

Competition Notice	<b>UK Power Networks Ltd (UKPN) – 19 April 2013</b>
Date of determinations	<b>15 August 2013</b>

## 1 Background

- 1.1 This document contains our decision on UK Power Networks Ltd’s application of 19 April 2013 to charge an unregulated margin on certain contestable connections services in six Relevant Market Segments<sup>1</sup>. It is accompanied by a separate document which can be found on our website<sup>2</sup> providing the reasons for our determination.
- 1.2 Under the terms of Standard Licence Condition 14.16 (SLC 14.16) of its Electricity Distribution Licence (Licence) UK Power Networks Ltd (UKPN) 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, UKPN gave us a Regulated Margin Notice on 28 July 2010. We accepted this Notice, which entitles UKPN to charge a Regulated Margin<sup>3</sup> at four per cent in relation to all of its Connection Activities<sup>4</sup> in the Local Connections Market<sup>5</sup> when it makes an offer of connection terms within each of the Relevant Market Segments (RMSs).
- 1.4 On 19 April 2013, in accordance with the requirements of CRC 12, UKPN gave us Competition Notices on behalf of its three licensees - Eastern Power Networks plc (EPN), London Power Networks plc (LPN) and South Eastern Power Networks plc (SPN) (herein referred to as UKPN’s three Distribution Service Areas (DSAs)).
- 1.5 The Competition Notices related to six RMSs set out in CRC 12 of its Electricity Distribution Licence: Metered demand High Voltage (HV) work; Metered demand HV and Extra High Voltage (EHV) work; Metered demand EHV work and above; Metered Distributed Generation – Low Voltage work; Unmetered connections Local Authority (LA) work; and Unmetered connections Other work.

<sup>1</sup> As defined in Part K of CRC 12

<sup>2</sup> <http://www.ofgem.gov.uk/Networks/Connectns/CompinConn/Pages/CompinCnnectns.aspx>

<sup>3</sup> As defined in Part K of CRC 12

<sup>4</sup> As defined in Part K of CRC 12 - means any and all of such activities comprising or associated with the provision, modification, or retention of a connection to the licensee’s Distribution System as may, in accordance with the licensee’s Connection Charging Statement, be undertaken by persons other than the licensee, 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.

<sup>5</sup> As defined in Part K of CRC 12: means the market that exists for the procurement and provision of Connections Activities within the Licensee’s Distribution Services Area.

- 1.6 The Competition Notice stated that UKPN considered both the Legal Requirements Test and the Competition Test (the Tests) to be satisfied in respect of the six RMSs in UKPN's three DSAs. It sought a determination from us that UKPN be entitled to charge an Unregulated Margin in relation to the six RMSs in UKPN's three DSAs.
- 1.7 Upon receipt of the Competition Notice and before making these determinations, we undertook a consultation exercise with UKPN and other persons. We have considered the responses received.
- 1.8 We are required to determine whether an Unregulated Margin should be allowed in each of the RMSs by way of separate determinations in respect of UKPN's three DSAs. We are required, in each Determination, to state whether the Legal Requirements Test and the Competition Test have been satisfied.<sup>6</sup> 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 determinations.
- 1.9 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**

### RMSs where both the Competition Test and the Legal Requirements Test have been satisfied

- 2.1 We consider that UKPN has satisfied both the Legal Requirements Test and the Competition Test in the following RMSs –
  - (i) Metered demand connections – high voltage and extra high voltage work in all three DSAs
  - (ii) Metered demand connections – extra high voltage and above work in all three DSAs
  - (iii) Unmetered connections – Local Authority work in the EPN and SPN DSAs only.
- 2.2 In regards to the RMSs referred to in paragraph 2.1 above, we accordingly further determine that, from the date of these Determinations, UKPN shall be entitled (but not obliged) to charge an Unregulated Margin in its Connection Charges in relation to its Connection Activities.
- 2.3 In accordance with CRC 12, Part J, by 30 June 2014 and 30 June in each subsequent Regulatory Year, UKPN must submit to us reports relating to these RMSs, explaining:
  - the extent to which the evidence relied upon by UKPN to establish that the Tests were satisfied is still accurate; and
  - where appropriate, any change that has occurred in the RMS since the date of these Determinations or since its last report in this regard.
- 2.4 Our reasons for concluding that both of the Tests have been met are set out in our document - 'The reasons for our decision on UKPN's 19 April 2013 application to

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<sup>6</sup> As set out in CRC 12.

charge an unregulated margin on certain contestable connections services'. This document can be found on our website.

RMSs where only the Legal Requirements Test has been satisfied

- 2.5 In respect of the RMSs listed below, in accordance with the provisions of CRC 12, we hereby determine that whilst the requirements of the Legal Requirements Test have been satisfied, those of the Competition Test have not -
- (iv) Metered demand connections – high voltage work in all three DSAs
  - (v) Metered Distributed Generation – low voltage work in all three DSAs
  - (vi) Unmetered connections - Local Authority work in the LPN DSA only, and
  - (vii) Unmetered connections - Other work in all three DSAs.
- 2.6 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 UK Power Networks Limited's 19 April 2013 application to charge an unregulated margin on certain contestable connections services'. This document can be found on our website.
- 2.7 In respect of the RMSs referred to in paragraph 2.5, accordingly and as provided for by CRC 12, UKPN must continue to charge the regulated margin of four per cent in its Connection Charges in relation to its Connection Activities.
- 2.8 In accordance with the provisions of CRC 12, at any time after four months from the date of these determinations UKPN may give us a Notice stating that it considers that the Competition Test has come to be satisfied in respect of the above RMSs. Any such Notice must be submitted in accordance with the provisions set out in CRC 12.
- 2.9 This determination and our decision document constitute publication of the Notices required of us by section 49A of the Electricity Act 1989.