

Competition Notice	<b>UK Power Networks – 23 December 2013</b>
Date of determinations	<b>23 April 2014</b>

## 1 Background

- 1.1 This document sets out the Authority’s decision on UK Power Network’s (UKPN’s) 23 December 2013 application to charge an unregulated margin on certain contestable connections services in two Relevant Market Segments (RMSs) and one alternative market segment. It is accompanied by a separate document which can be found on our website<sup>1</sup> setting out the reasons for the determination, entitled ‘The reasons for our decision on UK Power Networks’ 23 December 2013 application to charge an unregulated margin on certain contestable connections services’ (reasons document).
- 1.2 Under the terms of its Electricity Distribution Licence (Licence) Standard Licence Condition 14.16 (SLC 14.16) UKPN must set its Connection Charges at a level that will enable it to recover –
- the appropriate proportion of the costs directly or indirectly incurred in carrying out any works for the extension or reinforcement of its Distribution System, or for the provision and installation, maintenance, repair and replacement, or (as the case may be) removal following disconnection, of any electric lines or electrical plant; and
  - such a margin as it is allowed to charge under Charge Restriction Condition 12 (CRC 12).
- 1.3 In accordance with the requirements of CRC 12 UKPN gave us a Regulated Margin Notice on 28 July 2010. We accepted these Notices which entitled UKPN to charge a Regulated Margin at four per cent in relation to all of their Connection Activities in the Local Connections Market<sup>2</sup> when it makes an offer of connection terms within each of the Relevant Market Segments (RMSs).<sup>3</sup>
- 1.4 On 23 December 2013, in accordance with the requirements of CRC 12, UKPN gave us Competition Notices on behalf of its three licensees: Eastern Power Networks plc (EPN), London Power Networks plc (LPN) and South Eastern Power Networks plc (SPN) (herein referred to as UKPN’s three Distribution Service Areas (DSAs)).
- 1.5 The Competition Notices submitted by UKPN relate to two RMSs set out in CRC 12 of its Electricity Distribution Licence -

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

<sup>2</sup> 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.

<sup>3</sup> 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.

- Unmetered Local Authority work in the LPN DSA, and
  - Unmetered Other work in all three DSAs.
- 1.6 CRC 12 allows DNOs to propose alternative market segments to those defined in the licence at CRC12 A1.2 to A1.4. UKPN has proposed two alternative market segments. Its Competition Notices are for price regulation to be lifted in one of these alternative segments -
- Metered Demand HVHV work
- 1.7 The Competition Notice stated that UKPN considered both the Legal Requirements Test and the Competition Test (the Tests) to be satisfied in respect of these market segments. It sought a determination from us that UKPN be entitled to charge an Unregulated Margin in relation to these segments.
- 1.8 Upon receipt of the Competition Notice and before making these determinations, we undertook a consultation exercise with UKPN and other persons and we have considered the responses received.
- 1.9 We are required to decide whether to accept or reject the alternative market segment proposed, before considering UKPN's application to have price regulation lifted in that segment.
- 1.10 For each RMS, and alternative market segment that we have accepted, we are required to determine whether an Unregulated Margin should be allowed in each DSA by way of separate determinations. We are required, in each Determination, to state whether the Legal Requirements Test and the Competition Test have been satisfied.<sup>4</sup> We are also required, if we find that one or both of the Tests have not been satisfied, to include reasons for our conclusions in our determination.
- 1.11 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**

### Alternative market segments

- 2.1 We have not accepted the alternative market segment proposed by UKPN. In respect of this alternative market segment, we have not made a determination on whether an Unregulated Margin should be allowed. Our reasons for making this decision are also available in our reasons document which explains our determination which can be found on our website.<sup>5</sup>

### The Competition Test and the Legal Requirements Test

- 2.1 In respect of the RMSs listed below, in accordance with the provisions of CRC 12, we hereby determine that whilst the requirements of the Legal Requirements Test have been satisfied, those of the Competition Test have not:
- (i) Unmetered connections – LA work in the LPN DSA,

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<sup>4</sup> As set out in CRC 12.

<sup>5</sup> See link above at footnote 1.

(ii) Unmetered connections – Other work in all three DSAs.

- 2.2 We have explained this decision in our reasons document, which, as noted above, can be found on our website.
- 2.3 In respect of the RMSs and DSAs referred to in paragraph 2.1, accordingly and as provided for by CRC 12, UKPN must continue to charge the Regulated margin of four per cent in its Connection Charges in relation to its Connection Activities.
- 2.4 This determination and our decision document constitute publication of the Notices required of us by section 49A of the Electricity Act 1989.