

The reasons for our determination on Northern Powergrid's 20 December 2013 application to charge an unregulated margin on certain contestable connections services

1 Summary

- 1.1 This document contains the reasons for the determination made by the Gas and Electricity Markets Authority¹ on 17 April 2014, under Part E of Charge Restriction Condition (CRC) 12², on whether Northern Powergrid, a Distribution Network Operator³ (DNO), should be allowed to earn an unregulated margin on certain connections work.
- 1.2 On 20 December 2013 Northern Powergrid submitted Competition Notices in respect of its licensed distribution networks -
- Northern Powergrid (Northeast) Ltd
 - Northern Powergrid (Yorkshire) plc
- 1.3 The Notices relate to four Relevant Market Segments (RMSs) and five alternative market segments.

Metered Demand Connections

- LV work – 20 connections and above (alternative market segment)
- HV and Extra High Voltage (EHV) work
- EHV and above work

Distributed Generation Connections

- LV work – 20 connections and above (alternative market segment)
- HV work (alternative market segment)
- EHV work (alternative market segment)

Unmetered Demand Connections

- Local Authority work
- Private Finance Initiatives (PFI) work
- Other work – 5 connections and above (alternative market segment)

- 1.4 Two of the alternative market segments proposed by Northern Powergrid, 'Distributed Generation Connections: HV work', and 'Distributed Generation Connections: EHV work' together constitute the existing RMS 'Distributed Generation Connections: HV and EHV work'. In the event that we are persuaded that there is effective competition across the original RMS as a whole, Northern Powergrid has

¹ The terms 'the Authority', 'Ofgem' and 'we' are used interchangeably in this document. Ofgem is the Office of the Gas and Electricity Markets.

² CRC 12 Licensee's Connection Activities: Margins and the development of competition.

³ As defined in condition 1 of Standard Conditions of the Electricity Distribution Licence.

asked that we treat this as a parallel notice for the existing RMS (rather than for the two alternative market segments).

- 1.5 We issued a consultation on Northern Powergrid's Competition Notices on 4 February 2014.⁴
- 1.6 Having considered the Competition Notices and the responses to our consultation, we have –
 - not accepted any of the alternative market segments proposed by Northern Powergrid. We have therefore not made determinations on whether Northern Powergrid has passed the Competition Test in relation to these alternative segments.
 - not allowed an unregulated margin in any of the RMSs because we have not seen sufficient evidence that customers' interests would be protected if we removed price regulation.
- 1.7 Our determination can be found on our website.⁵ This document provides reasons for our determination. Appendix 1 of this document summarises the responses received to our consultation.

2 Background

- 2.1 We have been working to facilitate competition in electricity connections since 2000. New entrants can compete with DNOs to give customers a choice over their connections provider and an opportunity to shop around to get good service and value for money. We consider that competition can deliver customer benefits that are difficult to achieve through regulation, such as innovation in the type of services on offer and a focus from providers on meeting customer needs.
- 2.2 In 2009-10 we explained that we had been disappointed with the pace at which competition had developed in the electricity connections market. This was against a backdrop of 87 per cent of metered electricity connections (across Great Britain) being completed by the incumbent DNO, compared to 41 per cent in the gas connections market.⁶
- 2.3 To encourage further competition to develop, we introduced an incentive on DNOs to do all that is within their control to facilitate competition in connection services.⁷ For the purpose of this incentive we defined nine RMSs in which we considered competition to be viable.⁸ DNOs are able to apply to have price regulation lifted in an RMS where they can demonstrate that competition is effective. If a DNO does not consider that it can provide evidence of effective competition in the whole of a RMS it can propose an alternative market segment.

⁴ Available from

<http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=453&refer=NETWORKS/CONNECTNS/COMPINCONN>

⁵ <http://www.ofgem.gov.uk/Networks/Connectns/CompinConn/Pages/CompinCnntns.aspx>

⁶ See "Gas and Electricity Connections Industry Review, 2009-10", available from

<http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=55&refer=Networks/Connectns/ConnIndRev>

⁷ Introduced at Distribution Price Control Review 5 (DPCR5) - further information can be found in our document DPCR5 Final Proposals Incentives and Obligations (REF: 145/09) which is available on the Ofgem website at: <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=348&refer=NETWORKS/ELECDIST/PRICECTRLS/DPCR5>

⁸ A policy decision was made at DPCR5 to establish the RMSs after consideration was given to the different types of connection (ie by size, type and customer base) for the purposes of this test. While we consider that they are relevant in that context, any definition of the "relevant market" for the purposes of competition law would not necessarily segment the market in the same way.

- 2.4 We have made it clear to DNOs that where effective competition has not developed by 31 December 2013, we will review the market and consider taking action, including making a referral to the Competition and Markets Authority, formerly the Competition Commission.⁹
- 2.5 This is Northern Powergrid's second application. We have already issued our determinations on ten applications made by DNOs - 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 25 February 2014), Scottish and Southern Energy Power Distribution (on 29 April 2013) and Scottish Power Energy Networks (on 13 December 2013). These can be found on our website. We are currently considering three other applications submitted in December 2013.

3 Our assessment

- 3.1 Our determinations on whether to lift price regulation are based on a consideration of our statutory duties and our view on whether Northern Powergrid has met two tests: a Legal Requirements Test and a Competition Test.
- 3.2 In making our determinations on the Competition Test, we must also determine whether to accept the alternative market segments proposed by Northern Powergrid.
- 3.3 Our assessment of the Competition Test is a regulatory decision. It does not amount to or imply 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.
- 3.4 We are required to make a separate determination for each RMS in each of Northern Powergrid's two licensed distribution service areas (DSAs).

Legal Requirements Test

- 3.5 Northern Powergrid has satisfied the Legal Requirements Test in both DSAs as it currently has no enforced breaches of the Competition Act 1998 or of the relevant connections related licence conditions in the 2013-2014 regulatory year.

Alternative market segments

- 3.6 CRC 12 allows DNOs to propose alternative market segments to those defined in the licence at CRC12 A1.2 to A1.4. Northern Powergrid has proposed eight alternative market segments. Its Competition Notices are for price regulation to be lifted in five of these alternative segments, and in five RMSs as defined in CRC 12.
- 3.7 We are required to decide whether to accept or reject the alternative market segments proposed, before considering Northern Powergrid's application to have price regulation lifted. This section sets out the reason for our decisions on each of these alternative market segments.
- 3.8 Table 1 sets out the definitions of the proposed alternative segments, and how these relate to the RMSs defined in CRC 12.

⁹ On 1 April 2014, the new Competition and Markets Authority brought together the Competition Commission with certain functions of the Office of Fair Trading.

Table 1: Northern Powergrid’s definition of alternative market segments

Relevant market segment (as defined in CRC 12)	Northern Powergrid’s alternative market segment		Applied to have price regulation lifted
	Name	Definition	
Metered Demand LV	Demand LV: fewer than 20 connections	Work in the standard LV demand segment involving fewer than 20 end connections	No
	Demand LV: 20 connections and above	Work in the standard LV demand segment involving 20 or more end connections	Yes
Distributed Generation LV	Distributed Generation LV: fewer than 20 connections	Work in the standard LV distribution generation segment involving fewer than 20 end connections	No
	Distributed Generation LV: 20 connections and above	Work in the standard LV distribution generation segment involving 20 or more end connections	Yes
Distributed Generation HV and EHV	Distributed Generation HV	Work in the standard HV and EHV distributed generation segment not involving EHV activity	Yes
	Distributed generation EHV	Work in the standard HV and EHV distributed generation segment involving work at EHV and above	Yes
Unmetered Demand Other	Unmetered Demand Other: 1-4 connections	Work in the standard other unmetered segment involving fewer than 5 end connections	No
	Unmetered Demand Other: 5 connections and above	Work in the standard other unmetered segment involving 5 or more end connections	Yes

Source: Northern Powergrid’s Competition Notice 20 December 2013, and subsequent clarification

3.9 We set out in our consultation document that CRC12 requires a Competition Notice submitted with proposed alternative market segments to –

- define the alternative segments to which the Notice relates
- set out the licensee’s reasons for specifying those alternative segments, and
- be accompanied by such evidence as, in the opinion of the licensee, is sufficient to substantiate its reasons for specifying those alternative segments.

3.10 We also set out in our consultation that, in assessing alternative market segments, we would consider the extent to which the applicant DNO had fulfilled these requirements. We explained that this included –

- Whether the DNO had clearly defined the alternative market segments. In considering this issue, we have assessed whether there is any ambiguity in the type of connection work which might be categorised under the proposed alternative market segments.
- Whether the DNO had provided clear evidence to substantiate its reasons for proposing the alternative segments. In considering this question, we have looked for evidence that the alternative market segments have distinctive features that make the nature of competition different in those segments. This might have included evidence on whether the alternative market segments has distinct customer characteristics and/or type of work and/or ability/willingness of competitors to bid for work.

- Whether customers or competitors recognised the proposed alternatives as distinct portions of the connections market and considered them to be an appropriate way of segmenting the market for the assessment of effective competition.

3.11 Our assessment draws on the evidence provided by the DNO and on the responses to the consultation.

Metered Demand LV

3.12 Northern Powergrid proposes to define two alternative market segments on the basis of dividing the Market Demand LV RMS into two segments, distinguishing between projects involving fewer than 20 end connections, and those involving 20 end connections or more. Northern Powergrid’s reasons for this are based on its view that there is a difference in the competitive pressure in each of the two alternative market segments. Its view is that competition is stronger for those projects within the RMS that involve a higher number of connections than for those that involve fewer connections.

3.13 Northern Powergrid puts forward two strands of evidence in support of its view.

3.14 Northern Powergrid presents a series of bar charts showing the share of Metered Demand LV projects it has won, broken down by number of end connections. Charts are presented for 2012-2013, and for the first half of 2013-2014, and for the two DSAs separately.

3.15 Northern Powergrid’s Competition Notice includes a comparison between average value of projects in the alternative market segment ‘Metered Demand LV: 20 end connections and above’ and the average value of projects in the ‘Metered Demand HV’.

Table 2: Average project value: comparison between ‘Metered Demand LV: 20 connections or above’, and ‘Metered Demand HV’ projects

Market segment	Estimated average total cost
Metered Demand LV: 20 connections and above (alternative)	£46,648
Metered Demand HV	£34,574

Note: Estimates are based on connections contracted by Northern Powergrid from April 2012 to September 2013. Source: Northern Powergrid Competition Notices, Table 5

3.16 Table 2 shows the estimated average value of projects in the alternative market segment ‘Metered Demand LV: 20 connections and above’ is higher than average values in the ‘Metered Demand HV’ RMS. Northern Powergrid draws on this to suggest that the alternative segment “is likely to be as attractive to new entrants” as the Metered Demand HV RMS where Northern Powergrid notes that “effective competition is already evidenced” in both DSAs, a reference to our determination on 10 May 2013 regarding that RMS.

3.17 In support of its proposed alternative segmentation, Northern Powergrid also states that “discussions with independent connectors indicate competition is stronger” in the segment of 20 or more connections, compared to the segment involving works with fewer connections, and that “Northern Powergrid had previously been informed by some independent connectors that they tend to concentrate on winning LV-only demand work where there are 20 or more end connections”.

Distributed Generation LV

3.18 Northern Powergrid proposes to define two alternative market segments by splitting the 'Distributed Generation LV' RMS into two segments, distinguishing between projects involving fewer than 20 end connections, and those involving 20 or more end connections. As with its proposed alternative segmentation of the Demand LV RMS, Northern Powergrid's reasons for doing this are based on its view that there is a difference in the competitive pressure in each of the two relevant alternative market segment. It states:

- That there are no technical differences between the Distributed Generation LV RMS and the Metered Demand LV RMS, and so the two segments are likely to have similar characteristics in terms of competition. This supports its view that the segmentation of the Distributed Generation LV be done by splitting the segment at 20 end connections, the threshold it used to define the alternative market segments related to Metered Demand LV.
- That, taking the two DSAs together, independent contractors have a higher market share in relation to contracts involving 20 or more end connections, than in relation to contracts involving fewer than 20 connections. The data show that in the Northeast DSA, its share of contracts involving 20 or more end connections was 64 per cent, and its share of contracts involving fewer than 20 connections was 87 per cent. In the Yorkshire DSA, Northern Powergrid won every project in the original RMS – its share of the alternative segments is 100 per cent in each case.
- Northern Powergrid also presents data to compare the estimated total cost of an LV only distributed generation project involving 20 or more connections, with the estimated total cost of an "average" HV demand connection project involving three connections. The figures are shown in Table 3.

Table 3: Comparison of projects in 'Distributed Generation LV: 20 connections and above' and in 'Metered Demand HV'

Project	Estimated total cost
LV-only distributed generation project involving 20 connections	£78,276
HV demand connection project involving 3 connections	£34,574

Estimates are based on connections contracted by Northern Powergrid from April 2012 to September 2013. Source: Northern Powergrid Competition Notices, Table 7

3.19 Northern Powergrid states that, although it is based on a small sample of projects, its figures show that the alternative segment "is likely to be as attractive to new entrants" as the Metered Demand HV RMS.

Distributed Generation HV and EHV

3.20 Northern Powergrid proposes to split the 'Distributed Generation HV and EHV' RMS by voltage level, distinguishing between work that does not involve EHV activity, and work that does involve work at EHV and above. It supports this on the basis that –

- There are technical and accreditation differences in the work involved in providing connections in the two alternative segments. Northern Powergrid submits that the contractors involved are generally different and that the technical competencies required at the two voltage levels are significantly different. It notes that the accreditation and skills associated with work in the

'Metered Demand HV' RMS are transferable to the proposed 'Distributed Generation HV' alternative market segment, and that this is not the case in the proposed 'Distributed Generation EHV' alternative market segment.

- The processes and project requirements differ between the voltage levels. Northern Powergrid notes that the requirements of SLC15 are different, that the delivery requirements for EHV are not prescriptive timescales as they are in HV, and that lead-in times are significantly longer for EHV projects.
- There are significant differences in the commercial characteristics of jobs in the proposed 'Distributed Generation EHV' alternative market segment compared to those in the proposed 'Distributed Generation HV' segment. Northern Powergrid report in their Competition Notice that, in the 18 months to September 2013, there were far fewer of the former and they tended to involve a cost per end-connection that is orders of magnitude higher than the latter; £4.4 million per end-connection for the former, compared to £0.03 million per end-connection for the latter.

Unmetered connections: Other work

3.21 Northern Powergrid proposes to split the 'Unmetered connections: Other work' RMS by distinguishing between projects that involve fewer than 5 end connections, and those that involve 5 or more end connections.

3.22 As with other RMSs where it proposed a split on the basis of number of connections, Northern Powergrid submits that the "value of a job will depend on number of end connections involved, and this is likely to influence the attractiveness of that job to potential new entrants." Northern Powergrid suggests that the two alternative market segments it proposes "exhibit significantly different characteristics". To support this view, –

- Northern Powergrid reports the share of end connections it carried out, in each of the DSAs, distinguishing between work involving fewer than 5 connections, and work involving 5 connections or more. The data, covering April 2012-September 2013, show that, for the Northeast DSA, Northern Powergrid carried out 73 per cent of connections in work involving fewer than 5 connections, and 3 per cent of connections for work involving 5 connections or more. For the Yorkshire DSA, the figures are 86 and 18 per cent, respectively.
- Northern Powergrid notes that every customer contracting for an unmetered project involving 5 or more connections, contracted for multiple unmetered projects over the 18 months to September 2013. Northern Powergrid suggests that "this means that the customers who will contract for projects in this alternative market segment in future are highly likely to have repeat experiences of purchasing in the market, and so have more opportunities to learn of the alternative providers of connection services available to them. They will also have stronger commercial incentives to search for the lowest possible cost."
- Northern Powergrid submits that, according to its own analysis, companies contracting for connections in the 5 or more connections alternative market segment have a national footprint and are relatively large in their own sectors. The applications include a table listing such customers. They also note that where the companies operate locally they are likely to have high levels of exposure to both the electrical contracting market and to be aware of the fact that it is possible to obtain an unmetered power supply from a variety of providers. Northern Powergrid notes that "in contrast, where projects in the unmetered other RMS involve fewer than 5 end connections, [Northern Powergrid's] dataset shows that there is a reasonable possibility that the customers will not have undertaken repeat purchases over the 18 months to September 2013."

Our conclusions on the proposed alternative market segments

- 3.23 We make the following observations on the alternative market segments proposed by Northern Powergrid.
- 3.24 We required the alternative market segments to be clear and unambiguous. This means that we should be satisfied that the allocation of every project within the original RMS to one or the other new alternative segment is straightforward and unambiguous to all stakeholders. The proposed definitions for alternative segments must not leave any room for doubt about the treatment of any project.
- 3.25 We are satisfied that the definitions proposed by Northern Powergrid are clear and unambiguous. For each connection application in the original RMSs, it is possible to determine the number of end connections associated with that application, and therefore the alternative segment into which that application and any subsequent quote would fall. Similarly, for each connection application that would otherwise fall within the 'Distributed Generation HV and EHV' RMS, it is possible to determine whether the application involves EHV work or not, and therefore determine the alternative market segment into which that application and any subsequent quote would fall.
- 3.26 In general, respondents to our consultation did not raise any concerns about the clarity of Northern Powergrid's definitions. However, one respondent said that the proposed alternative demand market segments "may create unnecessary complications for customers and NPG when seeking to apply margin with transparency and consistency and also when it comes to reporting and comparing market activity and trends."
- 3.27 We examined the reasons set out by Northern Powergrid for proposing the alternative market segments, along with the evidence to substantiate these reasons. Where an existing RMS is split into two alternative market segments, we looked for evidence that the proposed alternative segments exhibit features that sets them apart from each other, in a way that competition would work differently in the two sub-segments. The distinguishing features could relate to -
- differences between the proposed segments with respect to the competencies and skills required to operate (eg different accreditation)
 - differences in the processes involved; differences in barriers to entry or to expansion
 - differences in the nature of customers served (eg are customers more engaged, have more power to negotiate), or
 - differences in the commercial characteristics of the work (eg the frequency of projects and their typical value).
- 3.28 In relation to the split of each of the 'Metered Demand LV' RMS into two alternative market segments, 'Metered Demand LV: fewer than 20 connections' and 'Metered Demand LV: 20 connections and above', we find that Northern Powergrid provides limited relevant evidence to support its proposal.
- The charts labelled as figures 1 and 2 in Northern Powergrid's Notices show the share of Metered Demand LV projects won by Northern Powergrid, broken down by number of end connections. Northern Powergrid's share declines as the number of connections increases but only up to a certain point and not to a degree that we could draw any meaningful correlation. For larger projects

(typically over 50 connections) Northern Powergrid's share of the work increases and is not materially different from its share for small projects (fewer than 10 connections).

- We note the comparisons made by Northern Powergrid of the average value of projects in the 'Metered Demand LV: 20 connections and above' alternative segment with the value of projects the 'Metered Demand HV' RMS. We accept that projects in the proposed 'Metered Demand LV: 20 connections and above' alternative market segment may have higher average values than those in the Metered Demand HV RMS. However, it does not follow that the nature of competition in the 'Metered Demand LV: 20 connections and above' is different from competition in the other 'Metered Demand LV: fewer than 20 connections' segment. Neither is it conclusive evidence that the nature of competition is the same as in the 'Metered Demand HV' RMS.

3.29 In relation to the split of the 'Distributed Generation LV' RMS into two alternative market segments, 'Distributed Generation LV: fewer than 20 connections' and 'Distributed Generation LV: 20 or more end connections', we find that Northern Powergrid provides little evidence to support its proposals.

- We do not find the data on Northern Powergrid's market share in the two alternative segments to be persuasive. The difference between market shares between the two segments, where it exists, is relatively small.
- We note the data comparing the estimated total cost of an average DG LV project involving 20 connections or more, with the estimated total cost of an average HV demand connection project involving 3 connections. As with the Metered Demand LV segment, it does not follow that the nature of competition in the 'Distributed Generation LV: 20 or more end connections' is different from competition in the 'Distributed Generation LV: fewer than 20 connections' segment.

3.30 In relation to the split of the 'Distributed Generation HV and EHV' RMS into the 'Distributed Generation HV' and 'Distributed Generation EHV' alternative market segments, Northern Powergrid provides the following evidence to support its proposal.

- Northern Powergrid states that there are technical and accreditation differences in the work involved in providing connections in the two alternative segments, and that the contractors involved are generally different. The SLC15 requirements in each alternative segment are different, the delivery requirements for EHV are not prescriptive timescales as they are in HV, and that lead-in times are significantly longer for EHV projects.
- Northern Powergrid notes that there are significant differences in the commercial characteristics of jobs in the proposed 'Distributed Generation EHV' alternative market segment compared to those in the proposed 'Distributed Generation HV' segment. DG EHV projects are high value, low volume projects, whereas DG HV projects have lower values, and are more numerous.

3.31 In relation to the 'Distributed Generation HV and EHV' RMS, we find Northern Powergrid has provided some evidence to suggest that the two alternative segments have characteristics that set them apart from each other. However, we are not convinced that this evidence is sufficient to show that competition works differently in each of the two alternative market segments. For instance, we have not seen evidence that there are differences between the segments in terms of barriers to entry or to expansion, or that there are differences in the characteristics of customers and their procurement behaviour.

- 3.32 In relation to the split of 'Unmetered Other' RMS into two alternative segments — up to 5 connections, and 5 connections and above — Northern Powergrid provides some evidence.
- The Notices highlight the differences in Northern Powergrid's share of the two alternative market segments. The data show that Northern Powergrid had a high share of the 'Unmetered Other: fewer 5 connections' (73 per cent in the Northeast DSA and 86 per cent in the Yorkshire DSA), and a low share of the 'Unmetered Other: 5 and more connections' (3 per cent and 18 per cent respectively).
 - Northern Powergrid notes that customers in the 'Unmetered Other: 5 and more connections' segment tend to be repeat customers, whereas customers in the 'Unmetered Other: fewer than 5 connections' tend to be one-off customers. The Notice also says that customers in the 'Unmetered Other: 5 and more connections' segment tend to operate nationally, and have more experience of competition and using alternative providers for contestable work.
- 3.33 In relation to the split of 'Unmetered Other' RMS, we note Northern Powergrid's claim that, according to its own analysis, customers in the 'Unmetered Other: 5 and more connections' are repeat customers and have a national presence, whereas this may not be the case with customers in the 'Unmetered Other: fewer than 5 connections' segment. We also note Northern Powergrid's lower market share in the segment with 5 or more connections. However, that does not convince us that competition works differently across the spectrum of projects that fall within the two segments. We note that Northern Powergrid has provided no evidence that 5 connections is an appropriate number to split the original RMS, nor have we seen any evidence to suggest that customers requiring a somewhat higher number of connections, say 10, would behave differently from those requiring 5 connections. Indeed, we note that Electricity North West Limited (ENWL), in its Competition Notice of 24 December 2013, said in relation to the 'Unmetered Other' RMS in its area that "the top six customers accounted for 60 per cent of the market and all had programmes of work greater than 50 units. The top 14 customers account for 80 per cent of the market. Only around 10 per cent of the market is made up of customers with less than 10 units".
- 3.34 Finally, we note that three respondents to the consultation did not support Northern Powergrid's proposed alternative market segments.
- One respondent, whose response covered both metered and unmetered segments, said that the new segmentation does not add "value or brings benefit to customers or ICPs [independent connection provider]". The response adds that the proposed alternative demand market segments "may create unnecessary complications for customers and NPG when seeking to apply margin with transparency and consistency and also when it comes to reporting and comparing market activity and trends".
 - One respondent, whose comments covered the Metered Demand segments, said that it does not "agree that this additional segmentation is necessary".
 - The response from the Unmetered Connections Customer Group said that "we do not agree with the proposed new market segments of unmetered other - 5 and above, nor of the LV metered - 20 and above".
- 3.35 One independent distribution network operator (IDNO) respondent, commenting on the metered demand RMSs, was supportive of Northern Powergrid's proposed segmentation of the 'Metered Demand LV' RMS, stating that it is "an appropriate

split of the market” and added that the “remaining LV RMS of up to 20 plots is less attractive [to it] due to the expense of the LV link box”. We accept that smaller projects may be less attractive to some alternative providers, particularly to IDNOs, given the fixed costs involved. However, that does not imply that other alternative providers would not compete for smaller projects. We have seen evidence from neighbouring DNO areas (ENWL and Scottish Power Distribution) that suggest that there can be effective competition for lower value projects in the Metered Demand LV RMS.

- 3.36 For the reasons set out above, we have decided not to accept any of the alternative market segments proposed by Northern Powergrid.

Competition Test

- 3.37 We have assessed whether the Competition Test is met after considering a number of factors, including -
- actual and potential levels of competition
 - procedures and processes in place to facilitate competition
 - barriers to competition
 - customer awareness of competition, and
 - Northern Powergrid’s efforts to open up non-contestable activities to competition.
- 3.38 Our assessment covers the following 5 RMSs -
- Metered Demand HV and EHV work
 - Metered Demand EHV and above work
 - Distributed Generation HV and EHV work
 - Unmetered Local Authority work
 - Unmetered PFI work
- 3.39 We have not included any of Northern Powergrid’s proposed alternative market segments in our assessment. In accordance with Northern Powergrid’s request, we have included the existing ‘Distributed Generation Connections: HV and EHV work’ RMS in our assessment.
- 3.40 In making our assessment we considered the nature of the market segment, the analysis provided by Northern Powergrid on the current level of competitive activity in each of its DSAs, as well as information about the processes it has in place to support competition. We also considered responses to our consultation, which provided us with further insight into the competitive environment in Northern Powergrid’s DSAs.¹⁰
- 3.41 Our assessment is based on all of the factors listed above. The actual level of competition in the market segment is discussed under the heading ‘existing competitive activity’. Customer awareness of competition is discussed under the heading ‘customer awareness of and ability to choose competitive alternatives’. Potential levels of competition, procedures and processes in place to facilitate competition, barriers to competition and efforts to open up non-contestable activities

¹⁰ A summary of consultation responses can be found in Appendix 1 and the responses are available on our website.

to competition are discussed under the heading 'the potential for further competition'.

Existing competitive activity

- 3.42 We provide below a summary of the information given by Northern Powergrid in its Competition Notices. The data presented in Northern Powergrid's Competition Notices relates to 2012-13 and to the first half of 2013-14 (denoted as H1 2013-14) which covers April to September 2013.
- 3.43 Northern Powergrid has presented the following information on competitive activity within each market segment, broken down by DSA and by time-period.
- Estimated value of contracted work relating to end connections on quotes accepted in the year.
 - Number of contracted end connections on accepted quotes, and share of these carried out by Northern Powergrid.
 - Number of parties — ICPs, IDNOs or other parties — requesting at least one Point of Connection (POC) quote in the year, and the number of different parties accepting POC quotes in the year when the quote was accepted.
- 3.44 Northern Powergrid's estimates of the value of contracted work in each segment are based on the average costs per connection on the work that it carried out. Northern Powergrid told us that the estimated values include charges for both contestable and non-contestable work.
- 3.45 In the 'Metered Demand HV and EHV work' RMS, Northern Powergrid states that there were no connections in either 2012-13 or H1 2013-14 in either DSA. After the submission of its Notices, Northern Powergrid told us that, nevertheless, some quotes had been issued. In the Northeast DSA, one quote was issued in 2012-13 and none in H1 2013-14. In the Yorkshire DSA, five were issued in 2012-13 and four in H1 2013-14.
- 3.46 In the 'Metered Demand EHV and above' RMS, Northern Powergrid reports that no end connections were completed in the Yorkshire DSA in either 2012-13 or H1 2013-14, nor were quotes requested by competitors. The table below provides data on activity in the Northeast DSA.

Table 4: Metered Demand EHV and above work: Northern Powergrid Northeast

Northern Powergrid - Northeast	2012-13	H1 2013-14
Size of market segment		
Total size by value of contracted work	£2.8m	0
Total size by number of end connections	1	0
Share by number of end connections		
Northern Powergrid share	100%	-

Activity by competitors		
Number of parties requesting POC quotes	0	-
Number of parties accepting POC quotes	0	-

3.47 In relation to the 'Distributed Generation HV and EHV' RMS, Northern Powergrid's Notices provide data separately for its proposed 'Distributed Generation HV' and 'Distributed Generation EHV' alternative segments. However, our assessment is at the level of the combined 'Distributed Generation HV and EHV' RMS. We have therefore aggregated the data provided by Northern Powergrid and present these in the tables below. We also present the original disaggregated data provided by Northern Powergrid for each sub-segment.

Table 5: Distributed Generation HV and EHV work*: Northern Powergrid Northeast

Northern Powergrid – Northeast	2012-13	H1 2013-14
Size of market segment		
Total size by value of contracted work	£32.7m	£38.3m
Total size by number of end connections	104	155
Share by number of end connections		
Northern Powergrid share	94%	47%
Activity by competitors		
Number of parties requesting POC quotes	22	21
Number of parties accepting POC quotes	5	3

* Ofgem calculations based on disaggregated data from the Northern Powergrid Notices

Table 6: Distributed Generation HV and EHV work*: Northern Powergrid Yorkshire

Northern Powergrid – Yorkshire	2012-13	H1 2013-14
Size of market segment		
Total size by value of contracted work	£40.9m	£3.7m
Total size by number of end connections	118	36
Share by number of end connections		
Northern Powergrid share	92%	91%
Activity by competitors		
Number of parties requesting POC quotes	37	36
Number of parties accepting POC quotes	7	2

* Ofgem calculations based on disaggregated data from the Northern Powergrid Notices

Table 7: Distributed Generation HV work: Northern Powergrid Northeast

Northern Powergrid - Northeast	2012-13	H1 2013-14
Size of market segment		
Total size by value of contracted work	£1.7m	£3.3m
Total size by number of end connections	101	153
Share by number of end connections		
Northern Powergrid share	94%	47%
Activity by competitors		
Number of parties requesting POC quotes	18	17
Number of parties accepting POC quotes	5	2

Table 8: Distributed Generation HV work: Northern Powergrid Yorkshire

Northern Powergrid - Yorkshire	2012-13	H1 2013-14
Size of market segment		
Total size by value of contracted work	£4.3m	£1.4m
Total size by number of end connections	110	35
Share by number of end connections		
Northern Powergrid share	95%	91%
Activity by competitors		
Number of parties requesting POC quotes	24	24
Number of parties accepting POC quotes	3	2

Table 9: Distributed Generation EHV work: Northern Powergrid Northeast

Northern Powergrid - Northeast	2012-13	H1 2013-14
Size of market segment		
Total size by value of contracted work	£31.0m	£35.0m
Total size by number of end connections	3	2
Share by number of end connections		
Northern Powergrid share	100%	50%
Activity by competitors		
Number of parties requesting POC quotes	4	4
Number of parties accepting POC quotes	0	1

Table 10: Distributed Generation EHV work: Northern Powergrid Yorkshire

Northern Powergrid - Yorkshire	2012-13	H1 2013-14
Size of market segment		
Total size by value of contracted work	£36.6m	£2.3m
Total size by number of end connections	8	1
Share by number of end connections		
Northern Powergrid share	50%	100%
Activity by competitors		
Number of parties requesting POC quotes	13	12
Number of parties accepting POC quotes	4	0

- 3.48 In presenting its evidence on the level of competitive activity in each of the market segments related to unmetered connections, Northern Powergrid states that it faces competition in these unmetered segments from (a) independent connectors and from (b) companies providing connections to alternative power sources.
- 3.49 Northern Powergrid says that the second of these sources of competition has become more significant as the cost and effectiveness of small-scale generation and long-term batteries have improved. It lists a number of companies who provide products that meet the requirements of customers without the need of an unmetered connection eg street lighting units, bus-shelter lights and bollard lights that are solar powered and/or battery powered.
- 3.50 Northern Powergrid submits that the availability of such solutions is relevant to any assessment of competition in each of the unmetered segments.

3.51 In relation to the 'Unmetered Local Authority' RMS, the tables below present a summary of the data provided by Northern Powergrid.

Table 11: Existing competitive activity – Unmetered connections Local Authority work: Northern Powergrid Northeast

Northern Powergrid - Northeast	2012-13	H1 2013-14
Size of market segment		
Total size by value of contracted work	£1.6m	£0.7m
Total size by number of end connections	5,104	1,687
Shares by number of end connections		
Northern Powergrid share	69%	98%
Activity by competitors		
Number of parties requesting POC quotes	2	1
Number of parties accepting POC quotes	2	1

Table 12: Existing competitive activity - Unmetered connections Local Authority work: Northern Powergrid Yorkshire

Northern Powergrid - Yorkshire	2012-13	H1 2013-14
Size of market segment		
Total size by value of contracted work	£3.1m	£2.2m
Total size by number of end connections	7,949	4,367
Shares by number of end connections		
Northern Powergrid share	92%	85%
Activity by competitors		
Number of parties requesting POC quotes	2	2
Number of parties accepting POC quotes	2	2

3.52 In the 'Unmetered connections PFI work' RMS, Northern Powergrid reports no connections or requests for quotes in either 2012-13 or H1 2013-14 in the Northeast DSA. The table below presents the data on the Yorkshire DSA.

Table 13: Existing competitive activity – Unmetered connections PFI work: Northern Powergrid Yorkshire

Northern Powergrid - Yorkshire	2012-13	H1 2013-14
Size of market segment		
Total size by value of contracted work	£26m	£0m
Total size by number of end connections	65,000	0
Shares by number of end connections		
Northern Powergrid share	0%	N/A
Activity by competitors		
Number of parties requesting POC quotes	1	N/A
Number of parties accepting POC quotes	1	N/A

- 3.53 We make the following observations on the levels of competitive activity based on the data in the tables above.
- 3.54 In the 'Metered Demand HV and EHV' RMS, there was no reported activity in either DSA in the relevant period, although a small number of POC quotes were issued.
- 3.55 In the Metered Demand EHV and above RMS, there was no reported activity in the Yorkshire DSA in the relevant period. In the Northeast DSA, only one project was contracted in 2012-13, which was completed by Northern Powergrid. No parties requested a POC quote in either DSA.
- 3.56 In the 'Distributed Generation HV and EHV RMS', the data show that in both DSAs, Northern Powergrid enjoys a high share of the work although alternative parties have tried to enter the market by requesting POC quotes -
- In the Northeast DSA, Northern Powergrid completed 94 per cent of the 104 end connections contracted in 2012-13. In the first half of 2013-14, Northern Powergrid's share had dropped to 47 per cent (of 155 end connections). In 2012-13, 22 parties requested POC quotes and 5 parties accepted POC quotes. In H1 2013-14, 21 parties requested POC quotes and 3 parties accepted POC quotes.
 - In the Yorkshire DSA, Northern Powergrid completed 92 per cent of the 118 end connections contracted in 2012-13. In the first half of 2013-14, Northern Powergrid's share remained high at 91 per cent (of 36 end connections). In 2012-13, 37 parties requested POC quotes and 7 parties accepted POC quotes. In H1 2013-14, 36 parties requested POC quotes and 2 parties accepted POC quotes.
- 3.57 When considering the disaggregated data provided by Northern Powergrid, we find Northern Powergrid enjoys a high share of the market in the HV end of the RMS -
- In the Northeast DSA, Northern Powergrid completed 94 per cent of the 101 end connections in 2012-13, and 47 per cent of 153 end connections in the first half of 2013-14. In 2012-13, 18 parties requested POC quotes and 5 parties accepted

POC quotes. In H1 2013-14, 17 parties requested POC quotes and 2 parties accepted POC quotes.

- In the Yorkshire DSA, Northern Powergrid completed 95 per cent of the 110 end connections contracted in 2012-13, and 91 per cent of 35 end connections in the first half of 2013-14. In 2012-13, 24 parties requested POC quotes and 3 parties accepted POC quotes. In H1 2013-14, 24 parties requested POC quotes and 2 parties accepted POC quotes.
- 3.58 At the EHV end of the 'Distributed Generation HV and EHV' RMS, the data show a mixed picture in both DSAs.
- In the Northeast DSA, Northern Powergrid completed all three end connections contracted in 2012-13. In H1 2013-14 two end connections were completed, of which Northern Powergrid completed one and an alternative provider the other. Four parties requested POC quotes in each of the two periods, and one party accepted a POC quote in H1 2013-14.
 - In the Yorkshire DSA, Northern Powergrid completed 4 out of the 8 end connections contracted in 2012-13 (50 per cent), and the only end connection contracted in H1 2013-14 (100 per cent). In 2012-13, 13 parties requested POC quotes, and 12 in H1 2013-14. Four parties accepted POC quotes in 2012-13, and none in H1 2013-14.
- 3.59 In the 'Unmetered Local Authority' RMS, Northern Powergrid enjoys a relatively high share of the market.
- In the Northeast DSA, Northern Powergrid completed 69 per cent of 5,104 end connections in 2012-13 and 98 per cent of 1,687 end connections in 2013-14. In 2012-13, two parties requested POC quotes and two parties accepted POC quotes. In H1 2013-14, one party requested a POC quote and one party accepted a POC quote.
 - In the Yorkshire DSA, Northern Powergrid completed 92 per cent of 7,949 end connections in 2012-13 and 85 per cent of 4,367 end connections in 2013-14. In each of 2012-13 and H1 2013-14, two parties requested POC quotes and two parties accepted POC quotes.
- 3.60 In the 'Unmetered PFI' RMS, the data shows no activity in the Northeast DSA. In the Yorkshire area, one alternative party contracted for 65,000 end connections under a PFI arrangement in 2012-13. Northern Powergrid subsequently told us that, although the connections were contracted in 2012-13, the PFI contractor in question completed some of those connections in 2013-14.

Customer awareness of, and ability to choose, competitive alternatives

- 3.61 We consider that customers being aware of their choice between competing providers and being able to make informed decisions on which provider to use are important factors for effective competition.

Promoting awareness of competitive alternatives

- 3.62 In its Competition Notices, Northern Powergrid 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 –
- The section of its website relating to connections, includes an area dedicated to providing information on competition in connections, including an explanation of contestable and non-contestable work. The link to that area is available from the

main Northern Powergrid webpage on connections; the link is provided under the title "Did you know you have a choice about who installs your connection?"¹¹ The website provides information on those elements of work that are contestable and those that are not.

- Northern Powergrid provides information on its website which distinguishes between applications for POC quotes and for all works quotes, and provides information and guidance on each.
- Northern Powergrid's connection offers make it clear that customers can use a competitive route for their connection and include information about which elements of work are contestable.
- Since September 2010, Northern Powergrid has organised seminars every six months with its regular customers and independent connectors to discuss issues and to track actions and progress.
- Since May 2011, it has run monthly surgeries for regular customers and for independent connectors to visit its offices to discuss options for designing new or potential projects, to provide updates on progress and resolve any issues with existing projects, to enable independent connectors to have supervised access to its systems (eg mains records, graphical systems and loading systems), and to discuss options and innovations in relation to the extension of contestability.
- Northern Powergrid takes part in nationally promoted Distributed Generation customer awareness events, with the invitation extended to independent connectors and electricity suppliers' forums.

3.63 Respondents to our consultation provided a mixed view on this point.

- A respondent said in relation to the metered demand market segments that "most developers and the 'majority of large customers' in NPG's DSAs are aware of the 'competitive market'".
- A respondent said in relation to the unmetered market segments that customers "do not appear to be aware of competitive alternatives to NPG and effective competition does not exist in either of the DSAs".
- A third respondent (an ICP) said that it had received a "mixed response from those end user customers [in the Metered Demand LV works RMS] we have engaged with in NPG". In relation to customers in the unmetered RMSs, "We believe most regular NPG customers in [unmetered RMSs] are aware but some are still reluctant to explore the ICP alternative, but we are experiencing increased interest and work orders".

Transparency of pricing and giving customers the ability to choose

3.64 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.

3.65 Northern Powergrid states that its quotes "are structured to help the customer to choose alternative providers". It states that connection quotes in the Metered Demand HV RMS (which is not included in Northern Powergrid's application) allow customers to choose whether Northern Powergrid will complete all of the work or just the non-contestable elements. Northern Powergrid states that in a majority of its quotes in other segments it already gives customers an indication of non-

¹¹ See <http://www.northernpowergrid.com/page/getconnected.cfm>, accessed 10 January 2014.

contestable costs but these cannot, at the moment, be formally accepted as in the Demand HV RMS.

- 3.66 Northern Powergrid reports on its plans to extend the use of such “convertible quotes” to other market segments in the first quarter of 2014. That extension includes all segments covered in Northern Powergrid’s application, except for the ‘Unmetered PFI work’ segment.
- 3.67 Northern Powergrid says that “customers [in the unmetered segments] are already aware of competitive alternatives and are exercising choices where they see fit so there is no additional benefit of introducing convertible quotes”.
- 3.68 Northern Powergrid quotes are valid for a period of 90 days. Northern Powergrid states that it is prepared to extend this when requested and that it is currently investigating extending the validity period to 180 days in 2014 across all market segments. The validity period of an outstanding quotation may be shorter if a new quote subsequently issued by Northern Powergrid interacts with the outstanding quotation.
- 3.69 Northern Powergrid allows for a POC quote to be accepted by parties other than the original applicant, provided there is a letter of introduction from the original applicant. It states that this has provided a significant benefit to consultants and other connectors (that are not ICPs) that “are looking to provide ‘optioneering’ services for developers looking to test the competitive market, especially as this approach does not involve reapplication and the associated time delay that can occur”.
- 3.70 Northern Powergrid’s Competition Notices give examples of practices and processes that provide flexibility to customers applying for non-contestable services -
- Northern Powergrid does not necessarily request that an applicant for a quote for non-contestable work have a letter from authority from the end-customer for the applicant to act on their behalf in applying for the relevant non-contestable costs.
 - It is happy to receive requests for POC quotes from any party (whether it is a developer, consultant or connections provider), and to receive applications from different parties who are competing for the same work. Northern Powergrid states that it does not insist on a single developer, or its independent connector authorised agent, making the application.
- 3.71 Respondents to our consultation made the following points.
- One respondent said that the quotations they have received “provides sufficient information for us to understand what the costs are and what work is required to connect our IDNO network”. This statement was made in relation to the metered demand market segments.
 - A respondent operating in both metered and unmetered segments highlighted the lack of “convertible quotes” in the market segments covered by Northern Powergrid’s application, saying that “it would help if NPG allowed customers to accept the non-contestable portion of a Section 16 quotation [...] so that an ICP can be engaged easily for the contestable works”.

The potential for further competition

- 3.72 In this section we consider the potential for further competition to develop, the procedures and processes in place to facilitate competition, whether there are barriers to competition and Northern Powergrid’s efforts to open up non-contestable activities to competition.

- 3.73 In the discussion below we refer at times to potential barriers to competition — generic to GB electricity distribution networks and not specific to Northern Powergrid — that have previously been identified by the Electricity Connections Steering Group (ECSG) and by the Competitive Networks Association (CNA).

Availability of guidance and information for ICPs/IDNOs

- 3.74 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.
- 3.75 Northern Powergrid describes in its Competition Notices the guidance and information it makes available to ICPs and IDNOs, mainly through its website. This includes information on the guaranteed standards of service, codes of practices, technical standards, relevant company policies and Northern Powergrid's G81 appendices. Northern Powergrid also provides application forms online and guidance on how to complete these. Northern Powergrid's website also includes its long-term development statements, which contain current network load information and feeder load analysis. Northern Powergrid states that more detailed information and data on the 11kV and LV systems are available on request.
- 3.76 Northern Powergrid states that it provides direct secure access to its mains records for applications from local authorities, utilities, independent connectors and other organisations.
- 3.77 In its Competition Notices, Northern Powergrid also notes that it has a specialist team dedicated to meeting the requirements of independent providers, and that it holds six-monthly seminars and monthly surgeries with customers and stakeholders to provide advice, guidance and information on relevant developments. Northern Powergrid provides an "ask the expert" facility through its website and a dedicated telephone number to handle queries on connections.
- 3.78 One respondent to our consultation said that Northern Powergrid could improve "access to their YEDL GIS system allowing views to be printed locally on white map backgrounds and with paper larger than A4". In response, Northern Powergrid said that it is in the process of upgrading its GIS systems "during 2014".

Service and response times

- 3.79 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.
- 3.80 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.
- 3.81 In its Competition Notices, Northern Powergrid reports on how it has met those standards specified in the Standard Licence Conditions 15 (SLC15) and in Guaranteed Standards of Performance (GSOP) relating to the timing within which quotes are provided. The information submitted points to Northern Powergrid providing quotes within the time period envisaged by the standards in almost all cases.

- 3.82 Respondents to our consultation were critical of Northern Powergrid's service and response time and made the following points.
- One respondent said that Northern Powergrid must "improve response times to POC and Design Approval requests (often last day of GSOP, these standards are supposed to be the back stop for the level of service that customers can expect)". This statement was made in relation to all metered market segments.
 - Another respondent said that "ICPs appear to be encountering delays, additional costs or lack of communication when attempting to deliver competition". This statement was made in relation to the unmetered market segments.
 - A respondent expressed concern at the "ability of NPG to alter our connection dates through their activity", and that delays attributable to Northern Powergrid has led to "loss of opportunities" to compete with Northern Powergrid. This statement was made in relation to the metered demand market segments.
 - A respondent said that "there is room for improvement with NPG's processes and ICP interface compared with other DNOs." The response refers to delays in the "multiple advance payment stages" and in "timescales for an ICP PoC enquiry through to Design Approval and scheme release". This statement was made in relation to the metered demand LV works and unmetered market segments.
- 3.83 In response, Northern Powergrid told us that the average time it takes to respond to design submissions is 7 working days, and acknowledges that in some cases, this could take 10 days (which is the limit allowed under the standards), and fewer than 7 days in others.

Contractual arrangements for the adoption of assets built by ICPs

- 3.84 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 Northern Powergrid.
- 3.85 Northern Powergrid states that it has removed all charges from its framework adoption and connection agreements; those charges were to cover the administrative costs of issuing and completing the adoption agreement required on each scheme.
- 3.86 Respondents to our consultation did not express a view on this issue.

Inspection and monitoring of assets built by ICPs

- 3.87 The ECSG has raised the issue of inspection 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. This is not specific to Northern Powergrid.
- 3.88 Northern Powergrid reports that it has simplified the on-site quality inspection regime, and that it applies audit charges equally to SLC15 and to Section 16 quotes for inspection and monitoring. Northern Powergrid uses the same audit team and audit regime on its own staff, on contractors and on third parties. Northern Powergrid suggests this ensures a fair, standardised approach and consistency of audits.
- 3.89 Respondents were critical of Northern Powergrid's performance on this issue.

- One respondent said that some Northern Powergrid auditors apply discriminatory and more onerous inspection standards to assets that are built by ICPs than they do to themselves, causing cancellations and delays in energisation. The response provides an example of such behaviour, and points out that following this, the customer in question “confirmed that he will have no option but to offer all his future works in the region directly to NPG for construction”. The response points out that this behaviour is limited to certain individuals, and does not occur throughout Northern Powergrid’s areas. The response adds that Northern Powergrid has failed to take action despite numerous complaints having been made about this. This statement was made in relation to all metered market segments.
- Another respondent said that some Northern Powergrid staff “apply significantly higher hurdles” to work carried out by ICPs “compared to the standards they apply to their own direct labour or subcontractors undertaking similar work”. The response goes on to add that “the intent of some individuals is to prevent competition taking hold in their DSAs”. This statement was made in relation to all metered demand market segments.
- A respondent said that although “there are large areas within NPG distribution services area where competitors are given a fair chance to compete with NPG”, “the approach taken by some NPG auditors towards our works in comparison to the section 16 works” amounts to “unfair practice”. This statement was made in relation to all metered market segments.

3.90 Northern Powergrid submitted a detailed response to the claims made by respondents on this issue. In summary, the response made the following points.

- Northern Powergrid’s auditors “are trained and required to apply the same level of standard regardless of who is undertaking the work. The audit team is organisationally separate from our connections delivery team and is in no way incentivised to find issues on audits of independent connectors”.
- Northern Powergrid seeks to apply the same technical standards to work undertaken by itself or its contractors, and alternative providers.
- Northern Powergrid acknowledges that its own staff, including auditors, may make mistakes. However, it asserts that these are isolated incidents and do not represent a systematic effort on Northern Powergrid’s part to target competitors.
- Northern Powergrid takes “any complaint seriously, and [Northern Powergrid is] continuing to work at a senior level with [two respondents] in relation to the delivery of their project”. It also notes that it is “running surgeries that many independent connectors and independent distribution network operators find useful to sort out any concerns that they may have”.
- Northern Powergrid provides one example of how it dealt with a competitor’s concerns about Northern Powergrid’s “over-zealous” approach to audits. It said that “a face to face meeting was held with [the competitor]. Several matters were discussed in a constructive manner and the way forward agreed. We have recently offered to audit [the connections provider] in a joint audit that would be undertaken by both Northern Powergrid and [the competitor]”.

Arrangements for obtaining land rights

3.91 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 and easements etc, slow in progressing them once begun and the DNOs require all the legal agreements to be in place before they will energise the new connection.

- 3.92 Northern Powergrid states that all scheme files that require wayleaves are passed to its wayleaves team within two days of the quote being accepted, and a letter is subsequently sent to the customer advising that wayleaves are required and providing the contact details of the relevant officer. Northern Powergrid has implemented electronic case management with both of its external providers of legal services; this includes electronic legal instructions and an electronic sealing process.
- 3.93 Northern Powergrid report that it has introduced, on a trial basis, a more streamlined legal process to deal with land rights which was proposed by one IDNO (GTC). This uses more standard documentation and was introduced to reduce the time taken by the process.
- 3.94 One respondent to our consultation said that "ICPs with small LV schemes would also benefit from DNOs' finding a way to extend their statutory powers to operate in the highway to cover the ICP's adoptable works, relieving them of additional delay and cost of applying for project specific Section 50 Licence." This statement was made in relation to all metered market segments.
- 3.95 In response, Northern Powergrid said that this is a statutory matter, and it would not be reasonable to expect the DNO to bear the costs to the independent provider of obtaining a Section 50 licence.

Consistency of charges

- 3.96 A potential barrier to competition will arise if there are differences between POC 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.
- 3.97 Northern Powergrid states that it treats applications consistently whether these are quotes for POC or for all works.
- 3.98 Respondents to our consultation did not express a view on this issue.

Scope of contestable work

- 3.99 Connections works are split between works that are contestable (competitive) and those that are non-contestable (can only be completed by the DNO).
- 3.100 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.
- 3.101 We consider that DNOs should engage with the industry to consider where it is possible to further extend contestability.
- 3.102 Northern Powergrid reports on its efforts to expand the scope of contestable work:
- Reinforcement and diversionary works. Northern Powergrid allow competitors to carry out qualifying reinforcement and diversions work associated with new connections up to 66kV, where the work is fully funded by the third-party seeking a connection. Northern Powergrid notes that other DNOs may restrict this to 33 kV.

- Self-connection (live jointing) to existing LV mains and services. The Northern Powergrid Notices state that “four independent connectors continue to work with us to develop [...] and complete connections within this framework.”
- Self-service connection to existing HV mains. Northern Powergrid reports that it has advised Ofgem and independent connectors that it has extended contestability to HV mains jointing. It states that it is “keen to implement this framework with any accredited independent connector who registers interest” with it, and that to date no independent connector has approached it to pilot HV jointing to existing mains.
- POC self-assessment. Northern Powergrid has in place a “framework that allows a suitably accredited independent connector to establish both the point of connection and associated non-contestable costs on low voltage schemes up to 30 connections or 60 kVA.” Northern Powergrid submits that this possibility means that Northern Powergrid is not on the independent connector’s critical path at all until the design approval stage in the process.
- Unmetered service transfers and disconnections. Northern Powergrid waived the “one metre rule”, which considered work on services within one metre of mains to be non-contestable, ahead of the rest of the industry.

3.103 One respondent to our consultation said that Northern Powergrid should “extend the scope of their PoC self-determination trial to LV and HV POCs greater than 60kVA and 30 plots. Also, we don’t support the idea of these initiatives being considered as trials, they should be incorporated into business as usual as soon as possible.” This statement was made in relation to all metered market segments.

Our conclusions

3.104 In making our determinations we have taken account of the evidence provided by Northern Powergrid and of the views expressed in responses to our consultation.

3.105 We note the steps that Northern Powergrid has taken to promote awareness of competition amongst prospective customers, including the series of regular seminars and surgeries it holds with customers and independent connectors. Respondents to our consultation provided mixed views on the extent to which customers are aware of competitive alternatives. One respondent said that larger customers in the metered segments are aware of competition. In relation to the unmetered segments, one respondent said that customers are generally not aware, and another respondent said that customers are reluctant to explore independent options.

3.106 Regarding the transparency of pricing and giving customers the ability to choose, one respondent to our consultation said that the quotations they have received “provides sufficient information for us to understand what the costs are and what work is required to connect our IDNO network”.

3.107 We note that Northern Powergrid has not yet introduced convertible quotes segments other than Metered Demand HV. Although Northern Powergrid stated in its notice that it plans to introduce such quotes to the other segments in “Q1 2014”. Northern Powergrid also suggests that convertible quotes do not bring “additional benefits” to customers in the unmetered segments because they are “already aware” of competition. We do not agree with making the roll-out of these arrangements conditional upon a DNO’s assessment of the benefits it might bring to competition. Convertible quotes are an important tool in helping customers choose their connections provider, and the lack of such quotes have been highlighted to us by a number of parties as a barrier to competition. One respondent to our consultation, active in both metered and unmetered segments, said that “it would help if NPG

allowed customers to accept the non-contestable portion of a Section 16 quotation [...] so that an ICP can be engaged easily for the contestable works”.

- 3.108 We note the steps taken by Northern Powergrid to provide information and guidance to alternative providers. This includes providing direct secure access to its mains records applications to local authorities, utilities, independent connectors and other organisations. Respondents to our consultation raised concerns about Northern Powergrid’s GIS systems and interfaces. We note that Northern Powergrid has stated its plans to upgrade these in 2014.
- 3.109 We note the steps taken by Northern Powergrid to expand the scope of contestable works, including the ability for ICPs and IDNOs to establish both the point of connection and associated non-contestable costs on low voltage schemes up to 30 connections or 60 kVA. One respondent said that Northern Powergrid should consider extending this facility to larger projects and those involving HV work.
- 3.110 Respondents to our consultation raised concerns in relation to Northern Powergrid’s service and response times. In particular, several respondents pointed to delays attributable to Northern Powergrid at different stages of the connection process. One pointed to the ability of Northern Powergrid to alter their connection date through their activity and told us that Northern Powergrid’s delays had led to a loss of opportunities to compete with Northern Powergrid. In response, Northern Powergrid pointed out that it meets the required standards in terms of the time taken to respond to design submissions.
- 3.111 Respondents to our consultation were critical of Northern Powergrid’s performance in relation to the inspection and auditing of assets built by ICPs. Three respondents told us that the Northern Powergrid auditors have applied unreasonably onerous and discriminatory standards to the work carried out by ICPs, leading to delays and added costs in completing those connections. Northern Powergrid refuted this claim and said that it does not apply different or more onerous standards to work carried out by alternative providers. However, it has offered to engage with the providers with a view to addressing their concerns.
- 3.112 We have taken account of the evidence provided by Northern Powergrid on competitive activity in its areas.
- In the ‘Metered Demand HV and EHV’ RMS, no project was contracted in either DSA in the relevant period and a small number of quotes were requested.
 - In the Metered Demand EHV and above RMS, there was no reported activity in the Yorkshire DSA in the relevant period. In the Northeast DSA, only one project was contracted in 2012-13, which was completed by Northern Powergrid.
 - In the Distributed Generation HV and EHV RMS, Northern Powergrid had a high share of work (over 92 per cent) in the segment in both DSAs in 2012-13. Northern Powergrid’s share in the Yorkshire area in the first half of 2013-14 is also high (91 per cent). We note that Northern Powergrid’s share in the Northeast DSA was lower (47 per cent) in the first half of 2013-14, but we consider this is too short a period of time to conclude that effective competition has developed in this DSA. We also note the similarly high shares that Northern Powergrid enjoys in carrying out HV-only work within this RMS.
 - In ‘Unmetered Local Authority’ RMS, Northern Powergrid enjoys a high share of the work – 69 per cent in 2012-13 and 98 per cent of the end connections in H1 2013-14 in the Northeast DSA, and 92 per cent in 2012-13 and 85 per cent in H1 2013-14 in the Yorkshire DSA.

- In the 'Unmetered PFI' RMS, the data shows no activity in the Northeast DSA. In the Yorkshire area, one party contracted for 65,000 end connections under a PFI arrangement in 2012-13.

3.113 We do not consider that the evidence provided by Northern Powergrid indicates the presence of effective competition in any of the four RMSs covered by this assessment in either DSA.

3.114 Moreover, we are concerned that the steps taken by Northern Powergrid to remove barriers to competition have not been consistently successful. In particular, we are concerned that:

- Some customers, particularly smaller ones, are not aware of competition and their ability to choose an alternative connections provider.
- The lack of convertible quotes constrains the ability of customers to choose alternative providers. We are particularly concerned at Northern Powergrid's view that convertible quotes do not benefit customers in unmetered segments because customers in these segments are already aware of their ability to choose.
- A number of respondents told us that delays caused by Northern Powergrid's systems and processes are hampering their ability to compete effectively.
- Northern Powergrid's processes for auditing work carried out by independent providers and authorising energisation of connections built by independent providers, have led to complaints from such providers about unfair and discriminatory treatment. The perception of differential treatment of independent providers, whether by the application of different standards or by an unreasonable application of standards, could have serious detrimental impacts on competition and the perception of the risk of choosing an independent provider from a customer's point of view. We note, however, Northern Powergrid's stated intention to engage constructively with those parties affected in order to resolve these concerns.

4 Next steps

4.1 We will continue to regulate the price Northern Powergrid charges in respect of all of the connections services it provides in the following RMSs in both Northeast and Yorkshire -

- Metered Demand HV and EHV work
- Metered Demand EHV and above work
- Distributed Generation HV and EHV work
- Unmetered Local Authority work
- Unmetered PFI work.

4.2 In respect of contestable connections services (fully funded by the customer), this means that Northern Powergrid may continue to charge the regulated margin (fixed at four per cent) allowed by Charge Restriction Condition (CRC) 12.

Appendix 1 – Responses to our consultation on Northern Powergrid’s 20 December 2013 Competition Notices

- 4.3 On 4 February 2014 we issued a consultation seeking views from interested parties on Northern Powergrid’s Competition Notices. We received 6 responses, including one confidential response. Our consultation and the non-confidential responses we received have been published on our website.
- 4.4 We received non-confidential responses from -
- Gas Transportation Company Limited (GTC)
 - Harlaxton Engineering Services Ltd
 - Linbrooke Services Ltd
 - Metered Connections Customer Group (MCCG)
 - Unmetered Connections Customer Group (UCCG)
- 4.5 In reaching our decision, we considered all of the stakeholder responses and we have set out our views in the main body of this document. This appendix is our summary of the main issues raised by stakeholders. We consider each stakeholder’s response in turn

Gas Transportation Company (GTC)

- 4.6 GTC operates the two licensed independent distribution networks of Electricity Network Company Limited (ENC) and the Independent Power Networks Limited (IPNL). GTC’s response relates to the metered demand RMSs in both DSAs.
- 4.7 In relation to the Metered Demand LV (20 connections and above) alternative market segment proposed by Northern Powergrid, GTC says that it understands the “reasons behind the split”, and that this is an “appropriate split of the market”. It adds that the “remaining LV RMS of up to 20 plots is less attractive [to GTC] due to the expense of the LV link box”.¹²
- 4.8 GTC’s response also makes the following points -
- GTC believes that most developers and the “majority of large customers” in NPG’s DSAs are aware of the “competitive market”. NPG has organised a number of customer seminars to make them aware of competition in connections.
 - GTC considers that the quotations they have received “provides sufficient information for us to understand what the costs are and what work is required to connect our IDNO network.”
 - GTC has concerns about NPG’s audit and inspection regime in specific regions rather than across both DSAs. According to the response some NPG staff “apply significantly higher hurdles” to work carried out by ICPs “compared to the standards they apply to their own direct labour or subcontractors undertaking similar work”. The response goes on to add that “the intent of some individuals is to prevent competition taking hold in their DSAs”.
 - The response expresses a concern at the “ability of NPG to alter our connection dates through their activity”. The response goes on to add that “whilst this occurs in a small part of their DSAs it can affect customers’ perception of competition”, and has led to “loss of opportunities” to compete with NPG.

¹² A “link box” encloses the newly created boundary between the IDNO’s network and the host DNO’s network.

- 4.9 Overall, GTC believes that “the vast majority of the NPG area is open for competition”, and that “so long as NPG can control some of their staff effectively then we have confidence in them acting appropriately” in the event that price regulation is lifted.

Metered Connections Customer Group (MCCG)

- 4.10 The response is submitted on behalf of the MCCG, which represents customers and ICPs, and presents a “collective view” of its members. The response relates to all metered market segments in both DSAs.
- 4.11 The MCCG is “unwilling to support the lifting of price regulation in any of the NPG distribution service areas for any of the metered market segments proposed in the consultation”. The response blames failures in “information technology systems and processes currently employed by NPG to support Competition in Connections”.
- 4.12 In relation to Northern Powergrid’s proposal to create the “LV work – 20 connections and above” alternative market segment, the respondent does not “agree that this additional segmentation is necessary”.
- 4.13 The respondent goes on to say that “rather than trying to split the market segment, we believe there are a number of potential barriers that could be removed to induce more competition”, in particular -
- “Remove the requirement for a DNO link box to be installed at the DNO/IDNO boundary for LV embedded networks”.
 - “Improve access to their YEDL GIS system allowing views to be printed locally on white map backgrounds and with paper larger than A4”.
 - “Improve response times to PoC and Design Approval requests (often last day of GSOP, these standards are supposed to be the back stop for the level of service that customers can expect)”.
 - “Extend the scope of their PoC self-determination trial to LV and HV POCs greater than 60kVA and 30 plots. Also, we don’t support the idea of these initiatives being considered as trials, they should be incorporated into business as usual as soon as possible”.
 - “ICPs with small LV schemes would also benefit from DNO’s finding a way to extend their statutory powers to operate in the highway to cover the ICP’s adoptable works, relieving them of additional delay and cost of applying for project specific Section 50 Licence”.
- 4.14 The response also made the following specific point about the regime for inspection and monitoring of assets built by ICPs. According to the response, some Northern Powergrid auditors apply discriminatory and more onerous inspection standards to assets that are built by ICPs, causing cancellations and delays in energisation for these connections. The response provides an example of such behaviour, and points out that following this, the customer in question “confirmed that he will have no option but to offer all his future works in the region directly to NPG for construction”. The response points out that this behaviour is limited to certain individuals, and does not occur throughout Northern Powergrid’s areas. The response adds that despite numerous complaints having been made about this to Northern Powergrid, they “have failed to take action”.

Unmetered Connections Customer Group (UCCG)

- 4.15 The response is submitted on behalf of the UCCG, which represents customers and ICPs operating in the unmetered market segments. The response relates to the Unmetered Local Authority and Unmetered Other RMSs.
- 4.16 On the issue of alternative market segments, the response says that "We do not agree with the proposed new market segments of unmetered other - 5 and above, nor of the LV metered - 20 and above."
- 4.17 On the issue of customer awareness, the response says that customers "do not appear to be aware of competitive alternatives to NPG and effective competition does not exist in either of the DSAs".
- 4.18 The response criticises NPG's processes, saying that "ICPs appear to be encountering delays, additional costs or lack of communication when attempting to deliver competition".
- 4.19 Overall, the UCCG is "unable to support NPG's application at this time".

Harlaxton Engineering Services

- 4.20 Harlaxton Engineering Services Limited (HES) is an ICP, and its response relates to the metered RMSs in both DSAs.
- 4.21 The response states that HES's "views have been represented by the formal MCCG response", but they have decided to send an individual response as well.
- 4.22 HES's response does not address the issue of Northern Powergrid's proposed alternative market segments.
- 4.23 The main point raised in HES's response relates to Northern Powergrid's audit and inspection regime. In particular, the response states that although "there are large areas within NPG distribution services area where competitors are given a fair chance to compete with NPG", "the approach taken by some NPG auditors towards our works in comparison to the section 16 works" amounts to "unfair practice".
- 4.24 The response adds that "NPG's senior management are well aware of whom the offenders are as numerous complaints have been made against these individuals, however NPG have failed to take action".
- 4.25 As a result, HES is "unwilling to support the lifting of price regulation in any of the NPG distribution service areas for the metered market segments proposed in the consultation".

Linbrooke Services Limited

- 4.26 Linbrooke Services Limited (Linbrooke) is an NERS registered ICP operating across the UK. The response from Linbrooke relates to the Metered Demand LV works (20 connections and above) and the unmetered RMSs in both DSAs.
- 4.27 On the issue of the alternative market segments proposed by Northern Powergrid, the respondent does not believe that this new segmentation "adds value or brings benefit to customers or ICPs". The response adds that the proposed alternative demand market segments "may create unnecessary complications for customers and NPG when seeking to apply margin with transparency and consistency and also when it comes to reporting and comparing market activity and trends."

- 4.28 On the issue of customer awareness of competitive alternatives, the respondent has received a "mixed response from those end user customers [in the Metered Demand LV works RMS] we have engaged with in NPG". In relation to customers in the unmetered RMSs, "We believe most regular NPG customers in [unmetered RMSs] are aware but some are still reluctant to explore the ICP alternative, but we are experiencing increased interest and work orders".
- 4.29 The respondent adds that "it would help if NPG allowed customers to accept the non-contestable portion of a Section 16 quotation [...] so that an ICP can be engaged easily for the contestable works."
- 4.30 On the issue of NPG's processes, the response states that "there is room for improvement with NPG's processes and ICP interface compared with other DNOs". The response refers to delays in the "multiple advance payment stages" and in "timescales for an ICP PoC enquiry through to Design Approval and scheme release". However, the respondent notes that NPG has made some improvements in this area.
- 4.31 In relation to the unmetered market segments, the respondent states that "We believe NPG need to make changes to their unmetered ICP process to improve efficiency and reduce costs if greater ICP market penetration is to be allowed. Their Non Contestable charges for unmetered are exceptionally high compared with all other DNOs. This contrasts with their Section 16 charges which are among the lowest. This imbalance will continue to deter some ICPs and customers".
- 4.32 In relation to the information provided to ICPs, the response says that "NPG's YEDL GIS systems" and the quality of "NEDL's records when printed" can be improved.

Confidential response

- 4.33 We received one confidential response to our consultation. The response relates to all metered RMSs in both DSAs.
- 4.34 The response focuses on the issue of the alleged discriminatory treatment by some NPG auditors that has been raised by the MCCG in their response to our consultation. The respondent states that they "accept that we need to construct a quality asset, and like everyone else we are not immune to errors. However the level of inspection that we encounter in NPG is far in excess of what we get elsewhere."
- 4.35 The response goes on to provide specific information in support of their claim that NPG auditors have acted unreasonably and in a discriminatory manner. The respondent has asked that these details be kept confidential.