBF)), and Local Authorities.
- 1.5 Over the past year the steering groups have worked to develop the policies and procedures needed to facilitate a competitive connections market. This document restates the original objectives of the July 2000 document and reports on the work the steering groups have undertaken to achieve those objectives. The document also summarises issues raised during the steering group meetings and those raised by third parties together with Ofgem's responses regarding these issues.
- 1.6 In the July 2000 document Ofgem outlined its proposals for a competitive electricity connections market. The proposals included;
- revision of the non-contestable and contestable split determined by Public Electricity Suppliers (PESs) at that time;
 - Ofgem considered that only determining the point of connection, upstream reinforcement and the statutory use of wayleaves should remain non-contestable with all other areas of work including live jointing to become contestable.
 - introduction of a national registration scheme;
 - Ofgem proposed a national, modular registration scheme as the most suitable way forward for assessing the competence of companies and individuals to undertake competitive connections work. Such a scheme

¹ A new entrant is an infrastructure provider wishing to install electrical infrastructure for subsequent adoption.

should facilitate the development of common safety standards and technical specifications to the benefit of the industry as a whole.

- Ofgem proposed that DLHs should still be able to assess the fitness for purpose of work being undertaken by un-registered third parties. This would enable smaller new entrants wishing to undertake small amounts of work an affordable means of having work adopted although higher levels of inspection etc. would be required.
- review of the provision of information provided by DLHs to new entrants/customers;
 - Ofgem considered that as a minimum the DLHs should issue quotations within one month of receiving a request for a connection as opposed to the 3 month statutory requirement.
 - Ofgem also stated that standards of service should be measured and incorporate financial liabilities to incentivise performance. This reflected the success of the standards of service imposed on Transco by Ofgas in 1999 in the area of connection quotation provision.
- terms offered for connection;
 - correspondence with customers suggested that a more transparent connection charging statement would be more useful to third parties. A standardised connection charging statement providing the appropriate levels of clarity would also enable effective comparison between DLHs.
- streetlighting;
 - Ofgem considered that competition should be extended to unmetered supplies which would include, for example, the repair, maintenance and replacement of live connections on any type of cable to streetlighting columns as well as other unmetered street furniture.

2 Developments to-date

- 2.1 Since the first ECSG meeting on 17 October 2000 there have been 9 meetings. Within the ECSG and UCSG specific tasks have been allocated to sub-groups which undertake detailed development work on the policies and procedures as outlined in the July 2000 document. The sub groups' proposals are then discussed by the steering groups. The ECSG and UCSG have also been the forum for discussion of additional issues that have arisen at these meetings or issues that have been raised by third parties. These issues will be discussed in chapter 3 of this document.
- 2.2 The groups' development of the objectives from the July 2000 document is detailed below. It should be noted that to date the ECSG has worked only on the issue of competition in the provision of new underground Low Voltage (LV) and associated High Voltage (HV) work for new greenfield housing and light commercial. The UCSG has concentrated on underground, unmetered single phase 230 volt (less than 500 watts) connections. The ECSG considers, however, that much of the work already done will be relevant when the group moves on to higher voltage areas of work.

Contestable and non-contestable split

- 2.3 Through the ECSG DLHs expressed deep concerns over safety and legal liability issues arising from third parties making live connections to their existing distribution networks. The primary reasons for these concerns were the potential for incidents due to difficulties of identification of the correct LV cables in congested highways/pavements where jointers having only basic LV jointing experience could fail to identify complex live LV and HV cables, and perceived inadequacies of the infrastructure records available in some areas. This issue would not arise on new housing developments where operatives would be confident as to what cables they were working on. This point was considered by the steering group and it was agreed that pending experience of other competitive connections processes introduced by the group live connection to the **existing** DLH off-site network (not newly adopted) would remain non-contestable at this time.

- 2.4 It was also agreed for the areas of work so far considered, i.e. streetlighting and greenfield housing estates, that determining the point of connection to the DLH network, upstream reinforcement, diversion work and the statutory use of wayleaves would remain non-contestable at this time with other areas of work, including design, provision of materials, testing and installation and live connections on new networks, to become contestable.

National registration scheme

- 2.5 Presently, the majority of DLHs use Lloyds Register (Lloyds) to approve third parties wishing to undertake contestable work in their area. It was agreed that a suitable way forward for the national registration scheme would be for Lloyds to expand and develop the existing scheme (the existing scheme is tailored to the requirements of individual DLHs and is not transferable across DLH boundaries it is also only currently applicable in respect of non-contestable areas of work). The steering groups produced a national registration principles document which set out the principles which a national registration scheme should meet as a minimum. It is open for other potential registration bodies to develop their own national registration process providing that it satisfies the requirements of the principles document.
- 2.6 In conjunction with the steering groups and the EA sub-group, Lloyds have produced a modular based national registration scheme.
- 2.7 DLHs have stated that they will not insist on their own contractors working in their own area being approved under the national registration scheme as they have a contractual relationship which provides DLHs with the means to stop connections being undertaken in the event of poor performance. However, while Ofgem accepts that it is for the DLH to decide who it employs, the HSE has stated that it believes a national registration scheme has potential for significant safety benefits and would take this into account when assessing any incident which occurred involving the DLHs' own unregistered contractors.

- 2.8 The Group agreed that a passport scheme for individual jointers to enable third parties to check the competency of jointers could be a useful complement to the national registration scheme. The passport scheme would provide a track record of the work undertaken by the jointer. Such a scheme is being developed by Lloyds with input from the Electricity Training Association (ETA) but is not considered to be essential to the success of the registration scheme provided that the company registration scheme requires individual registration of jointers by their employers.

Technical framework document

- 2.9 It was agreed there was a requirement to produce a national set of technical framework documents which would outline common design, installation, materials, administration and safety procedures. The framework document will be supplemented by each DLH providing area specific technical appendices detailing requirements necessary to reflect local variations such as ambient temperature effects on ratings/demand, or safety related issues arising from differing existing infrastructures. This is to ensure that any asset adopted by a DLH meets the same requirements as an asset installed by the DLH itself and provides the necessary linkage between the short term responsibilities of the new entrant and the long term interests of the DLH and customers for a safe, reliable and cost efficient service life.

Provision of information

- 2.10 Customers and new entrants on the steering groups considered it essential, in the light of what they consider to be poor existing levels of service, that not only should quotations for the areas of work presently being developed be issued within a maximum period of 1 month as proposed by the July 2000 document but that other areas of provision of information needed timed and measurable standards. The ECSG produced a flow diagram of the process required for obtaining the necessary information to offer a quotation to the customer and for actually carrying out the work.
- 2.11 The ECSG agreed that each stage of the process where failure could result in delay required a standard to be attached to it and that these standards should be timed and measured. However, the group did not reach agreement on the detailed format of how such a regime should operate. It is Ofgem's and new entrants view that

these standards should be job specific and attract a financial penalty as, if there is an overall standard then a DLH could still discriminate between customers and yet meet the 90% standard. Experience within the gas connections market has highlighted the timely provision of accurate information as a significant potential barrier to competition and the potential shortcomings of overall standards. DLHs believe that these proposed standards are disproportionate to the number of Guaranteed Standards of Service which apply to the rest of the distribution business. It is the DLH view the Overall Standards of Service are more suitable and can be demonstrated to achieve compliance. Therefore, these standards should be measured to a DLH specific overall performance target which could be set at 90% for example. No liability payment would be made in respect of individual failures if the overall target was achieved.

- 2.12 It is important that a level playing field is established in order to ensure a competitive market. In light its experience of standards of service in the gas connections market, Ofgem considers that timed and job specific measured standards with associated liabilities is the best way forward. Such liabilities could start at a low level with a ratchet mechanism to deal with persistent poor performance. All DLHs would be required to provide details of performance against these standards when required to do so by Ofgem. A major advantage of job specific standards is simplicity of operation by the quotation provider and auditability by customers.
- 2.13 In a competitive market quotations will be provided to those parties bidding to win a contract to install networks on a new development. In these instances the DLH may have to provide more than one information pack outlining all the non-contestable information. DLHs have stated that the provision of such information would be an additional cost to their business. Ofgem is aware of this and considers it reasonable that the DLH recovers the reasonable cost of providing multiple quotations in the cost of the connection to its distribution network. However, any method of recovering costs must also apply to its own connection business to ensure a level playing field. This could be achieved by the application of an overhead charge made by the DLH in respect of the connection to the existing off-site network. This will ensure that the charge is the same whether or not the DLH

also does the contestable work and will ensure that the cost is borne by the party which wins the contract to undertake the contestable work.

Terms offered for connection

- 2.14 The ECSG has produced a draft standard connection charging statement in order to facilitate transparent charging for connection activities. This will be developed further by the ECSG.
- 2.15 The ECSG has developed a standard connection charge cost breakdown template. This cost breakdown details all the non-contestable charges, allowances and if necessary any reinforcement work.
- 2.16 This template was adopted by all DLHs with effect from 1 October for quotations requested after that date in respect of new housing estates.

Adoption agreement

- 2.17 The July 2000 document stated that assets installed by a third party should be adopted by DLHs in a non-discriminatory way. Ofgem considers that a national adoption agreement is central to effective competition in connections. The adoption agreement requires that the competent new entrant carries out the installation of the electricity infrastructure in accordance with the registration scheme, the technical framework documents and the DLH specific safety rules.
- 2.18 The adoption agreement outlines the liabilities associated with each party i.e. new entrant, DLH and developer. The agreement is in two parts: Part 1 signed by the new entrant undertaking the work and the DLH, and Part 2 the landowner/developer and the DLH. The developer must sign Part 2 of the agreement to ensure that the necessary rights of access to the site are transferred to the DLH at the appropriate time.
- 2.19 Two adoption agreements are being drafted, one for the adoption of new networks and the other for the adoption of unmetered connections. It is intended that the

unmetered connections adoption agreement will be based on the adoption agreement for new networks.

Streetlighting

- 2.20 For the same reason as discussed at 2.3 above, full competition (i.e., including live jointing to the existing main) in the provision of unmetered connections was agreed to be not practical at this time. Therefore, in order to improve the present standard of service/pricing of unmetered connections the UCSG developed the 'one stop shop' (OSS) a concept initially proposed by the DLHs which comes in two parts. Part 1 of the OSS is termed 'rent a jointer' and Part 2 of the OSS provides for approved parties to undertake transfers and disconnections work.
- 2.21 Part 1 - The 'rent a jointer' procedure enables new entrants and local authorities to hire a DLH jointer for a set period of time, to carry out live jointing work to the existing main. The central feature of the 'rent a jointer' procedure is that the DLH will be responsible for all live unmetered connection work while the contractor undertaking work in accordance with the OSS will be responsible for its work. A successful trial of the 'rent a jointer' procedure was undertaken during November 2001 with all live work undertaken by the DLH jointer and trench digging etc undertaken by the Local Authorities own staff.
- 2.22 Part 2 - Ofgem considers that approved contractors should be able to undertake new connections, transfers and permanent disconnections as well as emergency works to streetlighting furniture following column knock downs. This work, due to the perceived difficulties in correctly identifying the correct LV cables by jointers, will be restricted for the time being to underground service cables more than 1 metre from the main and for emergency works is also restricted to plastic cables only.
- 2.23 The UCSG will monitor the effectiveness of the OSS and consider how best to take forward the issue of live jointing to the electricity main. It should be noted that an inevitable feature of the OSS will be the situation where a new entrant working on behalf of both a Local Authority and DLH will effectively have to hire back the services of its own jointer in order to operate under the terms of the OSS. Nevertheless, experience of the process should be useful when developing

competition in the provision of connections to the existing main. It should also be noted that in the gas connections market a trial involving final connections to gas transporters' mains is currently underway which is intended to be effective nationwide in the first quarter of 2002.

3. Issues raised at Steering Group meetings

3.1 During ECSG meetings various issues arose and were discussed. Issues which arose during ECSG meetings and responses to Ofgem's letter to DLH chief executives are outlined below.

DLH Licence modification

3.2 The DLHs on the ECSG requested that Ofgem introduce a licence modification to make it a statutory requirement for them to adopt assets constructed by third parties. However, Ofgem is aware that not all DLHs share this view. This follows the gas model of competition in connections where the gas transporter must adopt assets providing they are 'fit for purpose'. DLHs felt that this would help to safeguard their position in the event of an accident since they could claim to be complying with their licence when allowing new entrants to undertake new live connections.

3.3 Ofgem has proposed a draft licence modification that has already been commented on by the ECSG and EA sub group. While Ofgem understands DLHs motives for wanting the modification it does not consider that delay in agreeing the licence modification should delay the introduction of competition. Ofgem is satisfied that DLHs will be suitably protected by the other measures being developed by the ECSG.

Licensing of new entrants

3.4 The issue of new entrant licensing was raised as it was understood by some members of the ECSG that under the Electricity Act any party wishing to undertake connections work would have to be licenced. Ofgem's view is that, new entrants were not required to be licenced under the Electricity Act.

3.5 DLHs have nevertheless suggested that new entrants should be licenced by Ofgem to ensure that they are subject to the same statutory responsibilities as DLHs. It is Ofgem's view that this is not necessary. Ofgem believes that the national registration scheme, technical framework documents and adoption agreement

provide the necessary safeguards in respect of issues such as safety and liabilities. If the new entrant does not follow the agreed processes then the DLH does not have to adopt the asset and the new entrant could have its registration revoked.

- 3.6 It should be noted that most DLHs currently employ the companies wishing to be new entrants to undertake some or the majority of their connections workload. Therefore, the same issues exist in respect of the need to undertake quality assurance inspections and to have adequate warranties in place. The proposed national adoption agreement is intended to, as far as possible, replicate contractually the existing position of a DLH and its own contractors. DLHs believe that the long term relationships that they build with their contractors provide additional security because contractors wishing to have contracts renewed will ensure that they perform. In addition, DLHs also consider that the risk of poor contractor work is reduced by minimising the number of contractors working in a given area. Ofgem considers that new entrants will be similarly motivated to perform since failure will result in DLHs refusing to adopt and new entrants losing their business with developers.

Representation of developers

- 3.7 It has been suggested that developers are not aware of the work being undertaken by Ofgem and have had no input. However, since June 2001 the HBF has been represented on the ECSG and has indicated its support for Ofgem's proposals.

Live working

- 3.8 DLHs have expressed concern over registered new entrants carrying out live working. Ofgem is aware of the DLHs concerns and has, therefore, agreed that the live connection to the existing off-site DLH network should remain non-contestable at this time. Live working should in any case only be undertaken when 'dead' working is impractical. However, in order to ensure a level playing field it is important that new entrants are able to undertake the same work as the DLHs own connection providers on new developments. The registration scheme has been designed to ensure that only new entrants who are approved to undertake live connections will do so. The primary liabilities when live working by a jointer is being undertaken are the responsibility of the new entrant who is managing the

jointer. If the connections have not been made as required then the DLH can refuse to adopt the assets and the new entrant could lose its registration. Ofgem believes that while live working is a sensitive issue, the national registration scheme and other ECSG initiatives should ensure that such work is carried out in a manner at least as safe as is currently the case. It is not possible for the HSE to comment in advance of an incident on who is responsible when an incident occurs, responsibility will be decided following an investigation and through the courts. Adherence by DLHs/new entrants to the requirements of the new regime should minimise the risk of incident and potential prosecution. Since work on a new development will be managed and undertaken by the new entrant the opportunity for a DLH to be found responsible for an on-site incident would appear to be very limited.

Adoption agreement – Signatories, point of adoption and liabilities, warranties and bonds

- 3.9 Signatories – DLHs have expressed concern about who should be the signatories to the adoption agreement. DLHs wish to sign the adoption agreement with the developer and not the new entrant. However, Ofgem believes that it is essential, for competition to be effective, that the DLH enters into the agreement with the new entrant in respect of the installed infrastructure. By having the adoption agreement in effectively two parts it is possible to have the DLH and new entrant sign the agreement relating to infrastructure and the DLH and developer to sign the part of the agreement which ensure the DLH's right to access to the asset after adoption. Developers have made clear their preference for such a model and have cited their lack of knowledge of electrical infrastructure as a primary reason for the infrastructure agreement to be between the DLH/new entrant. Where the agreement contains statement of responsibilities and liabilities Ofgem can see no justifiable reason why DLHs should be happier to sign an adoption agreement for infrastructure with a house builder than with the registered new entrant who has actually installed that infrastructure.
- 3.10 Point of adoption – Ofgem considers that adoption of the asset should take place after the connection (dead or live) has been made but before energisation to the property (i.e. before the cable is connected to the house meter). Once the asset is

adopted it becomes part of the DLH network subject to compliance with the terms of the adoption agreement. Energisation should only occur at the request of a supplier as is currently the case.

3.11 Liabilities, warranties and bonds – DLHs believe that the adoption agreement should contain a period of warranty on new entrants for 5 years. In addition they propose that the developer accepts liability for all new entrant works. DLHs also believe that a bond should be in place for the full cost of works in case of the new entrant not carrying out warranty work/or liquidation of a new entrant. In comparison the gas adoption agreement places no warranty, liability or bond on the party undertaking the installation. In the water industry only a 12 month warranty is generally placed on the party undertaking the installation although in some areas a bond is employed to provide additional security in the event of liquidation of the party undertaking the works.

3.12 Ofgem has stated that it believes the adoption agreement should replicate, as far as possible, the relationship the DLH has with its own contractor and therefore, it is our view that only a 2 year warranty (which is the warranty generally applied by DLHs with their own contractors) should be included in the adoption agreement. Ofgem believes that the DLH proposal could substantially increase the cost of new entrants' work to the point where they could not compete with the DLHs own connections provider. It is also not appropriate to place liabilities on the developer for the work undertaken by a new entrant as this could incentivise the developer to choose the DLH over a new entrant because the developer would not have to accept liability for the work undertaken by the DLH.

Incentive on DLH to adopt asset

3.13 DLHs claim that there is no incentive for them to adopt assets installed by a new entrant and believe that there is a significant potential disbenefit in accepting future liability for the life of the asset. Ofgem accepts that there is no **additional** incentive on the DLH to adopt these assets when compared with the situation where the DLHs own contractor has installed the infrastructure. The asset, like any asset paid for by a customer, will not become part of the DLH asset base, however, the DLH will receive distribution revenue from the newly connected customers. Ofgem does

not accept that DLHs will suffer any disbenefit by accepting future liability associated with the asset any more than if the DLHs own contractor installed the asset. Through the registration scheme all new entrants will be approved to install assets and through the framework document these assets will be installed to the local DLH specification. The adoption agreement should provide suitable comfort for the DLH adopting the asset in respect of issues such as warranties for the work undertaken, future liability, DLH to inspection of assets before adoption.

Disconnection of assets

- 3.14 It is Ofgem's view that a DLH should only disconnect in situations where it would consider such action to be appropriate in respect of connections undertaken by its own contractor.

Information and Incentives Project (IIP)

- 3.15 DLHs are concerned that if a new entrants' work results in supply failures on the DLHs' networks the DLHs will face financial liabilities under the IIP. It is Ofgem's view that it is unlikely that competition in connections will have a material impact in relation to the IIP. The same issue arises if, for example, another utility accidentally cuts into the DLH network, but no allowances have been made by Ofgem in the IIP for such occurrence. Since the registration scheme is intended to ensure that new entrants operate at least to existing standards DLHs should not be adversely impacted by competition. DLHs have stated that they will record details of any adverse impact as a result of competition in connection and will approach Ofgem if required.

Parallels in gas and electricity

- 3.16 It has been suggested that the work of the steering groups has been undertaken without considering the impact of competition in the gas and water connections markets. Ofgem's proposals have been formulated by the same team which introduced competition in gas connections and as a gas and electricity regulator we have been working to introduce a national registration scheme to facilitate adoption of third party connections to gas transporters networks. The gas scheme is expected to commence operation in early 2002. The management board of the gas

registration scheme will comprise all the relevant stakeholders in the gas industry such as Transco, and the independent gas transporters' (IGTs). Competition in the gas connections market has been active for some time now and is, therefore, more advanced than electricity or water. It should be noted that there are only a handful of unmetered gas connections, primarily gas lamps in the Royal Parks, therefore, comparison of gas unmetered supplies and electricity unmetered supplies would be inappropriate.

- 3.17 Ofgem is aware of the recent consultation on connection competition undertaken by Ofwat and has worked with Ofwat to assist them in the development of their proposals to introduce competition in water connections.

Recovery of costs by DLHs

- 3.18 For separation of connections businesses - DLHs have a statutory obligation to provide connections, but may also wish to run a competitive business to bid for contestable works. Ofgem has expressed its concerns over the possibility of a DLH competitive connections business gaining a competitive advantage over other connections providers. It is our view that DLHs could benefit from formally separating their connections business from the asset owning business to ensure non discrimination between their own competitive connections business and other connection providers. As a consequence of a DLH's statutory obligation to provide connections it will also be informed of speculative developments being undertaken in its area, and this information could be improperly passed to the competitive connections business which would enjoy a competitive advantage. Ofgem believes that formal separation of DLH connections businesses would reduce the chance of such anti-competitive behaviour occurring. However, Ofgem is not insisting on such separation, which is a commercial decision for the DLHs. DLHs have requested that Ofgem allow them to fully recover the costs of separation should they choose to separate, through the asset business in the form of higher Distribution Use of System (DUoS) charges. Ofgem does not consider that customers should pay for any separation which the DLH chooses to undertake.

3.19 Inspection fees - Ofgem considers it necessary that DLHs retain the right to undertake reasonable levels of inspection of networks before adoption. A DLH will need to recover the cost of such inspections but it is necessary that such inspection costs are recovered in respect of its own connection activities as well, since many connections are currently undertaken on behalf of DLHs by the same contractors as may want to offer the same service direct to customers. Ofgem would expect DLHs to currently undertake some form of audit of their own contractors' work. However, in respect of DLH contractors DLHs have stated that they believe that creating internal charges will artificially increase the cost of doing this work, which they believe, will not be in the best interest of the end customer. The precise nature of such charges for inspection are still being discussed by the ECSG.

Liabilities

- 3.20 DLHs are concerned that they are being exposed to major liabilities through competition in connections in relation to safety, legal responsibility, ongoing liability, financial penalties and customer service. Ofgem believes that all liability issues surrounding the installation of the network are addressed through;
- the registration scheme – which ensures that new entrants are competent to carry out the work;
 - inspection of the asset by the DLH – which ensures that the DLH has the opportunity to undertake reasonable inspection of the network prior to adoption;
 - the adoption agreement – which provides appropriate contractual warranty to deal with poor workmanship.
- 3.21 DLHs have requested that the HSE outline scenarios which could lead to the DLH being prosecuted. However, the HSE cannot provide such detailed commentary as each case is assessed on a case by case basis. Ofgem believes that this issue should not delay competition in connections. It is the responsibility of the DLH to ensure that wherever it is involved in the connection process it has in place appropriate safe guards to minimise the risk of incident.

Use of sub contractors

- 3.22 A concern was raised at the an ECSG regarding the suitability of sub contractors undertaking work for the registered new entrant and the type of work the sub contractor could undertake. Ofgem believes that it is appropriate for a registered new entrant to employ an unregistered individual sub-contractor, however, the individual sub contractor should be approved by the registered new entrant to undertake contestable work. If the sub-contractor in some way caused an accident then the registered new entrant would be liable. It is not reasonable to extend this arrangement to sub-contractor companies as a whole, as all of the company's policies and procedures must be approved.

Allocation of allowances

- 3.23 Ofgem believes Tariff Support Allowance (TSA) and Operation and Maintenance (O&M) charges should where practical be phased out in a revenue neutral manner. However, if DLHs still retain these policies then any payments/charges should be administered in the same way i.e. in respect of calculation and timing of payment for new entrant connections as for DLH connections.

Management board

- 3.24 The steering group have discussed the need for a management board to be responsible for any changes to the principles document on an ongoing basis. Such a body would also play a role in terms of complaints about registered companies. Ofgem considers that such a body should include DLH representatives as well as new entrants and Lloyds, such stakeholders being those with the obvious interest in ensuring that the scheme is run effectively. The HSE/Ofgem might usefully attend such a board as observers. The cost of the registration scheme itself would be met through the fees paid by new entrant. DLHs have stated that they do not wish to be involved in the management board. However, Ofgem believes that the DLHs have a vested interest in being represented on this board in order to ensure that the registration scheme delivers high standards of workmanship. This would reflect the situation with the gas industry registration scheme where Transco and IGTs have taken the lead role in creating the scheme.

Draft Electricity Safety Quality and Continuity Regulations (ESQC Regulations)

- 3.25 The ESQC Regulations are in the process of being changed due to the introduction of the Utility Act 2000. There was a concern that these regulations might have an impact on the ability of new entrants to carry out connections. However, Section 25(1) of these draft regulations states that no “persons” shall “energise” a connection between a DLH network and a customer installation unless “authorised” by the DLH. The use of the term “persons” is intended to reflect the fact that new entrants will be undertaking such work. DLHs expressed concern that by “authorising” a new entrant to work on their network they would effectively be certifying him as competent (and therefore accepting responsibility for his actions) when in fact they would be “permitting” him to work on the grounds that he was registered. Ofgem has met with the DTI and proposed that the regulations state that no person shall energise a connection between a DLH network and a customer unless “permission” or “consent” is given by a DLH.

New Roads and Street Works Act (NRSWA)

- 3.26 Under NRSWA Local Authorities and their contractors are not legally bound to work to the same requirements of signing, lighting, guarding, reinstatement or notice periods as are imposed by law on the statutory undertakers, neither are they subject to associated provisions relating to charges, lane rentals or fines. Whilst they are encouraged to work to the same standards as the statutory undertakers written evidence has been presented that some do not do so. DLHs have stated that this would create an unlevel playing field in unmetered connections. Ofgem will be highlighting this problem in writing to the Department of Local Government and the Regions (DTLR) and the Highways Authority Utility Council (HAUC).

Inventory

- 3.27 In order for the OSS to work effectively local authorities should maintain an auditable inventory. Ofgem believes that inventory requirements in respect of unmetered connections should not differ as a result of competition. Quality of inventory maintenance is central to maintaining the integrity of the electricity

settlements process as well as ensuring accurate billing of customers for both supply and DUoS charges. DLHs believe that Ofgem should consider a mechanism to ensure that customers maintain and provide DLHs with an accurate, detailed and auditable inventory in an agreed format. Ofgem is considering whether regulations to ensure this would be appropriate.

4. Way Forward

- 4.1 The ECSG and UCSG will continue working through 2002 in order to further facilitate competition in connections to brown field sites, higher voltage and industrial connections and to develop full competition in unmetered connections. Details of these proposals shall be published in early 2002.
- 4.2 For access to all the documents, policies and procedures mentioned in this document, please visit the connections web page, as stated in Appendix 1, where these papers can be downloaded. All agenda items and minutes from all ECSG and UCSG meetings can also be viewed this way.
- 4.3 The connections web page can be accessed by the Ofgem web page at WWW.Ofgem.gov.uk – once on the home page please click on ‘Areas of Work’ from which there is a direct link to the connections web page. If you do not have access to the internet then hard copies of the documents are available on request. In this instance please contact Helen Connolly on 0207 901 7267 or alternatively send a written request through the post to Ofgem, 9 Millbank, London SW1P 3GE.
- 4.4 Any comments on this paper or work undertaken by the groups are welcome by 31 January 2002. Comments should be addressed to;

Sean O’Hara
Head of Connections
9 Millbank
London
SW1P 3GE

Unless marked as confidential all responses will be published by placing them in Ofgem’s library.

APPENDIX 1

• All minutes of ESCG and UCSG meetings	Available on the web page
• Framework document	Available on the web page
• Adoption agreement	Presently in draft form on the web page
• Process flow chart	Available on the web page
• Non-contestable cost breakdown template	Available on the web page
• Connection charging statement template	Presently being developed
• Standards of performance/service	Available on the web page
• Generic principles of registration scheme	Available on the web page
• Unmetered adoption agreement	Presently being developed
• Draft Inspection Regime	Available on the web page