

Competition Notice	Western Power Distribution (WPD) – 31 October 2013
Date of determinations	25 February 2014

1 Background

- 1.1 This document sets out the Authority’s decision on Western Power Distribution’s 31 October 2013 application to charge an unregulated margin on certain contestable connections services in the Metered Distributed Generation High Voltage and above (DG HV EHV) work Relevant Market Segment (RMS). It is accompanied by a separate document which can be found on the Ofgem website¹ setting out the reasons for the determination.
- 1.2 Under the terms of its Electricity Distribution Licence (Licence) Standard Licence Condition 14.16 (SLC 14.16) Western Power Distribution (WPD) must set its Connection Charges at a level that will enable it to recover –
- the appropriate proportion of the costs directly or indirectly incurred in carrying out any works for the extension or reinforcement of its Distribution System, or for the provision and installation, maintenance, repair and replacement, or (as the case may be) removal following disconnection, of any electric lines or electrical plant; and
 - such a margin as it is allowed to charge under Charge Restriction Condition 12 (CRC 12).
- 1.3 In accordance with the requirements of CRC 12 WPD² gave us a Regulated Margin Notice on 13 August 2010. In addition, also in accordance with CRC 12, Central Networks³ gave us a Regulated Margin Notice on 15 November 2010. We accepted these Notices which entitled WPD and Central Networks to charge a Regulated Margin at four per cent in relation to all of their Connection Activities in the Local Connections Market⁴ when it makes an offer of connection terms within each of the Relevant Market Segments (RMSs).⁵
- 1.4 On 31 October 2013, in accordance with the requirements of CRC 12, WPD gave us Competition Notices on behalf of its four licensees: Western Power Distribution (South West) plc, Western Power Distribution (South Wales) plc, Western Power Distribution (East Midlands) plc, and Western Power Distribution (West Midlands) plc (herein referred to as WPD’s four Distribution Service Areas (DSAs)).

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

² On behalf of Western Power Distribution (South West) plc and Western Power Distribution (South Wales) plc.

³ On behalf of Central Networks West plc and Central Networks East plc. These licenses are now owned and operated by WPD and are called Western Power Distribution (West Midlands) plc and Western Power Distribution (East Midlands) plc.

⁴ As defined in CRC 12: means the market that exists for the procurement and provision of Connections Activities within the Licensee’s Distribution Services Area.

⁵ Connection Activities as defined in CRC 12 – means any and all of such activities comprising or associated with the provision, modification, or retention of a connection to a DNO’s distribution system as may, in accordance with the Connection Charging Statement of that DNO, be undertaken by persons other than the DNO, where those activities are fully funded by the Customer. Note that, for the avoidance of doubt, the delineation of a RMS for these purposes is without prejudice to any assessment of a relevant market which may separately be undertaken for competition law or other purposes.

- 1.5 The Competition Notices related to the Metered Distributed Generation – HV and EHV work (DG HV EHV) RMS set out in CRC 12 of its Electricity Distribution Licence.
- 1.6 The Competition Notice stated that WPD considered both the Legal Requirements Test and the Competition Test (the Tests) to be satisfied in respect of the DG HV EHV RMS in WPD’s four DSAs. It sought a determination from us that WPD be entitled to charge an Unregulated Margin in relation to this RMS in its four DSAs.
- 1.7 Upon receipt of the Competition Notice and before making these determinations, we undertook a consultation exercise with WPD and other persons and we have considered the responses received.
- 1.8 We are required to determine whether an Unregulated Margin should be allowed in the DG HV EHV RMS by way of separate determinations in respect of WPD’s four DSAs. We are required, in each Determination, to state whether the Legal Requirements Test and the Competition Test have been satisfied.⁶ We are also required, if we find that one or both of the Tests have not been satisfied, to include reasons for our conclusions in our determinations.
- 1.9 This is a regulatory decision and does not amount to or imply, and should not be interpreted as implying, any particular view as to the application or interpretation of the Competition Act 1998 and/or Articles 101 and 102 of the Treaty on the Functioning of the European Union, or any other law, either prior to this regulatory decision or once this regulatory decision is in place.

2 The Authority’s Determinations

Where both the Competition Test and the Legal Requirements Test have been satisfied

- 2.1 We consider that the both the Legal Requirements Test and the Competition Test have been satisfied in the DG HV EHV work RMS in the South West DSA only.
- 2.2 In regards to the RMS and DSA referred to in paragraph 2.1 above, we accordingly further Determine that, from the date of these Determinations, WPD shall be entitled (but not obliged) to charge an Unregulated Margin in its Connection Charges in relation to its Connection Activities.
- 2.3 In accordance with CRC 12, Part J, by 30 June 2015 and 30 June in each subsequent Regulatory Year, WPD shall submit to us reports relating to the RMS, explaining:
 - the extent to which the evidence relied upon by WPD to establish that the Tests were satisfied is still accurate; and
 - where appropriate, any change that has occurred in the RMS since the date of these Determinations or since its last report in this regard.
- 2.4 Our reasons for concluding that both of the Tests have been met are set out in our document - ‘The reasons for our decision on Western Power Distribution’s 31 October 2013 application to charge an unregulated margin on certain contestable connections services’. This document can be found on the Ofgem website.

⁶ As set out in CRC 12.

Where only Legal Requirements Test have been satisfied

- 2.5 In respect of the DG HV EHV work in the South Wales, East Midlands and West Midlands DSAs, in accordance with the provisions of CRC 12, we hereby determine that whilst the requirements of the Legal Requirements Test have been satisfied, those of the Competition Test have not.
- 2.6 Our reasons for concluding that the requirements of the Competition Test have not been met are set out in our document 'The reasons for our decision on Western Power Distribution's 31 October 2013 application to charge an unregulated margin on certain contestable connections services'. This document can be found on the Ofgem website.
- 2.7 In respect of the RMS and DSAs referred to in paragraph 2.5, accordingly and as provided for by CRC 12, WPD must continue to charge the Regulated margin of four per cent in its Connection Charges in relation to its Connection Activities.
- 2.8 This determination and our decision document constitute publication of the Notices required of us by section 49A of the Electricity Act 1989.