

Competition Notice	Electricity North West Ltd (ENWL) – 24 May 2013
Date of determinations	23 August 2013

1 Background

- 1.1 This document sets out the Authority’s decision on Electricity North West Limited’s 24 May 2013 application to charge an unregulated margin on certain contestable connections services in one Relevant Market Segment. It is accompanied by a separate document which can be found on the Ofgem website¹ setting out the reasons for the determination.
- 1.2 Under the terms of its Electricity Distribution Licence (Licence) Standard Licence Condition 14.16 (SLC 14.16) Electricity North West Ltd (ENWL) must set its Connection Charges at a level that will enable it to recover –
- the appropriate proportion of the costs directly or indirectly incurred in carrying out any works for the extension or reinforcement of its Distribution System, or for the provision and installation, maintenance, repair and replacement, or (as the case may be) removal following disconnection, of any electric lines or electrical plant; and
 - such a margin as it is allowed to charge under Charge Restriction Condition 12 (CRC 12).
- 1.3 In accordance with the requirements of CRC 12 ENWL gave us a Regulated Margin Notice on 28 July 2010. We accepted this Notice which entitled ENWL to charge a Regulated Margin at four per cent in relation to all of their Connection Activities in the Local Connections Market² when it makes an offer of connection terms within each of the Relevant Market Segments (RMSs).³
- 1.4 On 24 May 2013, in accordance with the requirements of CRC 12, ENWL gave us a Competition Notice relating to one RMS set out in CRC 12 of its Electricity Distribution Licence: Metered Distributed Generation – Low Voltage work.
- 1.5 The Competition Notice stated that ENWL considered both the Legal Requirements Test and the Competition Test (the Tests) to be satisfied in respect of the RMS. It sought a determination from us that ENWL be entitled to charge an Unregulated Margin in relation to this RMS.

¹ <http://www.ofgem.gov.uk/Networks/Connectns/CompinConn/Pages/CompinCnnctns.aspx>

² As defined in CRC 12: means the market that exists for the procurement and provision of Connections Activities within the Licensee’s Distribution Services Area.

³ Connection Activities as defined in CRC 12 – means any and all of such activities comprising or associated with the provision, modification, or retention of a connection to a DNO’s distribution system as may, in accordance with the Connection Charging Statement of that DNO, be undertaken by persons other than the DNO, where those activities are fully funded by the Customer. Note that, for the avoidance of doubt, the delineation of a RMS for these purposes is without prejudice to any assessment of a relevant market which may separately be undertaken for competition law or other purposes.

- 1.6 Upon receipt of the Competition Notice and before making this determination, we undertook a consultation exercise with ENWL and other persons and we have considered the responses received.
- 1.7 We are required to determine whether an Unregulated Margin should be allowed in the RMS. We are required, in that determination, to state whether the Legal Requirements Test and the Competition Test have been satisfied.⁴ We are also required, if we find that one or both of the Tests have not been satisfied, to include reasons for our conclusions in our determination.
- 1.8 This is a regulatory decision and does not amount to or imply, and should not be interpreted as implying, any particular view as to the application or interpretation of the Competition Act 1998 and/or Articles 101 and 102 of the Treaty on the Functioning of the European Union, or any other law, either prior to this regulatory decision or once this regulatory decision is in place.

2 The Authority's Determinations

- 2.1 In accordance with the provisions of CRC 12, in respect of the Metered Distributed Generation – Low Voltage work RMS, we hereby determine that, whilst the requirements of the Legal Requirements Test have been satisfied, those of the Competition Test have not.
- 2.2 Our reasons for concluding that the requirements of the Competition Test have not been met are set out in our document 'The reasons for our decision on Electricity North West Limited's 24 May 2013 application to charge an unregulated margin on certain contestable connections services'. This document can be found on the Ofgem website.
- 2.3 In respect of the above RMS, accordingly and as provided for by CRC 12, ENWL must continue to charge the Regulated margin of four per cent in its Connection Charges in relation to its Connection Activities.
- 2.4 Further, in accordance with the provisions of CRC 12, at any time after four months from the date of this determination ENWL may give us a Notice stating that it considers that the Competition Test has come to be satisfied in respect of the above RMS. Any such Notice must be submitted in accordance with the provisions set out in CRC 12.
- 2.5 This determination and our decision document constitute publication of the Notice required of us by section 49A of the Electricity Act 1989.

⁴ As set out in CRC 12.