

# Competition in connections – Consultation on SPEN’s Competition Notice

## Consultation

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### Overview:

This consultation seeks views on the development of competition in Scottish Power Energy Networks’ (SPEN’s) Distribution Service Areas (DSAs). It follows the submission to us by SPEN of ‘Competition Notices’ on 16 August 2013 on behalf of SP Distribution Ltd (SPD) and SP Manweb plc (SPM) in relation to nine Relevant Market Segments (RMSs).

We currently protect the interests of consumers by regulating the margins that Distribution Network Operators can earn from their connections business.

We propose to lift price regulation for connection services where SPEN has demonstrated that effective competition exists by satisfying both the Legal Requirements Test and a Competition Test as set out in Part C of Charge Restriction Condition (CRC) 12. We intend to make determinations on whether SPEN has satisfied these tests in nine RMSs in each of its DSAs in December 2013.

In this document we highlight the information we are looking for to help us to assess whether effective competition exists in the nine RMSs in the SPD and SPM DSAs. SPEN’s Competition Notices are available on our website as an associated document to this consultation.

## Context

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Our principal objective is to protect the interests of existing and future consumers. We consider that where competition is viable and effective it can protect customer interests better than regulation. Effective regulation in the connection market should allow customers to benefit from lower prices, innovation and better service.

In recent years, we have worked closely with the industry to remove barriers and limitation on the scope for competition in connections. In 2010, we introduced a package of measures to remove regulatory barriers to competition and to provide strong incentives for Distribution Network Operators (DNOs) to facilitate competition.

These measures include

- providing headroom to new entrants by introducing a four per cent regulated margin that DNOs must charge on contestable connection services in market segments where we consider competition to be viable
- providing DNOs with the opportunity to have this price control lifted in segments of the market where they can demonstrate that competition can be relied upon to protect consumer interests (by way of submitting a Competition Notice), and
- an assurance that we will continue to monitor competition in the connections market (we will review the position and consider what action to take if a DNO fails to demonstrate effective competition by 31 December 2013).

To date we have issued decisions on eight Competition Notices – Electricity North West Limited (on 21 November 2011, 10 May 2013 and 23 August 2013), Northern Powergrid (on 26 October 2012), UK Power Networks (on 29 October 2012 and 15 August 2013), Western Power Distribution (on 25 February 2013) and Scottish and Southern Energy Power Distribution (on 29 April 2013). Details of our previous determinations and any Competition Notices we are currently considering can be found on our website.<sup>1</sup>

In our previous determinations we have emphasised that we will not lift price regulation until we have sufficient evidence that customers’ interests will be protected in its absence. If a DNO does not consider that it can provide evidence of effective competition in the whole of a Relevant Market Segment (RMS) it can propose an alternative market segment.

We have recently received an application from SPEN. This consultation seeks views on SPEN’s application, which relates to nine RMSs in the two Distribution Service Areas (DSAs) covered by SP Distribution Ltd (SPD) and SP Manweb plc (SPM).

This is SPEN’s first application. Our determinations in this case will be based on the evidence presented in its Competition Notice and responses to this consultation.

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

## Associated documents

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SPEN’s Competition Notices and decisions on previous Competition Notices

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

DPCR5 Final Proposals - Incentives and Obligations

<http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=348&refer=Networks/ElecDist/PriceCtrls/DPCR5>

Special conditions of the Electricity Distribution Licence

<http://www.ofgem.gov.uk/Networks/ElecDist/PriceCtrls/DPCR5/Documents1/CRCs%20master%20merged.pdf>

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## Executive Summary

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We are seeking views and evidence by 7 November 2013 on whether we can have confidence in SPEN being constrained by pressures from actual or potential competitors if price regulation is lifted in the nine RMSs in each of its DSAs.

### Background

We have been working to facilitate competition in electricity connections since 2000. Unlike the replacement, reinforcement and maintenance of the existing network, some connection services are contestable. This means that new entrants to the market can compete with Distribution Network Operators (DNOs) operating in their regions to give customers a real choice over their connection provider and an opportunity to shop around to get a good service and value for money. We would expect competition to deliver benefits that are more difficult to achieve through regulation, such as innovation in the type of services on offer, a focus from providers on meeting customer needs and a choice for customers.

In general, however, we have been disappointed with the pace at which competition in the electricity connections market has developed. For this reason, at the last electricity distribution price control review (DPCR5), we revised regulatory arrangements to further facilitate competition. Previously, DNOs were prevented from earning a margin on connection activities. DNOs must now earn a margin of four per cent on contestable connection services in those relevant market segments where competition is considered viable. This is intended to create headroom to allow others to compete against the DNO. In addition, since the start of DPR5 (April 2010), DNOs have been able to submit Competition Notices to request that price regulation be lifted in the Relevant Market Segments (RMSs) where they can show that effective competition exists.<sup>2</sup>

SPEN is applying for price regulation to be lifted in nine RMSs:

#### Metered Demand Connections

- Low Voltage (LV) work;
- High Voltage (HV) work;
- HV and Extra High Voltage (EHV) work; and
- EHV and above work.

#### Metered Distributed Generation (DG)

- Low voltage (LV) work; and
- High Voltage and above (HV and EHV) work

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<sup>2</sup> As DNOs have an important role to play in removing barriers to entry, any DNO that fails to demonstrate effective competition by December 2013 will be reviewed by Ofgem and may subsequently be referred to the Competition Commission.

## Unmetered Demand Connections

- Local Authority work;
- Private Finance Initiatives (PFI) work; and
- Other

SPEN’s application covers its two licensed Distribution Service Areas (DSAs): SP Distribution Ltd (SPD) and SP Manweb plc (SPM). We have four months from the date SPEN submitted its application, 16 August 2013, to determine whether to lift price regulation.

## Considerations in determining whether to lift price regulation

In determining whether to lift price regulation, we will consider whether we can rely on actual competition or the threat of competition, rather than price regulation, to protect consumer interests. We will only lift regulation where we determine that effective competition exists. Furthermore, our previous decisions on DNOs’ Competition Notices have demonstrated that we will not lift price regulation until we have sufficient evidence that customers’ interests, in the whole of a RMS, will be protected in its absence. We will conduct a separate analysis of each of the nine RMSs covered by SPEN’s application in each of its DSAs.

One important indicator of whether competition is effective in each of the RMSs is SPEN’s share of work carried out. Another is the number of alternative providers active in each market segment. SPEN’s application suggests that it carries out a large share of connection projects in some segments where it considers that there is effective competition. While we will take into account SPEN’s share of work in each RMS in assessing whether effective competition exists, in our view it should not be considered in isolation as it can be an imperfect indicator of the effectiveness of competition. For example, a DNO may retain a high share by providing a competitive price or a high quality of service. In that case, the threat from competitors may be effective in limiting the prices that the DNO charges and/or encouraging it to innovate and improve service.

Equally, continued regulation in contestable services can have unintended consequences and stifle the scope for customers to realise the benefits, such as innovation, that competition can bring. For this reason, an approach that looks narrowly at market shares and retains price regulation until predefined thresholds have been met may not be in customers’ best interests. Until we lift price regulation, we will continue to monitor the way the market works and customers will continue to be protected by competition law.

## Respondents’ views

For the reasons outlined above, we will consider a range of criteria in assessing whether effective competition exists. We will make our decision having considered the evidence in SPEN’s Competition Notices and that provided by interested parties.

We would like to hear in particular from parties who purchase contestable connection services in the nine RMSs in both DSAs. We would like to understand whether customers have effective choice between connections providers, whether they have the information

they need to decide between alternative offerings and whether this has been, or is likely to be, successful in delivering improved service levels or more competitive prices (either from SPEN or from its competitors).

We also seek the views of those companies competing with SPEN or those who have done so, or who have considered doing so in the past. We would like to understand whether there are barriers to them entering or growing their market share in the RMSs covered by SPEN’s application. In particular, we would like to understand whether SPEN responds appropriately to the needs of its competitors when it provides them with non-contestable services.

# 1. SPEN’s Competition Notices

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## **Chapter Summary**

This chapter describes SPEN’s Competition Notices, the process we will follow in considering whether the Legal Requirements Test and the Competition Test have been met and the structure of this consultation.

1.1. SPEN’s Competition Notices serve as applications to have price regulation lifted on competitive connection activities in all nine RMSs set out in CRC 12 of the Electricity Distribution Licence.

1.2. On 16 August 2013 SPEN submitted Competition Notices<sup>3</sup> in respect of its licensed distribution networks:

- SP Distribution Ltd (SPD); and
- SP Manweb plc (SPM).

1.3. The Notices relate to the following RMSs:<sup>4</sup>

## **Metered Demand Connections**

- Low Voltage (LV) work
- High Voltage (HV) work
- HV and Extra High Voltage (EHV) work
- EHV work and above

## **Metered Distributed Generation (DG)**

- LV work
- High Voltage and above (HV and EHV) work
- Unmetered Connections

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<sup>3</sup> Whilst the licence requires DNOs to submit separate Competition Notices for each licensee, for administrative convenience we agreed that SPEN could submit a single document covering both its licensed areas. We will make separate determinations for each licensee.

<sup>4</sup> Appendix 4 sets out the details of all nine RMSs.



- Unmetered Local Authority (LA) work
- Unmetered Private Finance Initiatives (PFI) work

**Unmetered other work.**

1.4. CRC 12 and our DPCR5 Final Proposals set out the process we must follow in assessing the Competition Notices submitted by SPEN. We must determine whether the Legal Requirements Test and the Competition Test (set out in CRC 12) have been met for each of the nine RMSs in each of SPEN’s DSAs.<sup>5</sup> We must make these determinations within four months of receiving SPEN’s Competition Notices. CRC 12 requires us to consult with parties that we believe have an interest prior to making our determinations.

1.5. Our DPCR5 Final Proposals set out key issues that DNOs should consider in making their case. In addition, our previous decisions on DNOs’ Competition Notices have demonstrated that we will not lift price regulation until we have seen sufficient evidence that customers’ interests will be protected in its absence. The key issues set out in DPCR5 form the basis for SPEN’s Competition Notices. These are -

- actual and potential competition: the current level of competition the DNO faces in each market segment and the scope for this competition to grow;
- price and transparency of pricing: the steps the DNO takes to ensure that customers have the information they need to make decisions between taking a service from the DNO or new entrant providers; and what the DNO is doing to ensure they do not discriminate between their own customers and new entrant providers when they price their services;
- promoting awareness of competitive alternatives amongst connections customers: the steps the DNO takes to ensure that customers are aware that they can go to other providers for the service they are requesting;
- competition in connections procedures and processes: the actions the DNO has taken to ensure that the procedures and processes they have in place for non-contestable services meet the needs of new entrants and are provided in a non-discriminatory manner;
- efforts to open up non-contestable activities to competition: what action the DNO has taken to extend contestability; and
- barriers to competition: other actions the DNO is taking to remove barriers to new entrants competing in their area.

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<sup>5</sup> The Legal Requirement Test and the Competition Test are set out in Appendix 3.

1.6. We intend to publish our decision on the Competition Notices submitted by SPEN, with details of our determinations in respect of the nine RMSs covered by the Notices, in December 2013.

### **Consultation responses**

1.7. In making our determinations we will, amongst other relevant information, consider responses to this consultation.

1.8. We are required to make separate determinations for each of the RMSs and DSAs covered by SPEN’s application.

1.9. We ask respondents to this consultation, wherever possible, to submit their responses using the template at appendix one of this document. In any case, we ask them to clearly set out to which of the RMSs and SPEN’s DSAs each section of their response relates.

1.10. Unless consultation responses are marked confidential they may be posted on our website. Please note that it could prove difficult for us to use confidential information as evidence in coming to a determination. If you consider your response to be confidential, in whole or in part, please contact us using the details on the front of this document.

1.11. Under the terms of the licence, we are required to make a determination within four months of receiving a Competition Notice from the licensee. To ensure that we fulfil these obligations the deadline by which consultation responses must be submitted to us is 7 November 2013. We consider that a six week consultation gives stakeholders sufficient time to consider documents and prepare responses.

### **Structure of this document**

1.12. While interested parties are invited to respond to all of the questions posed in this consultation, we would particularly like to invite:

- Customers to consider the issues discussed in Chapter 2 (Customer awareness and ability to choose competitive alternatives) and the document summary at Chapter 6.
- Existing/potential competitors to consider the issues discussed in Chapter 3 (The potential for further competition) and the document summary at Chapter 6.

1.13. Chapter 4 presents a summary of SPEN’s assessment of competitive activity and we seek views on the data provided in SPEN’s Competition Notices.

1.14. Chapter 5 describes SPEN’s current position against the Legal Requirements Test.

1.15. Appendix 1 provides a template to assist you in providing responses to the consultation document.

1.16. Appendix 2 gives an overview of the electricity connections market, our decision to introduce a regulated margin and the potential for price regulation to be lifted. It also discusses what we will consider in determining whether the Competition Test has been passed.

1.17. Appendix 3 outlines the Legal Requirements and Competition Test

1.18. Appendix 4 defines each of the nine RMSs.

1.19. Appendix 5 contains a glossary.

1.20. Appendix 6 contains a feedback questionnaire about this consultation.

1.21. We encourage all interested parties to read the document containing SPEN’s Competition Notices which is available on our website as an associated document to this consultation.

1.22. We intend to publish our decision on the Competition Notices submitted by SPEN (with details of our determinations in respect of each of the RMSs in each of its DSAs) in 7 November 2013.

## 2. Customers’ awareness of and ability to choose competitive alternatives

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### **Chapter Summary**

This chapter seeks customers’ views on their awareness of competitive alternatives. In particular, it asks whether customers are able to make informed decisions in choosing a connections provider and whether the competitive alternatives available to them provide the service and price they expect to receive.

**When considering your responses to these questions, please consider your experiences, the actions that SPEN has undertaken and the actions that you consider it could reasonably undertake.**

**In your response please indicate the RMS(s) and SPEN’s DSA(s) to which your experiences relate.<sup>6</sup>**

**Question 1:** Are customers aware that competitive alternatives exist?

**Question 2:** Do customers have effective choice, ie are they easily able to seek quotations from competitive alternatives?

**Question 3:** Does SPEN take appropriate measures to ensure that customers are aware of competitive alternatives?

**Question 4:** Are quotations provided by SPEN clear and transparent? Do they enable customers to make informed decisions of whether to accept or reject a quote?

**Question 5:** Have customers benefitted from competition? Have they seen improvements in SPEN’s price or service quality, or have they been able to source a supplier service or better price from SPEN’s competitors?

2.1. We consider that for effective competition to exist, customers must have a real choice of connections providers. In determining whether this choice exists, in addition to the number of competitors active in each of the RMSs, we will consider –

- customers’ awareness of alternative providers;
- the ability of customers to make informed decisions; and
- whether competitive alternatives to SPEN offer customers an effective choice of connections provider and the quality of service and/or value for money that they expect to receive.

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<sup>6</sup> Wherever possible please provide your response using the template at appendix 1 of this document.

### **Number of competitive alternatives**

2.2. SPEN provides in its Competition Notices data on activity by competitors in each RMS and for each DSA in each of the three years between April 2010 and March 2013.

2.3. In the metered segments, SPEN reports the number of parties that received an SPD or SPM quote, an ICP quote or an IDNO quote in the relevant period.

- An SPD or SPM quote is defined in the notice as one “issued by SPD or SPM to carry out all the works, contestable and non-contestable, associated with a new connection”. In this document, we also refer to this type of quote as a “full works” quote.
- An ICP quote is defined in the notice as one “issued by SPD or SPM to carry out non-contestable work only where an ICP carries out the contestable work.”
- An IDNO quote is defined in the notice as one “issued by SPD or SPM to carry out non-contestable work only where an IDNO will adopt the assets and where the contestable work is carried out by an ICP or IDNO.”

2.4. In this document, we may refer to ICP quotes and IDNO quotes jointly as Point of Connection (POC) quotes.

2.5. Tables 1 and 2 set out the relevant information for each of the two SPEN DSAs and six metered segments.

**Table 1: Metered segments - Number of parties that have received Point of Connection quotes in the SPD DSA**

Relevant Market Segment	2010-11	2011-12	2012-13
Metered Demand LV	15	11	19
Metered Demand HV	16	21	20
Metered Demand HV/EHV	4	5	4
Metered Demand EHV and above	0	2	1
Distributed Generation LV	2	1	3
Distributed Generation HV and EHV	14	30	36

Source: SPEN Competition Notice August 2013

**Table 2: Metered segments - Number of parties that have received Point of Connection quotes in the SPM DSA**

Relevant Market Segment	2010-11	2011-12	2012-13
Metered Demand LV	29	24	28
Metered Demand HV	30	26	31
Metered Demand HV/EHV	6	7	11
Metered Demand EHV and above	0	0	3
Distributed Generation LV	0	1	5
Distributed Generation HV and EHV	4	12	22

Source: SPEN Competition Notice August 2013

2.6. In the case of the Unmetered Local Authority segment, SPEN provides the following information in its notice -

- In relation to the SPD DSA, data provided in Appendix 2 of SPEN’s notice suggest that one ICP has carried out work in this segment in the SPD area. The notice also says “discussions with a number of local authorities have recently resulted in further tripartite agreements being entered into”. In response to a clarification

question, SPEN confirmed that three local authorities in the SPD area have entered into a tripartite agreement with a single ICP.

- In the SPM DSA, the notice says that there are 6 ICPs who have carried out “street lighting activities under tripartite agreements” since 2008.

2.7. In the case of the Unmetered PFI work segment, SPEN provides the following information -

- In the SPD area, there has been no PFI activity in the relevant period.
- In the SPM area, the notice points out that there is currently one PFI contract in operation (in Knowsley council), involving one “nationally operating ICP”.

2.8. In the case of the Unmetered Other segment, the notice says that in both the SPD and SPM areas, SPEN has entered into a tripartite agreement to carry out works relating to the disconnection of unmetered supplies to redundant telephone boxes. It also says that a “number of unmetered supplies as part of a broadband connection programme” involving a competitor is also expected to commence in the future.

2.9. We would expect customers in any RMS for which SPEN is seeking to pass the Competition Test to face an effective choice of competitive providers when they are seeking a connection.

2.10. We would like to understand if this is the experience of customers in these RMSs. Have they been able to obtain quotes from alternative providers? We are also interested in whether customers are confident that they have a real choice between connections providers.

### **Promoting awareness of competition**

2.11. SPEN outlines a number of actions it has taken to make potential customers aware that alternative providers may carry out the contestable elements of a project. These include -

- Its website includes an area dedicated to providing information on competition in connections. A link to this page is prominently provided on the “Network Connections” section of the website. The website alerts potential connectees to the fact that they have a choice of providers for “some elements” of the connections process.
- Its new connection application form allows customers to request a non-contestable works only quote. It also includes guidance for customers on opting for a competitive alternative to SPEN.
- It has produced a guidance leaflet entitled “Providing you with a choice” which explains to customers that they can seek quotes for the contestable elements of

work from alternative providers. This leaflet is available from SPEN’s website and is sent to those customers that submit an initial enquiry or request for quotation.

- Since April 2010, all SPEN full works connections quotations have included a paragraph that alerts the customer to the fact that they are able to choose competitive alternatives for some services.
- Customers are made aware of competition in connections when they make contact with SPEN. For example, in response to emailed enquiries, SPEN sends an automatic response that includes a sentence that says that some elements of the connection works may be carried out by an independent provider. The interactive voice response (IVR) system also includes this message, and allows callers to be directly connected to the appropriate team within SPEN.
- It has provided guidance to its customer contact team on competition in connections so that they can answer related questions from customers.

2.12. We seek customers’ views on the points made by SPEN. In particular, we are interested in whether SPEN takes appropriate measures to make customers aware of the competitive alternatives available to them — for example, in making information available to customers at the time of seeking a quote. When responding, please consider your experiences, the actions that SPEN has undertaken and the actions that you consider it could reasonably undertake.

### **Transparency of pricing and giving customers the ability to choose**

2.13. To be able to make an effective choice, we consider that customers should be able to compare the prices that will be charged by the incumbent DNO with those that may be charged by an alternative provider.

2.14. SPEN states that its quotations provide the information necessary for customers to be able to make informed decisions on how to progress with their connections. Upon request, SPEN will provide one or both of the following types of quotes -

- A quote covering the full connection works (non-contestable and contestable)
- A quote covering only the non-contestable works

2.15. The notice from SPEN provides an extract from their full connection works quotation. This extract shows that SPEN’s charges are broken down in two ways -

- The first table shows a breakdown of the full connection charge by asset type (Substation, LV underground mains, HV underground mains) and by type of work (Connection, Diversion, Reinforcement). It does not provide a split between contestable and non-contestable works.



- The second table shows a breakdown of the non-contestable works only by type of work (connection to the network, reinforcement, diversions).

2.16. The full works connection quote does not provide a breakdown of the charge for contestable works. However, it may be possible to derive this breakdown by comparing the charges in the two tables.

2.17. The SPEN notice also provides an extract from a quote for non-contestable works only, known as a Point of Connection (POC) quote. This extract shows a breakdown of the non-contestable works to a similar level of detail as the full works quote.

2.18. Customers requiring a new connection can request a full works quote or a POC quote, or both.

2.19. According to the SPEN notice, it has “recently commenced a trial for new connections to the EHV network” for convertible quotes.<sup>7</sup> An example of such a quotation is provided in Appendix 9 of the notice. In response to a clarification question regarding this trial, SPEN stated that the convertible quote trial was commenced on 1 August 2013, and is operational in the SPM and SPD areas.<sup>8</sup> As part of the trial, a convertible quote will automatically be issued to any customer requesting a “full works” quote for the following types of connections:

- new or modified demand connections within the EHV work and above (Demand) RMS;
- new or modified generation connections at EHV and above; and
- new HV connections (demand or generation) of capacity 5 MW or above.

2.20. The clarification note from SPEN also says that it is seeking feedback from stakeholders during the course of this trial. It plans to review the feedback in “early 2014”, and if the feedback is positive, it will continue to issue convertible quotes for the above-mentioned connection types. It will also use the feedback received to “feed into a wider review of the form of quotation offered within other RMSs”.

2.21. According to the notice, all SPEN quotes are valid for a period of 3 months. SPEN also states that extensions of up to 3 further months “will generally be granted in circumstances where a customer is not ready to accept a quotation within its initial validity period and a request is submitted prior to the quotation’s expiry”.

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<sup>7</sup> Convertible quotes are full works quotes that can be subsequently converted into a POC quote. In other words, a convertible quote is one that allows the customer to accept either the full works offer or just the non-contestable works only offer.

<sup>8</sup> According to SPEN, 13 convertible quotes have been issued under this trial as of 13 September 2013.

2.22. We seek the views of customers and competitors on these points made by SPEN. In particular:

- Are quotes provided by SPEN for connections clear and transparent?
- Do SPEN’s quotes enable customers to make an informed decision to accept or reject a quote?
- Does the three month validity period on SPEN quotes allow customers to consider competitive alternatives?
- Will “convertible quotes” make customers more likely to consider competitive alternatives?

### **Benefits**

2.23. In addition, we are interested in whether customers consider that they have benefitted from competition. Such a benefit could be seen, for example, either in improvements in SPEN’s services or charges in the face of competition or by new entrants providing a superior level of service and/or a better price.

## 3. The potential for further competition

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### Chapter Summary

This chapter seeks views of existing and potential competitors on the potential for future competitive activity in each RMS. It considers the number of competitors already in the market, potential barriers to the further growth of competition and what factors influence competitors’ decisions to enter an RMS.

### Question box

**When considering your responses to these questions, please consider your experiences, the actions that SPEN has undertaken and the actions that you consider it could reasonably undertake.**

**In your response please indicate the RMS(s) and SPEN’s DSA(s) to which your experiences relate.<sup>9</sup>**

**Question 1:** Does the level of competitive activity in the RMSs show that there is the potential for further competition to develop?

**Question 2:** Consider the organisational structure of SPEN’s business and its procedures and processes:

- ➔ how do they compare to those you encounter elsewhere in the gas and electricity markets or other industries? Do they reflect best practice?
- ➔ do they enable competitors to compete with the timescales for connection (from quote to energisation) offered by SPEN? Or do they offer SPEN any inherent advantage over its competitors or prevent existing competitors from competing with them effectively?
- ➔ do they assist, obstruct or delay connections providers entering the RMSs?

**Question 3:** Are the non-contestable charges levied by SPEN for statutory connections in the RMSs consistent with those levied for competitive quotations? Are they easily comparable with competitive quotations? Do the differences in charges between a POC quote and the non-contestable elements of a full works quote act as a barrier to competition?

**Question 3:** What factors are key influences on the development of competition in the RMSs? In particular, if you are an existing/potential competitor:

- ➔ what is the potential for competitors to enter new RMSs, or grow their share of an RMS in which they already operate?
- ➔ are there any types of connection in any of the RMSs, or geographic locations in SPEN’s DSAs, that by their nature, are not attractive to competition? Please explain your response.

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<sup>9</sup> Wherever possible please provide your response using the template at appendix 1 of this document.

3.1. While we will consider current levels of competition when determining whether to lift price regulation in each of the nine RMSs, it will only be considered alongside the potential for further competition to develop.

3.2. In this chapter we ask for competitors’ views on the potential for further competition to develop in each of the RMSs in SPEN’s two DSAs. In particular, we ask for views on the ease with which competitors can enter and compete, whether there are barriers to competition and ask about SPEN’s efforts to open up non-contestable activities to competition. We also invite views on how competition might develop in the future.

## **Ease of entering and competing in the market**

### **The number of competitors active in the market**

3.3. We consider that the ease with which competitors can enter the market and the number of competitors leaving the market are indicators of the potential for further competition to develop.

3.4. In its Competition Notice SPEN provided details of the number of competitors active in each market segment in the period April 2010 to March 2013. A high level summary of the information provided on competitors requesting and accepting quotations can be found in the section of this document on SPEN’s assessment of existing competitive activity.

3.5. We ask existing/potential competitors whether they consider that the level of competitive activity in each of the RMSs in each of SPEN’s DSAs in itself shows that there is the potential for further competition to develop.

### **Barriers to effective competition**

3.6. We consider that it is important to look at whether barriers to competition exist in the market that:

- prevent competitors from competing effectively in each of the RMSs (for example, barriers that may make it difficult for competitors to compete with SPEN in terms of service or price); or
- prevent further competition in each of the RMSs (for example, barriers that may make entering an RMS unattractive, or barriers that obstruct or delay entry to an RMS in the area).

3.7. We are not only considering potential barriers that are within SPEN’s control to remove, but also natural barriers or regulatory barriers that may obstruct competition from developing further.

3.8. SPEN’s Competition Notice sets out the actions that they have taken to address potential barriers to competition that have been raised by a number of bodies, including:

- in work developed by the Competitive Networks Association (CNA);
- those identified by members of the Electricity Connections Steering Group (ECSG); and
- in workshops and meetings with ICPs and IDNOs since January 2012.

3.9. We invite respondents’ views on the existence of barriers to compete in any of the RMSs in the SPEN areas. We also invite views on the effectiveness of the measures taken by SPEN to address some of the potential barriers, as described in its Competition Notices.

*Availability of guidance and information for ICPs/IDNOs*

3.10. As identified by the CNA, an alternative provider may be impeded from competing with a DNO if the DNO makes it difficult for the provider to access information that it requires to develop and deliver its own offer. This information can refer for example to the DNO’s design policy documents, to its codes of practices, method statements or to material specifications.

3.11. SPEN describes in its Competition Notices the actions it has taken to address this potential concern.

3.12. SPEN’s website provides a number of process and technical specification documents including application forms, process documentations, copies of national framework documents and SPEN-specific appendices, technical specifications and construction and adoption agreements.

3.13. SPEN launched a web-based IT system (CRAM) in 2003 to support competition in its areas. This system allows SPEN to share information and guidance with customers and potential competitors. The system allows project-related documentation such as application forms and design drawings to be uploaded and shared instantly.

3.14. The notice also says that following feedback from its customers, SPEN is “currently in the final stages of introducing a new web based IT system which will upgrade and replace CRAM”. According to the notice, the new system, called Register of Adopted Asset Requests (RAdAR), would “further improve communications and the ease of sharing of information”. We encourage interested parties to refer to SPEN’s notice for full details of the CRAM and RAdAR systems.

3.15. SPEN provides free access to its asset data records through a web portal, allowing ICPs to view details of SPEN network assets through its Geographical

Information System (GIS). The GIS information available to ICPs is aligned to that available to internal SPEN staff.

3.16. SPEN issues a regular newsletter for ICPs and IDNOs that provides updates on SPEN’s standards of performance, current initiatives and document and procedure updates.

3.17. According to the SPEN notice, free access to SPEN’s Long Term Development Statements (LTDS) is provided to any party wishing to connect to or make use of its networks. The LTDS statement allows parties to carry out assessments of the capability of the SPEN networks and get advance notice of “significant changes” to networks.

*Service and response times*

3.18. Both the ECSG and the CNA have identified the time taken by DNOs in general as a potential barrier to competition. More specifically, they raised the concern that DNOs may not take the same level of care in dealing with activities that lie outside the scope of their licence obligations on guaranteed service standards (SLC15).

3.19. We recognise that unduly long timeframes to handle requests by alternative providers might hamper the ability of alternative providers to compete with a DNO. Uncertainty about these timeframes might also increase the risk — in the eyes of the final customer — of using an alternative provider.

3.20. SPEN states that it “strive[s] to exceed” the timescales set out in the Standard Licence Condition 15 (SLC 15) of their Distribution Licence.<sup>10</sup> The SPEN notice provides data on average times taken by SPEN to issue POC quotations and approve designs submitted by ICPs or IDNOs.

3.21. In response to a clarification question, SPEN provided further details about its performance against SLC 15 standards in the year 2012-2013. In particular, it provided data on the percentage of requests for POC quotes and design approvals to which it responded within the specified times for various categories. These are presented in the table below.

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<sup>10</sup> Standard Condition 15 of the Electricity Distribution Licence obliges DNOs to respond to requests for quotations non-contestable works and design submissions from ICPs/IDNOs, and to do so within specified times in at least 90 per cent of cases.

**Table 3: Performance against SLC 15 standards for POC quotations and design approvals, 2012/2013<sup>11</sup>**

<b>POC Quotations</b>	<b>SPM</b>	<b>SPD</b>
Low Voltage Demand	99.32%	99.90%
High Voltage Demand	99.59%	99.80%
EHV Demand	100%	100%
LV Generation	100%	100%
HV Generation	98.28%	98.65%
EHV Generation/ Other POC quotations	100%	90%
<b>Design approvals</b>	<b>SPM</b>	<b>SPD</b>
LV/HV Design approvals	99.60%	99.49%
EHV Design approvals	100%	100%

Source: SPEN response to an Ofgem clarification question

3.22. The SPEN notice states that it offers to make a voluntary payment in cases where these standards are not met.

3.23. The data provided by SPEN on SLC 15 standards do not include unmetered connections. In a response to a clarification question from Ofgem, SPEN stated that ICPs typically carry out unmetered connections activity under a tripartite agreement between the ICP, SPEN and the customer. According to SPEN, these tripartite agreements “cover new supplies, disconnections and transfers and will provide details of the assets to be installed, the design and the costs associated with our inspection and monitoring activity.” SPEN also states that once these agreements are signed, ICPs would submit a programme of works, and that SPEN approves these programmes within SLC 15 timescales.

3.24. For works relating to LV and HV jointing to SPEN network that is not covered by SLC 15, SPEN applies “voluntary standards” and offer to make a payment in cases where these standards are not met.

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<sup>11</sup> The SLC 15 classification of connection types do not match the Relevant Market Segments covered by the SPEN notice.

*Contractual arrangements for the adoption of assets built by ICPs*

3.25. The ECSG identified that the arrangements put in place by DNOs in relation to the adoption of assets built by ICPs is a potential barrier to competition. In particular, the ECSG raise the issue of security arrangements (bonds) to protect the DNO against any liability in case there is a fault in the adopted network. This is not specific to SPEN.

3.26. SPEN states that it does not require ICPs to provide a financial guarantee or security.

3.27. SPEN also states that, since October 2006, it has offered customers seeking EHV connections the option of using a bilateral adoption agreement rather than a trilateral one.<sup>12</sup> This was extended to all metered connections in April 2008. According to SPEN, bilateral agreements offer the customer greater flexibility by allowing them to retain ownership of and responsibility for new assets until they are ready to be adopted by SPEN.

*Inspection and monitoring of assets built by ICPs*

3.28. The ECSG has raised the issue of inspections and monitoring of assets built by ICPs as a potential barrier to competition. In particular, it questioned the proportionality of the cost and time taken by DNOs to inspect these assets.

3.29. SPEN states that it complies with the principles set out in “Competition in Connections to Electricity Distribution Systems Decision Document – Part B February 2005 60/05” published by Ofgem. SPEN operates with a hierarchy of inspection levels, and ICPs are assigned to different inspection regimes based on their experience, skill and quality of work.

3.30. SPEN also states that it is developing an online interactive audit system that will allow ICPs to view the results of audit, giving them “greater understanding of existing processes, hierarchy and inspection levels, greater visibility of how to progress between audit levels and more efficient closure of audit non-conformities”.

3.31. SPEN state that they will work with the ECSG to identify and adopt best practice in this area.

*Arrangements for obtaining land rights*

3.32. The CNA has identified the process of obtaining land rights when an ICP or IDNO carries out the contestable work as a potential barrier to competition. According to the CNA, DNOs can be slow to initiate the process for securing leases, easements etc and

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<sup>12</sup> Bilateral adoption agreements only involve the DNO and the connectee, whereas a trilateral agreement involves the ICP as well.



slow to progress them once begun. This can frustrate competitors as DNOs require all the legal agreements to be in place before they will energise the new connection.

3.33. SPEN states that it uses standard documents for land rights that are “fair and reasonable” which will “speed the process and minimise cost to customers”.

3.34. The notice provides an example of how it has worked with an IDNO in the SPM area to reach agreement “in principle” to improve the process of obtaining land rights. According to the notice, the initiative will result in the following improvements in SPEN’s processes in the SPM area when working with any IDNO:

- SPEN will not insist on taking a separate lease of premises within a “close-coupled substation site”, as it will rely on rights owned by the IDNO;
- SPEN will no longer insist on a review by its solicitors of the IDNO’s title to the substation site before energising the new connection; and
- SPEN will no longer insist on completion of the land rights process before commencing work on the new connection. However, a new connection will only be energised after the necessary land rights are in place.

3.35. In response to a clarification question, SPEN said us that it has set a target date of 31 October 2013 for implementation of the new process in the SPM area.

3.36. In the SPD area, SPEN has agreed a different process with IDNOs. A new “streamlined process” has been designed to speed up the connections process. SPEN informed us in response to a clarification question that this new process was implemented in the SPD area “a few months ago”. SPEN states that it will continue to work with IDNOs to identify potential improvements to the process.

#### *Consistency of charges*

3.37. A potential barrier to competition will arise if there are differences between point of connection quotes and full works quotes in the charges set by the DNO for the same non-contestable work. This may place an alternative provider at an undue disadvantage when competing with the DNO for work.

3.38. SPEN states that its “connection pricing and quotation policies as well as associated processes are consistent across our distribution service areas. A single IT system is also used to ensure consistency of costs and application of the principles of the connection charging methodology.”

3.39. SPEN also notes that its POC quotes include transactional charges (design approval, inspection and monitoring etc) that would not be included in a full works quote.

3.40. We seek respondents’ views on whether the non-contestable charges levied by SPEN for full works quotes are consistent with those levied for POC quotes, and whether SPEN’s approach to charging for non-contestable work in a POC quote acts as a barrier to competition.

*Other potential barriers*

3.41. The potential barriers highlighted by the CNA and the ECSG include others that we have not discussed above, including:

- developing ongoing relationships (DNOs are often seen to be poor at “soft skills”, eg communication, cooperativeness, relationship with competitors); and
- dispute resolution (competitors raised concerns that the length of time taken to resolve disputes can leave them unable to compete effectively).

3.42. We seek respondents’ views on the extent to which they consider the procedures and processes SPEN has put in place and identified in its Competition Notice to be sufficient to enable competitors to compete effectively. In particular, we seek competitors’ views on –

- Does SPEN enable alternative connections providers to compete with its own connections timescales (from quote to energisation)? Or does SPEN have any inherent advantage or prevent existing competitors from competing effectively?
- How does SPEN assist, obstruct or delay connections providers entering RMSs?
- Do any of the potential barriers to the development of competition that have previously been identified still exist in the SPEN DSAs?

## **The future growth of competition**

3.43. We are interested in whether existing or potential competitors intend to expand or start their business in any of the RMSs in any of the two SPEN DSAs. We are also interested in the factors that competitors take into consideration in deciding whether to compete with SPEN in each RMS.

3.44. We note that you may consider this information to be confidential. If you do, please provide it in a separate annex to your response and clearly mark it as confidential

## **The potential for competition to develop**

3.45. Further to the potential barriers to competition discussed earlier in this chapter, we note that the potential for competition to develop in each RMS may be influenced by

a number of factors, for example the level of contestable service offered by SPEN to its customers, economic conditions and the level of margin charged by SPEN.

3.46. We seek views of existing and potential competitors on what factors they consider are key influences on the development of competition in each of the RMSs in SPEN’s DSAs.

3.47. For each RMS, we also seek the views of existing and potential competitors in SPEN’s DSAs on the potential for them to enter new RMSs, or to grow their business in the RMSs in which they currently operate, within the next five years.

3.48. We also seek existing and potential competitors’ views as to whether there are any types of connection in any of the RMSs, or geographic locations in SPEN’s DSAs, that, by their nature, are not attractive to competition. If you consider some connections/areas are not attractive to competition, why is that the case?

### **Efforts to open up non-contestable activities to competition**

3.49. Connections works are split between works that are contestable (competitive) and those that are non-contestable (can only be completed by the DNO).

3.50. In our December 2011 consultation on expanding the scope of contestable activities we stated our belief that opening up non-contestable activities to competitors may provide further opportunities and incentives for competition to develop in the connections market. This is because it reduces competitors’ reliance on DNOs to provide essential services and it increases the scope of works for which competitors can compete.

3.51. We consider that DNOs should engage with the industry to consider where it is possible to further extend contestability.

3.52. SPEN reports on its efforts to expand the scope of contestable work:

- Closing joint works on existing SPEN LV and HV underground cables is a contestable activity.
- The notice states that live jointing to LV assets “on development sites” is currently a contestable activity.
- In response to a clarification question, SPEN confirmed that, for unmetered connections work, live jointing to the SPEN LV underground distribution network is a contestable activity.

3.53. The SPEN notice states that several ICPs are completing new connections under these arrangements. In the SPM area, three ICPs in the metered segments and two in the unmetered segments are working on closing LV joints. In the SPD area, one ICP is

undertaking closing joint works in the LV metered market segment, and three other ICPs have expressed an interest in doing so.

3.54. SPEN is currently developing a process to enable ICPs to identify the point of connection to the SPEN LV network (up to 200 kVA) for metered connections in both SPD and SPM DSAs. SPEN states that ICPs have expressed “mixed views” on this subject. It reports that, in the SPD area, one party has “commenced trials to deliver small demand high volume connections involving the self determination of the point of connection for metered connections”. In the unmetered segments, SPEN states that ICPs already identify the relevant point of connection in cases where they carry out closing joint activities.

3.55. SPEN has produced a guidance document to “facilitate enquiries for operational access to the distribution network”. However, no ICP has yet declared formal interest in pursuing this activity.

3.56. We seek views on SPEN’s activities to open up non-contestable activities to competition. In particular, we seek views on how SPEN engages with stakeholders in considering the extent of contestability and in developing procedures and processes (at the trial stage and for newly contestable activities) that promote competition.

3.57. We ask existing and potential competitors whether they consider the extension of contestability is likely to stimulate further competition in any of the RMSs in SPEN’s DSAs.

## 4. SPEN’s assessment of existing competitive activity

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### Chapter Summary

This chapter presents a summary of the information provided by SPEN to support its assessment of existing competitive activity in each RMS and seeks views from interested parties.

### Question Box

**Question 1:** Do you agree with the methods used by SPEN to assess the level of competition in each of the RMSs covered by its application? In particular, do you consider that the data provided gives a clear indication of the current level of competitive activity in each RMS?

**Question 2:** In each RMS, do you consider that competitive activity is at a level that in itself indicates that effective competition exists? In each RMS, do you consider that the coverage of existing competitive activity extends across the segment?

4.1. In this chapter, we provide a summary of the information provided by SPEN in its Competition Notices. We are seeking views on this information and on the level of competitive activity in each RMS.

4.2. The data presented in SPEN’s Competition Notices relates to the three year period between April 2010 and March 2013.

4.3. SPEN has presented the following information on competitive activity within each metered RMS:

- Number of parties that received and accepted an ICP or IDNO quote.
- The numbers and values of projects for which quotations were issued and accepted by parties, broken down into three categories: SPM/SPD (full works) quotes, ICP quotes and IDNO quotes. SPEN has estimated the value of projects carried out by competitors using average £/kVA values of projects carried out by SPEN.

4.4. The Competition Notices also provide data on competitive activity within the unmetered RMSs and the number of customers connected to IDNO networks within the SPEN DSAs. These are summarised at the end of this section.

4.5. The tables below present the data for the metered RMSs. These are based on data in the SPEN Competition Notices. We encourage interested parties to refer to SPEN’s Competition Notice for full details of its data analysis.

**A Table 4: Existing competitive activity – Metered Demand LV (SPEN – SPD)**

<b>SPEN – SPD</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>
<b>Size of RMS</b>			
Total size by value of accepted quotes	£7,113,707	£5,054,144	£5,069,580
Total size by numbers of accepted quotes	491	435	498
<b>Share of the RMS by value of accepted quotes</b>			
SPEN share by value of accepted quotes	60%	64%	68%
ICP share by value of accepted quotes	23%	16%	13%
IDNO share by value of accepted quotes	17%	20%	19%
<b>Share of the RMS by number of accepted quotes</b>			
SPEN share by number of accepted quotes	63%	67%	66%
ICP share by number of accepted quotes	20%	17%	19%
IDNO share by number of accepted quotes	17%	16%	15%
<b>Analysis of project values</b>			
Average value of SPEN quotes (£/accepted quote)	£13,878	£11,112	£10,436
Average value of ICP quotes (£/accepted quote)	£16,976	£10,919	£6,835
Average value of IDNO quotes (£/accepted quote)	£13,831	£14,415	£13,375
<b>Activity by ICP/IDNOs</b>			
Number of parties receiving ICP/IDNO quotes	15	11	19
Number of parties accepting ICP/IDNO quotes	13	8	8

**Table 5: Existing competitive activity – Metered Demand LV (SPEN – SPM)**

<b>SPEN – SPM</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>
<b>Size of RMS</b>			
Total size by value of accepted quotes	£5,087,568	£4,163,957	£4,682,550
Total size by numbers of accepted quotes	420	377	401
<b>Share of the RMS by value of accepted quotes</b>			
SPEN share by value of accepted quotes	84%	87%	80%
ICP share by value of accepted quotes	8%	5%	7%
IDNO share by value of accepted quotes	8%	8%	14%
<b>Share of the RMS by number of accepted quotes</b>			
SPEN share by number of accepted quotes	84%	85%	83%
ICP share by number of accepted quotes	8%	7%	5%
IDNO share by number of accepted quotes	8%	8%	13%
<b>Analysis of project values</b>			
Average value of SPEN quotes (£/accepted quote)	£12,156	£11,329	£11,252
Average value of ICP quotes (£/accepted quote)	£12,338	£8,285	£16,414
Average value of IDNO quotes (£/accepted quote)	£11,446	£10,361	£12,672
<b>Activity by ICP/IDNOs</b>			
Number of parties receiving ICP/IDNO quotes	29	24	28
Number of parties accepting ICP/IDNO quotes	11	11	12

**Table 6: Existing competitive activity – Metered Demand HV (SPEN – SPD)**

<b>SPEN – SPD</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>
<b>Size of RMS</b>			
Total size by value of accepted quotes	£16,042,351	£15,148,746	£13,632,108
Total size by numbers of accepted quotes	257	270	302
<b>Share of the RMS by value of accepted quotes</b>			
SPEN share by value of accepted quotes	45%	55%	64%
ICP share by value of accepted quotes	28%	17%	12%
IDNO share by value of accepted quotes	27%	28%	24%
<b>Share of the RMS by number of accepted quotes</b>			
SPEN share by number of accepted quotes	56%	66%	77%
ICP share by number of accepted quotes	20%	12%	8%
IDNO share by number of accepted quotes	24%	22%	15%
<b>Analysis of project values</b>			
Average value of SPEN quotes (£/accepted quote)	£50,043	£46,635	£37,190
Average value of ICP quotes (£/accepted quote)	£86,567	£82,053	£67,418
Average value of IDNO quotes (£/accepted quote)	£71,659	£70,367	£74,577
<b>Activity by ICP/IDNOs</b>			
Number of parties receiving ICP/IDNO quotes	16	21	20
Number of parties accepting ICP/IDNO quotes	9	9	9



**Table 7: Existing competitive activity – Metered Demand HV (SPEN – SPM)**

<b>SPEN – SPM</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>
<b>Size of RMS</b>			
Total size by value of accepted quotes	£12,333,096	£9,850,128	£11,159,582
Total size by numbers of accepted quotes	219	188	245
<b>Share of the RMS by value of accepted quotes</b>			
SPEN share by value of accepted quotes	69%	72%	69%
ICP share by value of accepted quotes	22%	13%	10%
IDNO share by value of accepted quotes	9%	15%	21%
<b>Share of the RMS by number of accepted quotes</b>			
SPEN share by number of accepted quotes	86%	84%	83%
ICP share by number of accepted quotes	8%	9%	4%
IDNO share by number of accepted quotes	5%	7%	13%
<b>Analysis of project values</b>			
Average value of SPEN quotes (£/accepted quote)	£45,108	£45,049	£38,150
Average value of ICP quotes (£/accepted quote)	£150,242	£77,318	£109,094
Average value of IDNO quotes (£/accepted quote)	£91,944	£106,807	£72,631
<b>Activity by ICP/IDNOs</b>			
Number of parties receiving ICP/IDNO quotes	30	26	31
Number of parties accepting ICP/IDNO quotes	11	10	10

**Table 8: Existing competitive activity – Metered Demand HV and EHV (SPEN – SPD)**

<b>SPEN – SPD</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>
<b>Size of RMS</b>			
Total size by value of accepted quotes	£5,897,015	–	£1,301,258
Total size by numbers of accepted quotes	13	–	2
<b>Share of the RMS by value of accepted quotes</b>			
SPEN share by value of accepted quotes	63%	–	98%
ICP share by value of accepted quotes	2%	–	–
IDNO share by value of accepted quotes	35%	–	2%
<b>Share of the RMS by number of accepted quotes</b>			
SPEN share by number of accepted quotes	69%	–	50%
ICP share by number of accepted quotes	8%	–	–
IDNO share by number of accepted quotes	23%	–	50%
<b>Analysis of project values</b>			
Average value of SPEN quotes (£/accepted quote)	£410,398	–	£1,270,602
Average value of ICP quotes (£/accepted quote)	£114,962	–	–
Average value of IDNO quotes (£/accepted quote)	£696,156	–	£30,656
<b>Activity by ICP/IDNOs</b>			
Number of parties receiving ICP/IDNO quotes	4	5	4
Number of parties accepting ICP/IDNO quotes	4	–	1

**Table 9: Existing competitive activity – Metered Demand HV and EHV (SPEN – SPM)**

<b>SPEN – SPM</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>
<b>Size of RMS</b>			
Total size by value of accepted quotes	£9,225,159	£3,496,617	£2,924,689
Total size by numbers of accepted quotes	8	5	7
<b>Share of the RMS by value of accepted quotes</b>			
SPEN share by value of accepted quotes	80%	84%	89%
ICP share by value of accepted quotes	20%	16%	–
IDNO share by value of accepted quotes	–	–	11%
<b>Share of the RMS by number of accepted quotes</b>			
SPEN share by number of accepted quotes	75%	60%	71%
ICP share by number of accepted quotes	25%	40%	–
IDNO share by number of accepted quotes	–	–	29%
<b>Analysis of project values</b>			
Average value of SPEN quotes (£/accepted quote)	£1,223,496	£978,713	£523,163
Average value of ICP quotes (£/accepted quote)	£942,091	£280,239	–
Average value of IDNO quotes (£/accepted quote)	–	–	£154,437
<b>Activity by ICP/IDNOs</b>			
Number of parties receiving ICP/IDNO quotes	6	7	11
Number of parties accepting ICP/IDNO quotes	2	2	2

**Table 10: Existing competitive activity – Metered Demand EHV and above (SPEN – SPD)**

<b>SPEN – SPD</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>
<b>Size of RMS</b>			
Total size by value of accepted quotes	£1,242,234	-	-
Total size by numbers of accepted quotes	2	-	-
<b>Share of the RMS by value of accepted quotes</b>			
SPEN share by value of accepted quotes	100%	-	-
ICP share by value of accepted quotes	-	-	-
IDNO share by value of accepted quotes	-	-	-
<b>Share of the RMS by number of accepted quotes</b>			
SPEN share by number of accepted quotes	100%	-	-
ICP share by number of accepted quotes	-	-	-
IDNO share by number of accepted quotes	-	-	-
<b>Analysis of project values</b>			
Average value of SPEN quotes (£/accepted quote)	£621,117	-	-
Average value of ICP quotes (£/accepted quote)	-	-	-
Average value of IDNO quotes (£/accepted quote)	-	-	-
<b>Activity by ICP/IDNOs</b>			
Number of parties receiving ICP/IDNO quotes	-	2	1
Number of parties accepting ICP/IDNO quotes	-	-	-

**Table 11: Existing competitive activity – Metered Demand EHV and above (SPEN – SPM)**

<b>SPEN – SPM</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>
<b>Size of RMS</b>			
Total size by value of accepted quotes	–	£31,382	£18,535,168
Total size by numbers of accepted quotes	–	1	1
<b>Share of the RMS by value of accepted quotes</b>			
SPEN share by value of accepted quotes	–	100%	100%
ICP share by value of accepted quotes	–	–	–
IDNO share by value of accepted quotes	–	–	–
<b>Share of the RMS by number of accepted quotes</b>			
SPEN share by number of accepted quotes	–	100%	100%
ICP share by number of accepted quotes	–	–	–
IDNO share by number of accepted quotes	–	–	–
<b>Analysis of project values</b>			
Average value of SPEN quotes (£/accepted quote)	–	£31,382	£18,535,168
Average value of ICP quotes (£/accepted quote)	–	–	–
Average value of IDNO quotes (£/accepted quote)	–	–	–
<b>Activity by ICP/IDNOs</b>			
Number of parties receiving ICP/IDNO quotes	–	–	3
Number of parties accepting ICP/IDNO quotes	–	–	–

**Table 12: Existing competitive activity – Distributed Generation LV (SPEN – SPD)**

<b>SPEN – SPD</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>
<b>Size of RMS</b>			
Total size by value of accepted quotes	£665,246	£314,789	£308,529
Total size by numbers of accepted quotes	34	39	40
<b>Share of the RMS by value of accepted quotes</b>			
SPEN share by value of accepted quotes	48%	100%	78%
ICP share by value of accepted quotes	52%	–	–
IDNO share by value of accepted quotes	–	–	22%
<b>Share of the RMS by number of accepted quotes</b>			
SPEN share by number of accepted quotes	97%	100%	98%
ICP share by number of accepted quotes	3%	–	–
IDNO share by number of accepted quotes	–	–	3%
<b>Analysis of project values</b>			
Average value of SPEN quotes (£/accepted quote)	£9,658	£8,072	£6,203
Average value of ICP quotes (£/accepted quote)	£346,534	–	–
Average value of IDNO quotes (£/accepted quote)	–	–	£66,600
<b>Activity by ICP/IDNOs</b>			
Number of parties receiving ICP/IDNO quotes	2	1	3
Number of parties accepting ICP/IDNO quotes	1	–	1

**Table 13: Existing competitive activity – Distributed Generation LV (SPEN – SPM)**

<b>SPEN – SPM</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>
<b>Size of RMS</b>			
Total size by value of accepted quotes	£2,859	£19,809	£134,670
Total size by numbers of accepted quotes	2	5	16
<b>Share of the RMS by value of accepted quotes</b>			
SPEN share by value of accepted quotes	100%	100%	100%
ICP share by value of accepted quotes	–	–	–
IDNO share by value of accepted quotes	–	–	–
<b>Share of the RMS by number of accepted quotes</b>			
SPEN share by number of accepted quotes	100%	100%	100%
ICP share by number of accepted quotes	–	–	–
IDNO share by number of accepted quotes	–	–	–
<b>Analysis of project values</b>			
Average value of SPEN quotes (£/accepted quote)	£1,430	£3,962	£8,417
Average value of ICP quotes (£/accepted quote)	–	–	–
Average value of IDNO quotes (£/accepted quote)	–	–	–
<b>Activity by ICP/IDNOs</b>			
Number of parties receiving ICP/IDNO quotes	–	1	5
Number of parties accepting ICP/IDNO quotes	–	–	–

**Table 14: Existing competitive activity – Distributed Generation HV/EHV (SPEN -SPD)**

<b>SPEN – SPD</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>
<b>Size of RMS</b>			
Total size by value of accepted quotes	£30,328,025	£48,963,421	£95,665,954
Total size by numbers of accepted quotes	33	78	156
<b>Share of the RMS by value of accepted quotes</b>			
SPEN share by value of accepted quotes	92%	79%	96%
ICP share by value of accepted quotes	8%	21%	4%
IDNO share by value of accepted quotes	–	1%	–
<b>Share of the RMS by number of accepted quotes</b>			
SPEN share by number of accepted quotes	85%	88%	93%
ICP share by number of accepted quotes	15%	10%	7%
IDNO share by number of accepted quotes	–	1%	–
<b>Analysis of project values</b>			
Average value of SPEN quotes (£/accepted quote)	£998,317	£557,552	£631,754
Average value of ICP quotes (£/accepted quote)	£475,031	£1,256,281	£369,245
Average value of IDNO quotes (£/accepted quote)	–	£442,103	–
<b>Activity by ICP/IDNOs</b>			
Number of parties receiving ICP/IDNO quotes	14	30	36
Number of parties accepting ICP/IDNO quotes	5	8	5



**Table 15: Existing competitive activity – Distributed Generation HV/EHV (SPEN – SPM)**

<b>SPEN – SPM</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>
<b>Size of RMS</b>			
Total size by value of accepted quotes	£27,675,175	£19,555,076	£11,496,731
Total size by numbers of accepted quotes	6	21	46
<b>Share of the RMS by value of accepted quotes</b>			
SPEN share by value of accepted quotes	100%	45%	63%
ICP share by value of accepted quotes	–	55%	37%
IDNO share by value of accepted quotes	–	–	–
<b>Share of the RMS by number of accepted quotes</b>			
SPEN share by number of accepted quotes	100%	71%	85%
ICP share by number of accepted quotes	–	29%	15%
IDNO share by number of accepted quotes	–	–	–
<b>Analysis of project values</b>			
Average value of SPEN quotes (£/accepted quote)	£4,612,529	£582,063	£184,495
Average value of ICP quotes (£/accepted quote)	–	£1,804,023	£614,487
Average value of IDNO quotes (£/accepted quote)	–	–	–
<b>Activity by ICP/IDNOs</b>			
Number of parties receiving ICP/IDNO quotes	4	12	22
Number of parties accepting ICP/IDNO quotes	–	6	6

4.6. In relation to the Unmetered Local Authority work RMS, SPEN provided data on the number of new connections completed by SPEN and by ICPs. In Appendix 2 of the SPEN notice, additional information is provided on the number of Local Authorities that used the services of ICPs and the number of ICPs that provided such services.

4.7. The tables below present the data for each DSA.

**Table 16: Existing competitive activity – Unmetered Local Authority work (SPEN – SPD)**

<b>SPEN - SPD</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>
<b>Size of the RMS</b>			
Number of connections completed - SPEN	2,498	3,020	4,147
Number of connections completed - ICPs	-	-	77
TOTAL connections completed	2,498	3,020	4,224
<b>SPEN share of the RMS</b>			
SPEN share of connections completed	100%	100%	98%
<b>Activity in the RMS</b>			
Number of ICPs completing connections	-	-	1
Number of Local Authorities using ICPs	-	-	2

**Table 17: Existing competitive activity – Unmetered Local Authority work (SPEN – SPM)**

<b>SPEN - SPM</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>
<b>Size of the RMS</b>			
Number of connections completed - SPEN	5,370	4,973	3,631
Number of connections completed - ICPs	668	1,269	2,273
TOTAL connections completed	6,038	6,242	5,904
<b>SPEN share of the RMS</b>			
SPEN share of connections completed	89%	80%	62%
<b>Activity in the RMS</b>			
Number of ICPs completing connections	2	3	4
Number of Local Authorities using ICPs	7	8	11

4.8. In relation to the Unmetered PFI work RMS, SPEN provided data on the number of PFI contracts in place and the number of new connections provided by the PFI contract holder (an ICP).

4.9. No PFI contracts were in place in the SPD area in the relevant period. The table below present the data for the SPM area.

**Table 18: Existing competitive activity – Unmetered PFI work (SPEN – SPM)**

<b>SPEN - SPM</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>
<b>Size of the RMS</b>			
Number of PFI contracts in place	-	1	1
Number of connections completed	-	812	2,295

4.10. In relation to the Unmetered Other RMS, the notice says that the following types of work were included in the segment:

- Street lighting connections within a new housing estate or commercial development.
- Connections for local authorities excluding those requested by the local authority street lighting departments, for example, bus shelters, pedestrian crossings and CCTV cameras.

4.11. Appendix 2 of SPEN’s notice provides information on the number of quotes issued and accepted in this RMS. In both DSAs, SPEN has not issued any ICP or IDNO quotes in the Unmetered Other RMS during the period April 2010 to March 2013.

4.12. The notice states that “competitor activity for unmetered works awarded as part of new housing or other developments are wrapped up within the quotations provided to competitors for the relevant POC associated with that development.” To demonstrate activity by competitors in this RMS, the SPEN notice provided information on the consumption volumes of unmetered supplies (in MWh) that relates to IDNO supplied sites within the relevant SPEN DSA.

- In the SPD DSA, the notice states that the volume (in MWh) of unmetered supplies exiting from IDNO networks has grown by 4.5 times between April 2010 and March 2013.
- In the SPM DSA, the notice states that the volume (in MWh) of unmetered supplies exiting from IDNO networks has grown by 2 times between April 2010 and March 2013.

4.13. In addition, SPEN states that a tripartite agreement has recently been signed for the disconnection of unmetered supplies to redundant telephone boxes in both SPD and SPM DSAs. The work started in July 2013. The notice also says that a “number of unmetered supplies as part of a broadband connection programme” involving a competitor is also expected to commence in both DSAs in the future.

4.14. As further evidence of competition within the two DSAs, SPEN provides data on the number of customers connected to IDNO networks operating in the SPD and SPM areas.

4.15. Firstly SPEN provides the results of their analysis of data from all DNOs’ Common Distribution Charging Methodology (CDCM) models. SPEN’s analysis shows that 34,976 customers are connected to IDNO networks within the SPD area making it the area with the highest number of IDNO customers in Great Britain.<sup>13</sup> There are 10,218 customers connected to IDNO networks in the SPM area. The notice states that “close to 30% of all IDNO customer connections are within the SPD (22.6%) and SPM (6.6%) distribution service areas”.

4.16. SPEN also state that, looking at IDNO connected customers as a proportion of total connected customers, SPD ranks highest and SPM ranks third.

4.17. SPEN also provides data on the number of customers connected to IDNO networks broken down by voltage level of connection. These are summarised below.

**Table 19: Number of customers (MPANs) connected to IDNO networks, March 2013**

<b>IDNO MPANs</b>	<b>SPD</b>	<b>SPM</b>
Point of Connection - Low Voltage	16,000	5,300
Point of Connection - High Voltage	18,800	5,000
Point of Connection – Extra High Voltage (EHV)	2,200	–

4.18. SPEN states that the number of IDNO-connected customers in its areas demonstrate “the significant competition within the SPD and SPM distribution areas”.

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<sup>13</sup> The data on customer numbers presented by SPEN in fact relate to the number of Meter Point Administration Numbers (MPANs) registered to IDNO networks, rather than the number of individual premises connected to IDNO networks.

## 5. SPEN’s compliance with the legal requirements test

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### Chapter Summary

This chapter contains our assessment of the position of SP Distribution Ltd (SPD) and SP Manweb plc (SPM) against the Legal Requirements Test.

### The Legal Requirements Test

5.1. CRC12 and the DPCR5 Final Proposals Document set out a Legal Requirements Test that must be considered in conjunction with the Competition Test when we determine whether to lift price regulation in any RMS.

5.2. Compliance with the Legal Requirements Test is a necessary pre-condition for passing the Competition Test. The legal requirements set out in the test are for the DNO to have no enforced breaches in the given regulatory year of any of the five strands detailed below:

- Standard Licence Condition (SLC) 12.6(c) (Requirement to offer terms for use of system and connection);
- SLC 15 (Standards for the provision of Non-Contestable Connection Services);
- SLC 15A (Connections policy and connection performance);
- SLC 19 (Prohibition of discrimination under Chapters 4 and 5; and
- The Competition Act 1998.

### SPEN’s current position

5.3. For the purposes of this assessment of SPEN’s Competition Notice, submitted on 16 August 2013, the relevant regulatory year is 2013-14 which runs from 1 April 2013 to 31 March 2014.

5.4. Whilst the 2013-14 regulatory year is yet to run its course, there are currently no enforced breaches against SP Distribution Ltd (SPD) or SP Manweb plc (SPM) against any of the five strands of the Legal Requirements Test.

**Future compliance with the Legal Requirements test**

5.5. If SP Distribution Ltd (SPD) and SP Manweb plc (SPM) no longer meet the Legal Requirements Test after price regulation has been lifted, we could issue a clawback direction under Special Licence Condition CRC 12.40. The clawback direction would require SPD or SPM to make repayment of some or all of the Margin that it had charged in its Connection Charges in relation to its Connection Activities in the Relevant Market Segment during a specified period of time.

## 6. Summary

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### Chapter Summary

This chapter summarises the issues discussed in this consultation. It seeks views from customers and existing and potential competitors on whether, taking all of the issues discussed into consideration, price regulation should be lifted in each RMS.

### Question box

***In your response please indicate the RMS and DSA to which your experiences relate.<sup>14</sup>***

**Question 1:** Do you consider customers have an effective choice of connections provider? In particular, do you feel that levels of choice, value and service will be protected and will improve if the restriction on SPEN’s ability to earn a margin is removed?

**Question 2:** Do you consider that there is scope for competitors to grow their market share, (for example if SPEN put up its prices or if its quality dropped) or are there factors constraining this?

**Question 3:** Do you consider that there is scope and/or appetite for new participants to enter the market? Do you consider that new entrants would be able to provide similar or better services than existing participants or are there factors constraining this?

**Question 4:** Given your overall view of SPEN, do you consider that we can have confidence in them to operate appropriately in the event that price regulation is lifted?

**Question 5:** Do you consider that there are factors not addressed in this consultation that should be taken into consideration in determining whether price regulation should be lifted?

6.1. As discussed throughout this document, we consider that effective competition should not be determined by looking at market share data alone.

6.2. We note that SPEN retains a large proportion of the market in some of the RMSs for which it seeks price regulation to be lifted. However, we also recognise that price controls may limit the attractiveness of a market to new entrants and that the current level of regulated margin may be set too low and may not enable third parties to compete effectively.

6.3. We reiterate that the intention of our assessment is to assess whether, in the event that price regulation is removed, competition could be relied upon to protect customers’ interests by delivering choice, quality and value for customers. We ask respondents to consider whether, on balance, consumer interests in each RMS are

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<sup>14</sup> Wherever possible please provide your response using the template at appendix 1 of this document.

better protected by regulation than they would be by competition. We also remind respondents that if price regulation is lifted in any RMS, we will continue to monitor SPEN’s compliance with competition law and we will take seriously any evidence of anti-competitive behaviour.

6.4. We seek interested parties’ responses to the questions posed throughout this document. In particular we seek customers’ and existing and potential competitors’ views on the following -

- Is there currently effective choice for customers in each RMS covered by SPEN’s Competition Notice? In particular, do customers feel that levels of choice, value and service will be protected and will improve if the restriction on SPEN’s ability to earn a margin is removed?
- Is there scope and/or appetite for competitors to grow their market share in each RMS covered by SPEN’s application (for example, if SPEN put up its prices or if its quality dropped) or are there factors constraining this?
- Is there scope and/or appetite for new participants to enter each RMS covered by SPEN’s application? Would they be able to provide similar or better services than existing participants or are there factors constraining this?
- Given your overall view of SPEN, can we have confidence in it to operate appropriately in the circumstance that price regulation were lifted?

6.5. We also seek interested parties’ views as to whether there are factors not addressed in this consultation that should be taken into consideration in determining whether price regulation should be lifted in each of the RMSs covered by SPEN’s application.

6.6. In conclusion, we encourage all interested parties to read SPEN’s Competition Notice which is available on our website as an associated document to this consultation.

6.7. We would like to remind interested parties that since we are required to make separate determinations for each RMS in each SPEN DSA, responses to this consultation should be drafted in such a way that they clearly set out to which RMS(s) and DSA each section of the response relates. We also ask that, wherever possible, interested parties provide evidence to verify their claims.



# Appendices

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## Appendix 1 - Consultation Response and Questions

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1.1. Ofgem would like to hear the views of interested parties in relation to any of the issues set out in this document.

1.2. We would especially welcome responses to the specific questions which we have set out at the beginning of each chapter heading and which are replicated below.

1.3. Responses should be received by 7 November 2013 and should be sent to:

James Veaney  
Smarter Grids and Governance Distribution Policy  
020 7901 1861  
[james.veaney@ofgem.gov.uk](mailto:james.veaney@ofgem.gov.uk)

1.4. Unless marked confidential, all responses will be published by placing them in Ofgem’s library and on its website [www.ofgem.gov.uk](http://www.ofgem.gov.uk). Respondents may request that their response is kept confidential. Ofgem shall respect this request, subject to any obligations to disclose information, for example, under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.

1.5. Respondents who wish to have their responses remain confidential should clearly mark the document/s to that effect and include the reasons for confidentiality. It would be helpful if responses could be submitted both electronically and in writing. Respondents are asked to put any confidential material in the appendices to their responses.

1.6. Next steps: Having considered the responses to this consultation, we intend to publish our decision in relation to SPEN’s Competition Notice in December 2013.

Each of the questions asked by this consultation is set out in the template below. **Note that an editable version of this response template is available on our website as an associated document to this consultation.** If you do not wish to use our response template, please ensure that you indicate the RMS and DSA to which your experiences relate.

When considering your responses to these questions, please consider your experiences, the actions that SPEN has undertaken and the actions that you consider it could reasonably undertake.

**Please check the RMS and DSAs that are relevant to you in the table below.**

<b>RMS</b>	<b>SP Distribution Ltd (SPD)</b>	<b>SP Manweb plc (SPM)</b>
1. Metered low voltage work (LV)	<input type="checkbox"/>	<input type="checkbox"/>
2. Metered high voltage work (HV)	<input type="checkbox"/>	<input type="checkbox"/>
3. Metered HV and Extra High Voltage (EHV) work	<input type="checkbox"/>	<input type="checkbox"/>
4. Metered EHV and above work	<input type="checkbox"/>	<input type="checkbox"/>
5 Distributed Generation (DG) Low Voltage (LV) work	<input type="checkbox"/>	<input type="checkbox"/>
6 Distributed Generation (DG) HV and EHV voltage work	<input type="checkbox"/>	<input type="checkbox"/>
7. Unmetered local authority (LA) work	<input type="checkbox"/>	<input type="checkbox"/>
8. Unmetered PFI work	<input type="checkbox"/>	<input type="checkbox"/>
9. Unmetered Other	<input type="checkbox"/>	<input type="checkbox"/>

**When answering the questions below, please check the RMS(s) and DSA(s) that are relevant to your response.**

### **Chapter Two**

<b>Question</b>	<b>RMS(s)</b>	<b>DSA(s)</b>	<b>Response</b>
<b>One:</b> Are customers aware that competitive alternatives exist?	Metered LV <input type="checkbox"/>	SPD <input type="checkbox"/>	
	Metered HV <input type="checkbox"/>	SPM <input type="checkbox"/>	
	Metered HV/EHV <input type="checkbox"/>		
	Metered EHV & above <input type="checkbox"/>		

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Question	RMS(s)	DSA(s)	Response
	DG LV <input type="checkbox"/> DG HV/EHV <input type="checkbox"/> Unmetered (LA) <input type="checkbox"/> Unmetered PFI <input type="checkbox"/> Unmetered (Other) <input type="checkbox"/>		
<b>Two:</b> Do customers have effective choice (ie are customers easily able to seek alternative quotations)?	Metered LV <input type="checkbox"/> Metered HV <input type="checkbox"/> Metered HV/EHV <input type="checkbox"/> Metered EHV & above DG LV <input type="checkbox"/> DG HV/EHV <input type="checkbox"/> Unmetered (LA) <input type="checkbox"/> Unmetered PFI <input type="checkbox"/> Unmetered (Other) <input type="checkbox"/>	SPD <input type="checkbox"/> SPM <input type="checkbox"/>	
<b>Three:</b> Does SPEN take appropriate measures to ensure that customers are aware of the competitive alternatives available to them?	Metered LV <input type="checkbox"/> Metered HV <input type="checkbox"/> Metered HV/EHV <input type="checkbox"/> Metered EHV & <input type="checkbox"/>	SPD <input type="checkbox"/> SPM <input type="checkbox"/>	

Question	RMS(s)	DSA(s)	Response
	above DG LV <input type="checkbox"/>  DG HV/EHV <input type="checkbox"/>  Unmetered (LA) <input type="checkbox"/>  Unmetered PFI <input type="checkbox"/>  Unmetered (Other) <input type="checkbox"/>		
<b>Four:</b> Are quotations provided by SPEN clear and transparent? Do they enable customers to make informed decisions whether to accept or reject a quote?	Metered LV <input type="checkbox"/> Metered HV <input type="checkbox"/> Metered HV/EHV <input type="checkbox"/> Metered EHV & above DG LV <input type="checkbox"/> DG HV/EHV <input type="checkbox"/> Unmetered (LA) <input type="checkbox"/> Unmetered PFI <input type="checkbox"/> Unmetered (Other) <input type="checkbox"/>	SPD <input type="checkbox"/>  SPM <input type="checkbox"/>	
<b>Five:</b> Have customers benefitted from competition? Have they seen improvements in SPEN’s price or service quality or have they been able to source a	Metered LV <input type="checkbox"/> Metered HV <input type="checkbox"/> Metered HV/EHV <input type="checkbox"/>	SPD <input type="checkbox"/>  SPM <input type="checkbox"/>	

Question	RMS(s)	DSA(s)	Response
superior service or better price from SPEN’s competitors?	Metered EHV & above	<input type="checkbox"/>	
	DG LV	<input type="checkbox"/>	
	DG HV/EHV	<input type="checkbox"/>	
	Unmetered (LA)	<input type="checkbox"/>	
	Unmetered PFI	<input type="checkbox"/>	
	Unmetered (Other)	<input type="checkbox"/>	

**Chapter Three**

Question	RMS(S)	DSA(S)	Response
<b>One:</b> Does the level of competitive activity in the RMSs show that there is the potential for further competition to develop?	Metered LV	<input type="checkbox"/>	
	Metered HV	<input type="checkbox"/>	
	Metered HV/EHV	<input type="checkbox"/>	
	Metered EHV & above	<input type="checkbox"/>	
	DG LV	<input type="checkbox"/>	
	DG HV/EHV	<input type="checkbox"/>	
	Unmetered (LA)	<input type="checkbox"/>	
	Unmetered PFI	<input type="checkbox"/>	
Unmetered (Other)	<input type="checkbox"/>		
<b>Two:</b> Consider the	Metered LV	<input type="checkbox"/>	SPD <input type="checkbox"/>

Question	RMS(S)	DSA(S)	Response
<p>organisational structure of SPEN’s business and its procedures and processes –</p> <p><b>(a)</b> how do they compare to those you encounter elsewhere in the gas and electricity markets or other industries? Do they reflect best practice?</p> <p><b>(b)</b> do they enable competitors to compete with the timescales for connection (from quote to energisation) offered by SPEN? Or do they offer SPEN any inherent advantage over its competitors or prevent existing competitors from competing with them effectively?</p> <p><b>(c)</b> do they assist, obstruct or delay connections providers entering the RMSs?</p>	<p>Metered HV <input type="checkbox"/></p> <p>Metered HV/EHV <input type="checkbox"/></p> <p>Metered EHV &amp; above <input type="checkbox"/></p> <p>DG LV <input type="checkbox"/></p> <p>DG HV/EHV <input type="checkbox"/></p> <p>Unmetered (LA) <input type="checkbox"/></p> <p>Unmetered PFI <input type="checkbox"/></p> <p>Unmetered (Other) <input type="checkbox"/></p>	<p>SPM <input type="checkbox"/></p>	

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Question	RMS(S)	DSA(S)	Response
<p><b>Three:</b> Are the non-contestable charges levied by SPEN for statutory connections in the RMSs consistent with those levied for competitive quotations? Are they easily comparable with competitive quotations?</p>	<p>Metered LV <input type="checkbox"/></p> <p>Metered HV <input type="checkbox"/></p> <p>Metered HV/EHV <input type="checkbox"/></p> <p>Metered EHV &amp; above <input type="checkbox"/></p> <p>DG LV <input type="checkbox"/></p> <p>DG HV/EHV <input type="checkbox"/></p> <p>Unmetered (LA) <input type="checkbox"/></p> <p>Unmetered PFI <input type="checkbox"/></p> <p>Unmetered (Other) <input type="checkbox"/></p>	<p>SPD <input type="checkbox"/></p> <p>SPM <input type="checkbox"/></p>	
<p><b>Four:</b> What factors are key influences on development of competition in the RMSs? In particular, if you are an existing/potential competitor</p> <p><b>(a)</b> what is the potential for you to enter new RMSs, or grow your share of an RMS you already operate in?</p> <p><b>(b)</b> are there are any types of connection in any of the RMSs, or geographic locations in SPEN’s DSAs, that by their nature, are</p>	<p>Metered LV <input type="checkbox"/></p> <p>Metered HV <input type="checkbox"/></p> <p>Metered HV/EHV <input type="checkbox"/></p> <p>Metered EHV &amp; above <input type="checkbox"/></p> <p>DG LV <input type="checkbox"/></p> <p>DG HV/EHV <input type="checkbox"/></p> <p>Unmetered (LA) <input type="checkbox"/></p> <p>Unmetered PFI <input type="checkbox"/></p> <p>Unmetered <input type="checkbox"/></p>	<p>SPD <input type="checkbox"/></p> <p>SPM <input type="checkbox"/></p>	



Question	RMS(S)	DSA(S)	Response
not attractive to competition? Please explain your response.	(Other)		

**Chapter Four**

Question	RMS(S)	DSA(S)	Response
<b>One:</b> Do you agree with the methods used by SPEN to analyse the level of competition in each of the RMSs covered by its application? In particular, do you consider that SPEN gives a clear indication of the current level of competitive activity?	Metered LV <input type="checkbox"/>	SPD <input type="checkbox"/>	
	Metered HV <input type="checkbox"/>	SPM <input type="checkbox"/>	
	Metered HV/EHV <input type="checkbox"/>		
	Metered EHV & above <input type="checkbox"/>		
	DG LV <input type="checkbox"/>		
	DG HV/EHV <input type="checkbox"/>		
	Unmetered (LA) <input type="checkbox"/>		
	Unmetered PFI <input type="checkbox"/>		
<b>Two:</b> Do you consider that competitive activity is at a level that in itself indicates that effective competition exists?	Metered LV <input type="checkbox"/>	SPD <input type="checkbox"/>	
	Metered HV <input type="checkbox"/>	SPM <input type="checkbox"/>	
	Metered HV/EHV <input type="checkbox"/>		

	Metered EHV & above	<input type="checkbox"/>		
	DG LV	<input type="checkbox"/>		
	DG HV/EHV	<input type="checkbox"/>		
	Unmetered (LA)	<input type="checkbox"/>		
	Unmetered PFI	<input type="checkbox"/>		
	Unmetered (Other)	<input type="checkbox"/>		

**Chapter Six**

Question	RMS(S)	DSA(S)	Response
<b>One:</b> Do you consider customers have an effective choice of connections provider? In particular, do you feel that levels of choice, value and service will be protected and will improve if the restriction on SPEN’s ability to earn a margin is removed?	Metered LV	<input type="checkbox"/> SPD <input type="checkbox"/>	
	Metered HV	<input type="checkbox"/> SPM <input type="checkbox"/>	
	Metered HV/EHV	<input type="checkbox"/>	
	Metered EHV & above	<input type="checkbox"/>	
	DG LV	<input type="checkbox"/>	
	DG HV/EHV	<input type="checkbox"/>	
	Unmetered (LA)	<input type="checkbox"/>	
Unmetered PFI	<input type="checkbox"/>		
Unmetered (Other)	<input type="checkbox"/>		
<b>Two:</b> Do you consider that there is scope for	Metered LV	<input type="checkbox"/> SPD <input type="checkbox"/>	

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Question	RMS(S)	DSA(S)	Response
competitors to grow their market share (for example, if SPEN put up its prices or if its quality dropped), or are there factors constraining this?	Metered HV <input type="checkbox"/> Metered HV/EHV <input type="checkbox"/> Metered EHV & above <input type="checkbox"/> DG LV <input type="checkbox"/> DG HV/EHV <input type="checkbox"/> Unmetered (LA) <input type="checkbox"/> Unmetered PFI <input type="checkbox"/> Unmetered (Other) <input type="checkbox"/>	SPM <input type="checkbox"/>	
<b>Three:</b> Do you consider that there is scope/appetite for new participants to enter the market? Do you consider that new entrants would be able to provide similar or better services than existing participants or are there factors constraining this?	Metered LV <input type="checkbox"/> Metered HV <input type="checkbox"/> Metered HV/EHV <input type="checkbox"/> Metered EHV & above <input type="checkbox"/> DG LV <input type="checkbox"/> DG HV/EHV <input type="checkbox"/> Unmetered (LA) <input type="checkbox"/> Unmetered PFI <input type="checkbox"/> Unmetered (Other) <input type="checkbox"/>	SPD <input type="checkbox"/> SPM <input type="checkbox"/>	
<b>Four:</b> Given your overall	Metered LV <input type="checkbox"/>	SPD <input type="checkbox"/>	

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Question	RMS(S)	DSA(S)	Response
<p>view of SPEN, do you consider that we can have confidence in them to operate appropriately in the event that price regulation is lifted?</p>	<p>Metered HV <input type="checkbox"/></p> <p>Metered HV/EHV <input type="checkbox"/></p> <p>Metered EHV &amp; above <input type="checkbox"/></p> <p>DG LV <input type="checkbox"/></p> <p>DG HV/EHV <input type="checkbox"/></p> <p>Unmetered (LA) <input type="checkbox"/></p> <p>Unmetered PFI <input type="checkbox"/></p> <p>Unmetered (Other) <input type="checkbox"/></p>	<p>SPM <input type="checkbox"/></p>	
<p><b>Five:</b> Do you consider that there are factors not addressed in this consultation that should be taken into consideration in determining whether price regulation should be lifted?</p>	<p>Metered LV <input type="checkbox"/></p> <p>Metered HV <input type="checkbox"/></p> <p>Metered HV/EHV <input type="checkbox"/></p> <p>Metered EHV &amp; above <input type="checkbox"/></p> <p>DG LV <input type="checkbox"/></p> <p>DG HV/EHV <input type="checkbox"/></p> <p>Unmetered (LA) <input type="checkbox"/></p> <p>Unmetered PFI <input type="checkbox"/></p> <p>Unmetered (Other) <input type="checkbox"/></p>	<p>SPD <input type="checkbox"/></p> <p>SPM <input type="checkbox"/></p>	

## Appendix 2 – Background

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This appendix provides some background to our decision to introduce regulated margins and the potential for DNOs to have price regulation lifted where they meet both a Legal Requirements Test and a Competition Test.

### Competition in Connections

#### Overview of competition in connections

1.7. Many of the activities of electricity network companies have the characteristics of a natural monopoly and are regulated by Ofgem. Some network activities are not natural monopolies such as the construction of new assets required to extend the network or connect to the existing network. Independent Connections Providers (ICPs) compete with network operators to construct connections (including constructing any network extension required for new developments), but only licensed companies can own and operate the assets once they have been installed.

1.8. Where effective competition is possible, it can be a much better way to protect consumers' interests than regulation. This is because it provides customers with choice and competition between service providers is likely to be more effective than regulation at promoting lower prices, innovation and better service standards. We have sought to promote competition in both the installation of connections to gas and electricity distribution networks, and in the subsequent ownership and operation of those assets.

#### Role of the host distributor in supporting competition

1.9. Each DNO sets out in its charging methodology the scope of connection services that ICPs are permitted to compete with the incumbent to provide. Activities that ICPs can carry out are described as 'contestable' and those that can only be carried out by the host distributor (DNO) are referred to as 'non-contestable'. Some services may be considered non-contestable by the DNO due to technical or safety reasons. Other services may be considered non-contestable where current legislative or regulatory arrangements make it difficult for competition to develop.

1.10. Current examples of contestable works include construction of assets and jointing of dead cables. Examples of non-contestable works include determination of Point of Connection (POC) and design approval. Ofgem is currently working with industry to extend contestability. Further details can be found in Chapter 3 of this document.

1.11. Since ICPs rely on the DNO to provide non-contestable services it is important for competition in connections that the incumbent does not abuse its position as the

monopoly provider of these services. The Competition Act and the Electricity Distribution Licence include measures to prohibit the incumbents from discriminating unduly against competitors in the provision of non-contestable services.

### **Growth of competition in connections**

1.12. Since the introduction of competition<sup>15</sup> we have seen competition grow rapidly in gas connections, to the extent that more than half of all connections are now installed by new entrants. Competition in the electricity connections market has developed much less rapidly.

1.13. In the metered electricity connections market (across all DNOs), market penetration by new entrants<sup>16</sup> stood at only 13 per cent in 2009-10. Although this was a marginal increase in new entrants’ market share since 2008-09, the overall level remained low and the rate of growth remained slow. In the unmetered market (across all DNOs), market penetration by new entrants rose to nine per cent in 2009-10, compared to less than two per cent in 2008-09.<sup>17</sup>

### **DPCR5 Final Proposals – Introduction of regulated margins and the potential for Ofgem to lift price regulation**

1.14. The 2008-09 and 2009-10 Connections Industry Reviews highlighted concerns about the development of competition in the electricity connections market. We set out to address these concerns as part of the last price control review (DPCR5), which came into effect in April 2010, by introducing a new approach to facilitating competition in connections to electricity distribution networks. Developments were inserted into the Electricity Distribution Licences of the various DNOs as Charge Restriction Condition 12 (CRC 12).<sup>18</sup>

1.15. We recognised that there are some market segments where competition may not currently be viable, for example the provision of one-off Low Voltage (LV) connections. These market segments are described as Excluded Market Segments for the purposes of CRC 12 and they are set out at Appendix 3 of this document. One factor that may make jobs in these market segments unattractive to ICPs is their general low value. In these market segments where competition is not currently considered viable, DNOs are not allowed to earn a margin on any of the connections services they provide.

1.16. The arrangements introduced at DPCR5 have however enabled DNOs to earn a regulated margin (set at four per cent above cost)<sup>19</sup> on contestable connection services in those market segments where competition is considered viable. These market

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<sup>15</sup> Competition was introduced in gas connections in 1998 and electricity connections in 2000.

<sup>16</sup> ICPs and Independent Distribution Network Operators (IDNOs).

<sup>17</sup> Note that market penetration by new entrants (metered connections) rose to 23 per cent in 2010-11.

<sup>18</sup> Charge Restriction Condition 12 - <http://epr.ofgem.gov.uk/index.php?pk=folder575248>

<sup>19</sup> Previously under DNO approved connection charging methodologies their connection charge were limited to recovery of reasonable costs.

segments are described as Relevant Market Segments (RMSs) in CRC 12 and are set out in Appendix 3 of this document. They include metered demand and generation connections at all voltages but exclude certain metered demand connections (one off industrial and commercial work at low voltage and domestic LV work relating to no more than four domestic premises) where competition is not considered currently viable. They also include unmetered connections activities. The purpose of the regulated margin is to create headroom to encourage new entrants and to remove the stifling impact on competition that may have existed when the DNOs were not allowed to earn a margin over their costs on contestable services.

1.17. In addition to this regulated margin, we also made provision for DNOs to apply to have price regulation lifted in market segments where competition can be relied upon to protect customer interests.

1.18. The Competition Test is designed to enable DNOs to demonstrate that effective competition exists in each RMS. The key overall consideration in our assessment is whether competition can be relied upon to protect the interests of customers. By this we mean that competition will deliver good levels of service and innovation in the connections market at prices which represent value for customers. We would expect that service, innovation and value should reflect customers’ experience in similar competitive markets such as the provision of other utility services/infrastructure. Further, we would expect that competition would deliver improvements in these areas over time, again to an extent that should be comparable with similar industries. For effective competition to exist, customers must have a real choice between alternative connections providers and/or, if the existing market participants do not deliver, there must be a credible threat of new providers entering the market.

1.19. If customers are to be able to choose between alternative connections providers, SPEN, as the owner of the local distribution network, and provider of non-competitive connections services,<sup>20</sup> has an important role to play. If actual and potential alternative providers are going to be able to put genuine competitive pressure on SPEN then they will need to be able to receive timely and reliable non-contestable connections services. Further, for competition to work effectively the alternative providers must not be significantly disadvantaged in comparison with SPEN’s own connection business. In considering whether an alternative provider is at a disadvantage to SPEN, we note that it is irrelevant whether any disadvantage is due to the actions of SPEN or an inherent feature of the connections market (for example, limited access to SPEN’s network for safety reasons).

1.20. To further encourage DNOs to facilitate competition we also set out that any DNO that failed to demonstrate competition, by December 2013, would be reviewed by Ofgem and could subsequently be referred to the Competition Commission.

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<sup>20</sup> Some aspects of the connection activity are deemed non-contestable and a can (currently) only be provided by the owner of the distribution network to which a connection is being made.

1.21. In DPCR5 Final Proposals we set out the information that DNOs should provide in making their evidence case. These issues form the structure of SPEN’s Competition Notices. They are:

- actual and potential competition (the current level of competition the DNO faces in each market segment and the scope for this competition to grow);
- price and transparency of pricing to customers (the steps the DNO takes to ensure that customers have the information they need to make decisions between taking a service from the DNO or a new entrant provider, and what they are doing to ensure they do not discriminate between their own customers and new entrant providers when they price their services);
- promoting awareness of competitive alternatives amongst connections customers (the steps the DNO takes to ensure that customers are aware that they can go to other providers for the service they are requesting);
- competition in connections procedures and processes (the actions the DNO has taken to ensure that the procedures and processes they have in place for non-contestable services meet the needs of new entrants and are provided in a non-discriminatory manner);
- efforts to open up non-contestable activities to competition (what action the DNO has taken to extend contestability); and
- barriers to competition (other actions the DNO is taking to remove barriers to new entrants competing in their area).



## Appendix 3 – The Legal Requirements and Competition Test

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1.22. Both the Legal Requirements Test and the Competition Test are set out in DPCR5 Final Proposals and referenced in CRC 12. Both Tests are reproduced below.

1.23. The overriding objective of the Competition Test is to enable DNOs to demonstrate that the market is working effectively for their customers. The DNO's evidence should enable Ofgem to take a holistic view of the effectiveness of the market and prescribe an appropriate course of action (ie allow regulated or unregulated margins, or further work to remove barriers). Accepting that all markets are different, there will be a flexible approach to the format and scope of the DNO's evidence case subject to the legal requirements being met.

### **The Legal Requirements Test**


1.24. Compliance with the Legal Requirements Test is essential for passing the Competition Test. The legal requirements are for the DNO to have no enforced breaches in the given regulatory year of:

- standard licence condition 12.6(c): Requirement to offer terms for use of system and connection;
- amended standard licence condition 15: Standards for the provision of Non-Contestable Connections Services;
- new standard licence condition 15A: Connections policy and connection performance;
- standard licence condition 19: Prohibition of discrimination under Chapters 4 and 5; and
- the Competition Act 1998.

### **The Competition Test**

1.25. Overall, we will be looking to see whether we can rely on real competition or the threat of competition to protect consumer interests rather than regulation of the margin earned by the DNO. There are a number of key issues that DNOs should consider in making their evidence case. This is not intended to be an exhaustive list of requirements but provides guidance on aspects of the market that we will look at:

- barriers to competition (including parts of the market where competition is not feasible and the reasons why);



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- actual and potential competition (this is intended to capture views on levels of competitive activity);
- price and transparency of pricing to customers;
- promoting awareness of competitive alternatives amongst connection customers;
- competition in connections procedures and processes; and
- efforts to open up non-contestable activities to competition.

## Appendix 4 – The Relevant Market Segments

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1.26. This section reproduces all of the Relevant Market Segments (RMSs) set out in CRC 12 of the Electricity Distribution Licence.

1.27. Metered Demand Connections

- **Low Voltage (LV) Work** (LV connection activities involving only LV work, other than in respect of the Excluded Market Segments (see paragraph 1.31 below).)
- **High Voltage (HV) Work** (LV or HV connection activities involving HV work (including where that work is required in respect of connection activities within an Excluded Market Segment)).
- **HV and Extra High Voltage (EHV) Work** (LV or HV connection activities involving EHV work.)
- **EHV work and above** (EHV and 132kV connection activities.)

1.28. Metered Distributed Generation (DG)

- **LV work** (LV connection activities involving only LV work.)
- **HV and EHV work** (Any connection activities involving work at HV or above.)

1.29. Unmetered Connections

- **Local Authority (LA) work** (New connection activities in respect of LA premises.)
- **Private finance initiatives (PFI) Work** (New connection activities under PFIs.)
- **Other work** (All other non-LA and non-PFI unmetered connections work.)

1.30. The Excluded Market Segments are as follows:

- LV connection activities relating to no more than four domestic premises or one-off industrial and commercial work; and
- connection activities in respect of a connection involving three-phase whole current metering at premises other than Domestic Premises.

## Appendix 5 - Glossary

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### C

#### Competition Test

The Competition Test is set out in Distribution Price Control Review 5 Final Proposals - Incentives and Obligations and referenced in CRC 12. It is also recreated at Appendix 3 to this document.

#### CIR Connections Industry Review

An annual Ofgem publication that sets out how the gas and electricity connections market has developed in the given year. It also details how licensed companies have complied with their connections related obligations and standards.

#### CRC Charge Restriction Condition

A special condition of the Electricity Distribution Licence.

### D

#### DG Distributed Generation

Distributed generation is also known as embedded or dispersed generation. It is an electricity generating plant connected to a distribution network rather than the transmission network. There are many types and sizes of distributed generation facilities. These include Combined Heat and Power (CHP), wind farms, hydro electric power or one of the new smaller generation technologies.

#### DNO Distribution Network Operator

There are 14 Electricity Distribution Network Operators that carry electricity from the transmission system and some distributed generators to industrial, commercial and domestic end users. They have distribution services areas which correspond to those of the former public electricity suppliers (before privatisation in 1990). They are owned by six different corporate groups.

#### DPCR Distribution Price Control Review

The price review applicable to electricity distribution network operators. The fifth Distribution Price Control Review (DPCR5) was launched in April 2010.

#### DSA Distribution Services Area

Electricity DNOs each have a distribution services area. With the exception of embedded independent networks they are monopoly operators within that area and are subject to particular licence requirements accordingly.

**E**

**ECSG**      **Electricity Connections Steering Group**

Advises Ofgem on the measures that are required to support the development of competition in the electricity connections market.

**EHV**      **Extra High Voltage**

Over 22 kV but less than or equal to 72 kV.

**EMS**      **Excluded Market Segments**

As set out in CRC 12. In DPCR5 Final Proposals Ofgem considered that that competition was not viable in these market segments at that time or in the foreseeable future. DNOs are not able to earn a regulated margin in these market segments.

**HV**      **High Voltage**

Exceeds 1 kV but does not exceed 22 kV.

**I**

**ICP**      **Independent Connections Provider**

An independent connections provider not affiliated to a distribution network operator.

**IDNO**      **Independent Distribution Network Operator**

The Authority has issued six distribution licensees to IDNOs. IDNOs own and operate various small networks embedded within DNO networks. IDNOs do not have DSAs.

**L**

**Legal Requirements Test**

The Legal Requirements Test is set out in Distribution Price Control 5 Final Proposals - Incentives and Obligations and referenced in CRC 12. It is also recreated at Appendix 3 to this document.

**LV**      **Low Voltage**

Does not exceed one kV

**P**

**POC**            **Point of Connection**

The point at which new works are connected to the existing distribution network.

**R**

**Regulatory Year**

From 1 April to 31 March.

**RMS**            **Relevant Market Segment**

As set out in CRC 12, in DPCR5 Final Proposals Ofgem considered that that competition is viable in these market segments. DNOs currently charge a four per cent margin on contestable services provided in these market segments.

**S**

**SLC**            **Standard Licence Condition**

A Condition of the Electricity Distribution licence.

**SPEN**            **Scottish Power Energy Networks**

A collective name for the two licensed distribution network operators to whom this consultation relates – SP Distribution Ltd and SP Manweb plc.

## Appendix 6 - Feedback Questionnaire

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1.1. Ofgem considers that consultation is at the heart of good policy development. We are keen to consider any comments or complaints about the manner in which this consultation has been conducted. In any case we would be keen to get your answers to the following questions:

1. Do you have any comments about the overall process, which was adopted for this consultation?
2. Do you have any comments about the overall tone and content of the report?
3. Was the report easy to read and understand, could it have been better written?
4. To what extent did the report’s conclusions provide a balanced view?
5. To what extent did the report make reasoned recommendations for improvement?
6. Please add any further comments?

1.2. Please send your comments to:

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