

DETERMINATION BY THE GAS AND ELECTRICITY MARKETS AUTHORITY OF A DISPUTE REFERRED TO IT UNDER SECTION 23 OF THE ELECTRICITY ACT 1989 CONCERNING THE CHARGES FOR ELECTRICITY CONNECTIONS TO THE PREMISES

1. INTRODUCTION

- 1.1 The Gas and Electricity Markets Authority ('the Authority') has been asked by [REDACTED] ('the Customer') to determine a dispute between the Customer and [REDACTED] ('the Company'). The dispute relates to the undergrounding of overhead lines and a connection to a housing development at [REDACTED] ('the Premises').
- 1.2 The dispute has been referred to the Authority for determination under section 23 of the Electricity Act 1989 ('the Act'). The Authority is required to determine such disputes once a customer has requested that it do so.

2. BACKGROUND

- 2.1 The Customer requested the connection of the Premises to the Company's distribution network in November 2006. For the purposes of this dispute, the Premises consists of buildings being converted into three houses to which there was one existing service ('house two'). Following subsequent receipt of additional information requested by the Company, the Company provided a quotation for the work scheme in March 2007 which the Customer accepted. On 4 May 2007 the Company presented a new work scheme, the reason for which is disputed, at an onsite meeting between the Customer, the Customer's neighbour and the Company. The Customer accepted the revised work scheme. The Company then proceeded with completing the works without providing the Customer with a revised quotation. The date by which the works were completed is in dispute.
- 2.2 The Customer disputed the charges levied for the work undertaken by the Company and took his complaint to energywatch in January 2008. Having

investigated the complaint against the Company energywatch concluded that the charges levied by the Company for the work (£8,642 plus VAT) were reasonable. The Customer requested that Ofgem determine the dispute on 9 October 2008.

- 2.3 The time taken in reaching a decision on the dispute is as a result of the requirement on us to fully explore the potential avenues in the Act and in the Company's electricity distribution licence for determining the issues in the dispute and time spent by the parties agreeing the facts of the case.

3. STATUTORY OBLIGATIONS

- 3.1 Under section 19(1) of the Act, an electricity distributor may require any expenses reasonably incurred in providing any electric line or electric plant to be defrayed by the person requiring the connection to such an extent as is reasonable in all the circumstances. Under section 19(4) of the Act, such expenses include the recovery of the capitalised value of any expenses likely to be incurred in continuing to provide the electric line or electric plant.
- 3.2 Any dispute arising under sections 16 to 21 of the Act, between an electricity distributor and a person requiring a supply of electricity may be referred to the Authority under section 23 of the Act for determination.
- 3.3 The works undertaken constitute a connection that falls within the statutory obligations set out above.

4. DISCUSSIONS AND CONCLUSIONS

- 4.1 Both parties have agreed in writing that their arguments are reasonably reflected in appendices one and two to this determination.
- 4.2 The Authority is determining whether the charge imposed for the work carried out by the Company is reasonable in all the circumstances of this case. By way of clarification, the Authority notes that although the Customer and Company refer to £8,642 (plus VAT) being the cost charged to the Customer for the connections at the Premises, the quotation dated 5 March 2007 and Customer's acceptance dated 9 March 2007 both refer to £8,643 (plus VAT) being the cost charged to the Customer for the connections at the Premises.

4.3 Having sought further clarification as to the facts from both parties and having carefully considered the arguments reflected in the appendices to this determination and subsequent written submissions from the parties, the Authority has considered in particular the following key issues, amongst others referred to by the parties, in making this determination:

- whether the Customer should have been charged for the service replacement to 'house two';
- whether delays and poor planning by the Company resulted in it having to complete work in two visits rather than one;
- what can be considered a reasonable charge for the work carried out.

4.4 *These issues are discussed in turn below and this discussion is followed by the Authority's conclusions.*

4.5 The Authority notes that a number of other issues have been raised in the papers submitted by the parties, and in the appendices of this determination decision, on which the Authority is unable to determine due to lack of vires or because certain issues are irrelevant to this determination. These issues are discussed in the postscript at section 6 of this determination.

Whether the Customer should have been charged for the service replacement of the connection to 'house two'

4.6 The Authority considers that whether the Customer should have been charged for the service replacement to 'house two' is an integral issue to determining the reasonable cost of the connections at the Premises. Ofgem has estimated the reasonable cost of the service replacement to 'house two' at approximately £500.

4.7 *The Customer has stated that he was informed by the Company that he would only be charged for two new connections. The Authority notes that, in his submission of 30 March 2009, the Customer provided to the Authority a copy of the quotation provided to the Customer by the Company on 5 March 2007 and a copy of a letter addressed to the Customer from the Company acknowledging the Customer's acceptance and payment of the quotation. The Authority notes that both of these documents make reference to two, rather than three, connections.*

- 4.8 The Authority is also aware that, in his submission of 30 March 2009, the Customer provided a further two documents one a letter from the Company addressed to the Customer dated 29 November 2006 acknowledging receipt of the Customer's application, and the other an email dated 4 December 2006 acknowledging receipt of a location plan submitted by the Customer. The Authority notes that both of these documents refer to three, rather than two, connections.
- 4.9 The Authority notes that the Customer considers that a letter sent by the Company in February 2008, referring to two connections supersedes any previous correspondence referring to three connections and the contract acceptance signed by him in March 2007. The Company argues that the reference to two connections in its letter of February 2008 was "system driven" and that there were in fact two new connections and one existing service to be altered.
- 4.10 The Authority is concerned that communication between the Company and the Customer could have been such that it was not clear to both parties how many services were being charged for since the correspondence pre and post dating the quotation refer to three connections and the quote itself only refers to two connections. However, the Authority notes that both the original and revised scheme for works at the Premises includes two connections and the proposed replacement service to 'house two', therefore this was always intended by the parties. The parties appear to agree that the cost provided in the quotation covered the two connections and the replacement service to 'house two' but the Customer argues that the cost of the replacement service to 'house two' should not be included as he believed that he was only to be charged for the two new connections.
- 4.11 The Authority notes that the Customer has disputed that he should be charged for the service replacement to 'house two' because he was given the impression by the Company that the existing power supply and meter, was old and dangerous and therefore he expected that it would be replaced free of charge. The Company has stated that the LV overhead line and service connection was assessed and found to be in satisfactory condition.
- 4.12 The Authority notes that the Company has confirmed that the replacement of the LV overhead line and/or the service connection to 'house two' was not in its

construction programme at the time of the connection. The Company has stated that it does not have any record of saying to the Customer that it would not charge for changes to the existing service to 'house two'.

- 4.13 It is the Authority's view that had all or part of the existing service been of obsolete construction it should have been replaced as asset replacement and the cost of such replacement borne by the Company. The Authority considers that obsolete construction would mean cabling such as under eaves, Vinyl Insulated Rubber or other cable with single insulated sheath and that service equipment classed as obsolete would usually mean a metal clad cut-out.
- 4.14 The photographs at paragraph 1.57 of appendix one to this determination (provided by the Customer in his email of 29 October 2009) show the original service installation outside and inside 'house two'. Although the Authority considers that it cannot be definitely confirmed from the first photograph, in the absence of a site visit and based on the information available, it is most likely that the cabling is double insulated PVC. Based on the evidence at paragraph 1.57 of appendix one to this determination the Authority considers that the earthing on the side of the pole has been replaced fairly recently and that it is likely that the cabling would have been replaced as well if it represented a problem. The Authority considers that the second photograph shows that the service termination equipment was all insulated.
- 4.15 The Customer also adds that the original electricity supply and meter had to be replaced because that part of the system did not comply with the Building Standards (Scotland) Regulations 1990 (as amended). However, the Authority has not been provided with any evidence that the original electricity supply and meter did not comply with the Building Standards (Scotland) Regulations 1990. The Authority notes that it is for the relevant local authorities to administer building control (including the Building Standards (Scotland) Regulations 1990) in Scotland.
- 4.16 In light of the above, the Authority considers that the original service to 'house two' was unlikely to require replacement due to all or part of it being of obsolete construction.
- 4.17 Having said that, the Authority notes that the quotation does not specify what works were being charged for by the Company at all. Due to this and in light of fact that the quotation refers to only two connections, the Authority is of the

view that there is a risk that Customer may not have fully understood what he was being charged for. The Authority considers that quotations should, at least, set out the works being charged for. Furthermore, the Authority notes that the Company also failed to provide a new quote for the revised scheme of works. Again, there does not appear to be any evidence that the Customer was made aware of what works he was being charged for. On balance, the Authority considers that the Customer should not, in this case, be charged for the service replacement to 'house two'.

Whether delays / poor planning by the Company resulted in it having to complete work over two visits rather than in one

- 4.18 The Authority has considered the issues of delay raised by the Customer at appendix one. The Authority does not consider that any delays, in themselves, impacted on the reasonable cost of the connection. However, the Authority considers that if delays impacted on the number of occasions on which the Company needed to attend the site, this would then in turn impact on the reasonable cost of the connection. This issue is considered below. Other issues of delay raised by the customer at appendix one are discussed in the postscript to this decision at paragraph 6.10.
- 4.19 The Authority considers that whether the Company should have completed the work in one or two visits is an integral issue to determining the reasonable cost of the connection. Ofgem has estimated the reasonable cost of the additional visit by a four man team and vehicle at some £2,000. The Authority considers that if the Company should have completed the work in a single visit the costs of this second visit should not be passed on to the Customer.
- 4.20 The Customer applied for a connection in November 2006 and the Customer accepted the Company's quote in March 2007. Following this acceptance the planned scheme was revised in May 2007 for reasons that are in dispute. In April 2007 the HSE banned construction work at the Premises as the Company had advised it that "no work should be completed on the elevation of the roof adjacent to the power line." It is the Customer's view that it was the Company's delays and lack of progress that resulted in the cables remaining in place close to roofs upon which, by mid-summer, the Customer needed to work on to make the building wind and water-tight.

- 4.21 The Company has stated that the work at the Premises was carried out in two phases; the first phase (7 June 2007) removed the overhead line in front of the steading at the Premises so that the Customer could continue construction work, the second phase (August 2007) completed the works. The Company has stated that it received the required wayleaves to complete the works on 11 June 2007 and that had the wayleaves been received and the Customer's site been ready at the time of the first visit it would have been able to complete the work, including service connections, in a single visit.
- 4.22 The Customer has disputed the dates on which the Company has stated works were undertaken as it is his view that work did not commence until 16 July 2007. In his email of 28 November 2009, the Customer stated that he was not provided with a programme of works or a schedule and that despite this the Customer's site was ready for connection at any time from January 2007 onwards. The Customer has stated that all that was required for the site to be ready was 7 days notice from the Company to dig the trenches and 2.5 days notice from the Company of the required locations of the meter boxes. The Company has stated that it should have informed the Customer of what needed to be done so that the work could be completed but it has no record of having done so.
- 4.23 The Authority has been provided with no evidence to support either the Company's claim that it commenced works on 7 June 2007 or the Customer's claim that works were not commenced until 16 July 2007.
- 4.24 It is the Authority's view that the Company should have provided the Customer with a schedule of works following the Customer's acceptance of the connection quotation and that there should have been regular dialogue with the Customer regarding any changes to that schedule. It is the Authority's view that had this existed the Company would have better managed the Customer's expectations and a number of the disagreements regarding delays and attendance on site would not have occurred.
- 4.25 The Authority understands that, following the HSE's intervention, it became a high priority for both the Customer and the Company to dismantle the LV overhead lines that were preventing construction work on site. However, the Authority considers that the Company should have communicated to the Customer that it would only be possible for the Company to complete all of the connection works in a single visit if the Customer prepared the site in advance.

The Company should also have made the Customer aware of the additional cost to the Customer of the Company carrying out the work in two visits.

4.26 The Authority notes that the Company required two wayleaves to complete the works and that these were from the Customer and the Customer's neighbour. The Authority notes that the Company states that the second phase could not commence until it had received these wayleaves. The Company states that the first phase was commenced on 7 June 2007 (the date is disputed by the Customer), the wayleave required from the Customer's neighbour was received on 11 June 2007 and the second phase was commenced on 30 August 2007. It is the Authority's view that the Company should have discussed with the Customer whether the works should be carried out in two stages or should be delayed pending the wayleave being obtained as this impacted costs of the connection. No sufficient evidence as to why the work could not be carried out in one visit after obtaining the necessary wayleave has been provided to the Authority.

4.27 The Customer has stated that the Customer only required 7 days notice to prepare his site ready for connection work to be completed and the Company has not provided any evidence to the contrary. Given this, and that no evidence has been provided by the Company to the Authority justifying why the work could not be carried out in one visit after obtaining the necessary wayleave, it is the Authority's view that the Customer would have, if given notice by the Company, readied his site for the connection works to be completed in a single visit. Therefore, in the absence of evidence to the contrary, the Authority is of the view that the work to provide the connection could have been completed in a single visit

What can be considered reasonable charges for providing the connection

4.28 The Company originally quoted the Customer £8,643 (plus VAT) for two connections to and replacement of a service at the Premises. This quote was based on undergrounding all existing LV overhead lines. The quote included the removal of four spans of overhead line, the installation of 120 metres of new LV underground cable in a trench excavated by the Customer and the provision of the connection to the Premises. It is this amount (£8,643 plus VAT) that the Customer paid.

4.29 The Company did not provide the Customer with a quote for the revised scheme that was implemented. However, the Company valued the revised scheme, which was based on partial undergrounding of the LV lines, at £9,614 (plus VAT). The Company did not pass this apparent increase in its costs on to the Customer.

4.30 The Customer views the charges levied by the Company as excessive. The Customer is concerned, amongst other things, that he has paid for wayleaves not applied for, for a connection he should not have been charged for and for work that he completed himself. The Customer has also argued that he should not be charged for the time it took the Company's employees to travel to his Premises.

4.31 In calculating what it considers the reasonable costs of the connections at the Premises to be, the Authority has made the following assumptions:

- the Customer carried out all excavation work on his land apart from joint holes, this includes, amongst other things, excavation and subsequent back filling of the cable trenches and the the laying of the necessary cable ducting,
- line clearances could be achieved using standard 10 metre poles,
- the ground was fairly level,
- vehicular access was available to the site, and
- no special traffic management was required.

4.32 The Authority considers that since, in this case, staff are paid by the Company during the time they are travelling and during travel time they are unable to carry out other work, it is reasonable for the Company to include time taken to by the Company's workers to travel to the site in their connection charges.

4.33 In calculating reasonable costs of the connections at the Premises, the Authority has considered the cost of the works is based on typical contractor schedule rates for the works completed. These rates comprise all costs associated with an activity, including labour, but excluding materials which have been added separately. Therefore, the Authority has not calculated labour charges on a 'per hour' basis.

- 4.34 For the reasons given in paragraph 4.17 of this determination, the Authority considers that in this case the Customer should not be charged for the service replacement to 'house two' at the Premises.
- 4.35 The Authority notes that the Customer states that a cable joint that failed had to be re-dug and replaced. The Customer states that the Customer believes he has been charged for the failed joint inappropriately whereas the Authority understands that the Company are of the view that a charge for the failed joint was not made. For the avoidance of doubt, the Authority has not included a charge for the failed joint in its assessment of the reasonable costs of the connections at the Premises.
- 4.36 The Authority has not considered or included the costs to the Company of obtaining the two required wayleaves in its assessment of the reasonable costs of the connections at the Premises as it believes that these would have been minimal.
- 4.37 The Authority has not included any charges in its assessment of the reasonable costs of the connections at the Premises for the visit the Company states they undertook to the Premises in January 2007, which is disputed by the Customer, as the Authority has not been provided with any evidence that this visit took place and because the Company has stated that it did not include the cost of the visit in its quotation in any event.
- 4.38 To determine the reasonable charges for the minimum cost scheme in this case, the Authority has assessed the reasonableness of the charges for the original scheme and the reasonableness of the value attributed to the revised scheme by the Company.

The original scheme

- 4.39 It is the Authority's view based on the plans provided, that the original scheme, which included undergrounding all the LV overhead lines, followed the shortest route. It is the Authority's view that, despite the Company's quote of £8,200, the cost of providing the original scheme could reasonably have been up to £8,100 (plus VAT) which is based on two connections; where the work is completed in a single visit and excluding the cost of the service replacement to 'house two'.

The revised scheme

4.40 It is the Authority's view that the revised scheme, based on partial *undergrounding*, again appears to follow the shortest route. The Customer did not receive a quote for this scheme but the Company valued the scheme at £9,614. However, the Authority considers that the reasonable cost of providing the revised scheme should be £6,052 (plus VAT) which is based on providing two connections, where the work is completed in a single visit and excluding the cost of the service replacement to 'house two' (see breakdown of the reasonable cost at appendix three to this determination).

The minimum cost scheme

4.41 Having reviewed the evidence provided, it is the Authority's view that the minimum cost scheme to connect the two properties was the scheme as built - the revised scheme.

5. DETERMINATION

5.1 Having due regard to all of the points outlined above, the Authority has concluded that the reasonable charge for the Company providing the connection to the Customer's Premises to be £6,052 (plus VAT).

5.2 The Company should therefore refund the Customer the difference between the Customer's payment (£8,643 plus VAT) and the determined reasonable cost (£6,052 plus VAT) being £2,591 plus VAT.

5.3 This document constitutes a notice stating the reasons for the Authority's decision for the purposes of section 49A of the Act.

6. POSTSCRIPT

6.1 The Authority is mindful that it is determining whether the charge imposed for the work carried out by the Company is reasonable in all the circumstances of this case. A number of issues have been raised in the papers submitted by the parties, and in the appendices to this determination decision, on which the Authority is unable to determine due to lack of vires or if certain issues are irrelevant to this determination. These issues are discussed below.

Failure to provide a revised quote

- 6.2 While outside the scope of this determination, the Authority considers the Company's failure to provide a revised quote a serious matter. While the Company has admitted that usual practice would be for the original quotation to be withdrawn and a new quotation issued, the Company has stated that it believes it operated flexibly in accommodating a change in the scope of works following the quotation being issued and accepted. It is the Company's view that by not producing a revised quote it avoided further delays to the Customer's project.
- 6.3 The Authority notes that the Company did not pass on costs for what it considered to be a more costly revised scheme, however, it is the Authority's view that the Customer did not fully understand what works he was being charged for since the Company did not provide the Customer with a revised quote.
- 6.4 The Authority notes that the Company's failure to provide the Customer with a revised quote could be considered a potential breach of standard licence condition 12 ("SLC 12") of the Company's electricity distribution licence. The Authority takes compliance with SLC 12 seriously and considers that the Company is now on notice that any future breaches may result in enforcement action..

Consequential loss

- 6.5 In its submissions to the Authority, the Customer indicated that the Authority should consider the loss he suffered as a consequence of the alleged delays by the Company in providing his connection. For example, the Customer stated that disruption amounted to losses of £49,110.62 for the period April 2007 to September 2008.
- 6.6 As previously stated to the parties in a letter of 19 October 2009 the Authority is not able to award compensation and/or damages in respect of alleged unreasonable delays on the part of the Company. For information on the appropriate route for resolving this issue, the Customer may wish to seek independent legal advice.
- 6.7 While not in place at the time of this connection, the Authority would like to draw attention to standards of service it has introduced through the electricity

distribution price control¹. These standards of service will, from 1 October 2010, cover timescales for providing quotations and delivering connection works and customers will receive payments where DNOs fail to meet the standards. Ofgem will also have the ability to take enforcement action where DNOs fail to meet standards ninety per cent of the time.

Failure to meet performance standards

- 6.8 The Customer has complained to the Authority that in providing the connection to his properties the Company has not acted in accordance with the various "good management schemes" it is signed up to, for example schemes developed by the International Organization for Standardization.
- 6.9 While the Authority notes the Customer's complaint, it is unable to comment on the Company's performance against such schemes as it does not have jurisdiction over them. The Authority notes that if the Customer wishes to escalate his complaint, that the Company has failed to meet such standards, he should take this up with the relevant accrediting bodies².

Delays / date of completion

- 6.10 The Customer has complained that he experienced a number of delays in receiving his connection including provision of design and quotation. In particular, the Customer disputes the Company's statement that works were practically complete at the site by 30 August 2007 as no mains power was available until the first meter was fitted on 24 September 2007. The Customer states that the works were not practically complete until March/April 2008 when safety covers were fitted below meter boxes.
- 6.11 The Authority understands that the Customer does not consider that works were practically complete at the site until 24 September 2007 when the first meter was fitted making mains power available. Since meters are fitted by the Customer's appointed supplier, rather than the Company, the Authority notes that the Company may not have had control over when meters were fitted.

¹ Further information on the electricity connections guaranteed standards of performance can be found in the Electricity Distribution Price Control Review Final Proposals – Incentives and Obligations document at <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=348&refer=Networks/ElecDist/PriceCtrls/DPCRS>

² The Authority notes that in the case of ISO the appropriate body is the International Organisation for Standardisation.
http://www.iso.org/iso/iso_catalogue/management_standards/certification/mss_complaints.htm

- 6.12 The Customer has raised concerns that the Company did not attend site to fit safety covers below meter boxes until March/April 2008. The Company has not provided the Authority with any explanation as to why no safety covers were fitted until March/April 2008. In the absence of any information from the Company, contrary or otherwise, it is the Authority's view that it should not have taken the Company 5 months to attend the site visit to fit the safety covers.
- 6.13 The Authority considers it unfortunate that the Customer feels he experienced considerable delays in the Company completing the connection works on site. However, at the time of the connection, there were no specific guaranteed standards in place covering timescales for the delivery and completion of connection works. It is the Authority's view that with better communication the Company could have better managed the Customer's expectation as to when work would be completed. The Authority would like to again draw attention to standards of service it has introduced through the electricity distribution price control which from 1 October 2010 will cover timescales for the provision of connection works in the future.
- 6.14 The Authority does not consider that in this case the considerable delays in providing the connections at the Premises, except the issue of connection works being completed over two visits rather than in one which is discussed above in section 4 of this determination, impacts or changes what the reasonable cost of the connection should be.

Cable joint fault

- 6.15 The Company has stated that it acknowledged a fault in a joint in the new system on 12 February 2008 and that it rectified and closed this by 25 February 2008.
- 6.16 The Customer has stated that the fault in the cable joint, acknowledged by the Company, caused a major failure and he has complained that the Company did not satisfactorily reinstate drive surfaces for some months creating muddy conditions.
- 6.17 The Authority considers it unfortunate that the Customer experienced a cable joint fault in the works provided by the Company. However it accepts that, on occasion, faults will occur. It is the Authority's view that the information provided by the Company shows that it resolved the fault in reasonable time.

6.18 The Authority notes the Customer's concern that the Company did not adequately reinstate the ground and it does not consider it reasonable that the Customer should wait some months for this to occur. However, this is not a matter for formal consideration in this determination as the fault occurred *after the connection works had been completed and the Company did not pass the costs of resolving the fault to the Customer.*

Alleged outstanding health and safety issue

6.19 The Customer has alleged that a major but intermittent electro-magnetic field remains at the site which has caused a neighbouring dog to pass out and to have fits. The Customer is concerned that there is potential for susceptible humans to be affected by the fault. The Company has stated that a communication with regards to the dog has taken place, but that the issue is not relevant to this determination. The Customer denies that the Company has communicated with him about this issue.

6.20 The Authority is of the view that this issue sits outside of the determination process. However, the Authority would expect the Company to take all health and safety issues seriously and investigate any concern raised appropriately. If the Customer does not believe that the Company has sufficiently investigated this matter these concerns should be raised formally with the Company through its published complaints procedure³.

Repositioning of meter

6.21 The Customer has argued that he did not request that the meter position at 'house two' be changed so the fact that the connection was provided to a different point in his house should not increase his costs. The Authority considers that this issue is now irrelevant to the determination in light of its view provided at paragraph 4.17 of this determination.

Failure to keep records/provide information to the Authority

6.22 While it is not for the Authority to prescribe how the Company's systems should operate or how it should keep records, it is concerned that during the course of this determination there have been occasions where the Company

³ http://www.spenergynetworks.com/PublicInformation/complaints_procedure.asp

has been unable to provide definitive answers to the Authority's questions. For example, it has been necessary for the Company to rely on its employee's recollections of whether it attended the site in January 2007. There have also been occasions where the Company's poor record keeping has led to the Company providing incorrect information to the Authority, for example information on cable lengths.

6.23 The Authority considers it important that the Company operates in an organised and efficient manner and that the Company communicates regularly with connections customers regarding all aspects of their connection including the work schedule. It is the Authority's view that wherever possible the Company should ensure that such communication is in writing to limit the potential for misunderstandings between the Company and the Customer. The Authority expects that the introduction of the electricity connections guaranteed standards of performance in October 2010⁴ will ensure that such communication occurs and is recorded in the future.

Customer handling

6.24 It is clear to the Authority that a number of the issues in this determination could potentially have been avoided had the Company handled the Customer's application and subsequent complaint efficiently and with due care and attention.

6.25 It is clear from the Customer's submissions that he received a mixture of messages from the Company and that this could have led to misunderstandings between the parties. For example, the confusion surrounding whether the Customer would be charged for the service replacement at 'house two'. The Authority considers that the Company did not adequately handle the Customer's expectations and it is clear to the Authority that the majority of issues in this case were caused by a lack of written agreement and could have been avoided had the Company:

- ensured that correspondence was in writing,
- ensured that conversations were recorded and agreed,
- agreed a schedule of works with the customer,

⁴ Further information on the electricity connections guaranteed standards of performance can be found in the Electricity Distribution Price Control Review Final Proposals – Incentives and Obligations document at <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=348&refer=Networks/ElecDist/PriceCtrls/DPCR5>

- included basic information, such as the service to be provided and a breakdown of charges, in its quote, and
- provided a revised quote when significant changes were made to the original scheme.

6.26 The Authority has received no indication from the Company that it has attempted to resolve this dispute outside of the determination process. The Authority considers that the Company on first receiving this complaint should have acted accordingly to resolve the dispute with the Customer, rather than leaving the Customer with no choice other than to seek the advice of the Ombudsman and then a determination, resulting in the Authority incurring significant costs.

6.27 Following the determination being referred to Ofgem it is the Authority's view that the Company could have been clearer from the start of the determination process, on the Company's position regarding its lack of records. The Authority does not consider it acceptable that the Company has based its arguments on recollection or that the Company initially provided the Authority with incorrect information (appendix two, paragraph 1.11). The Authority considers that the Company's actions in this determination are of the kind that may in the future, pending a second round of consultation, see the Authority seeking to recover determination costs⁵.



Rachel Fletcher 18 May 2010

Partner, Distribution

Duly authorised on behalf of the Gas and Electricity Markets Authority

⁵ <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=28&refer=Consumers/CI/ncamm>

APPENDIX ONE

1. VIEWS OF THE CUSTOMER

First Work Scheme

- 1.1 The Customer states that the site visit in December 2006 consisted a site meeting to discuss the overall logistics, coordination and timing of the Company's work and its coordination with the Customer's programme of work. The Customer denies the Company's assertion that the involvement of the HSE was discussed as at the time of the first site meeting the HSE had no involvement. The Customer states that health and safety was not discussed as a specific issue, only in general terms in relation to the timing and precautions required in relation to the Customer's work during the removal works. The Customer states that the Company proposed a three month programme that meant that no negative effects on the Customer's work programme were anticipated. It is the Customer's view that it is interesting and significant that the Company clearly acknowledges that it foresaw the health and safety issue with the roofs, yet did not act responsibly in completing work within the time available.

- 1.2 The Customer states that the Company first offered him a work scheme that removed all intermediate poles and placed the new cables underground throughout the Premises, under the main road and underground across the field opposite the front elevation of the new houses to an existing pole located near a neighbouring house. The Customer has provided a plan of the original scheme as quoted by the Company. The Customer has also provided a photo showing the site and the path for the underground cables as part of the initial scheme. The Customer explains that this work equated to 120 metres of undergrounding and that it also required traffic lights during construction of the road crossing. The Customer has provided a plan outlining the length of cable required. The Customer states that the price quoted by the Company for these works was £8,642 (plus VAT) in March 2007.

- 1.3 The Customer states that although the work scheme described above was suitable it was beyond his budget for this section of the work and the Customer felt it was 'obviously a very inflated price for the amount and type of work undertaken'. The Customer also states that all trenches were to be dug by his

own business and that the Customer also installed conduit and sand blinding protection, and then back-filled the trenches. The Customer disputes the costs of works in the original quotation and argues that changes to the work were made by the Company following his complaints about the high cost of this initial quotation. The Customer adds that the Customer estimated the cost of those works to be completed by the Company at £4,255 (plus VAT). The Customer disputes the Company's argument that the Customer failed to take into account the costs of dismantling the existing overhead service and replacing it with an underground service. The Customer states that he has in fact checked and can verify taking into account all costs for removal and re-supply, at current market rate and allowing for high overheads.

- 1.4 The Customer explains that despite this, because of significant delays caused by the Company in the implementation of the project, the Customer accepted the offer on 13 March 2007 and paid in full and in advance for the works. The Customer asserts that he protested vigorously about overcharging, but because of the monopoly situation he paid the invoice timeously but under protest and duress. The Customer also states that all trenches were dug, fitted where necessary with black Ridgiduct cable conduit or blinded, and back-filled by the Customer's business. The Customer disputes the cost of works in the original quotation and argues that changes to the work were made by the Company to reduce the price following his complaints about the high cost of the initial quotation. The Customer adds that the Customer estimated the cost of those works completed by the Company at £4,578.88 for the scheme as implemented. 52.97% of the original sum quoted.
- 1.5 The Customer explains that at the time the Customer provided all of the information the Company required to prepare his quotation it was indicated to him that that the design and wayleave work would start within a few days. The Customer states that the Company indicated to him that although the process through to construction normally took around 10 weeks it would be possible to fast-track the process as it was a small, simple project involving non-controversial wayleave applications.
- 1.6 The Customer states that the design and quotation was not prepared timeously or with due diligence.

Revised work scheme

- 1.7 The Customer states that the Customer made several telephone calls to the Company and to its representative to demand a price reduction and to minimise further delays. The Customer explains that on 4 May 2007 the Customer attended a site meeting with the Company's representative and the Customer's neighbour. The purpose of the meeting is disputed by the parties. The Customer states that the purpose of this meeting was to reduce the cost of the project, to agree a revised design and to agree any changes with his neighbour. The Customer has provided an email from his neighbour as evidence of this. The Customer states that the Customer told the Company that the price had to be cut by 40 to 50 per cent.

- 1.8 The Customer explains that prior to the meeting the Company's representative had researched an alternative cheaper proposal which was presented, the Customer explains that his neighbour was at the meeting as the revised proposal affected his land. The Customer explains that as the 'slot' for completion of the works had already been booked the changes agreed did not cause further delays. The Customer explains that the new revised proposal halved the underground work, reduced the underground cabling required from approximately 120 metres to 50 metres, reduced the number of joints required in the installation of armoured cable and dispensed with the need to go under the highway which would have been a moderate expense for the Customer. The Customer states that he agreed to the revisions expecting a cost reduction.

- 1.9 The Customer disputes the Company's statement that the design was revised as a result of discussions following the intervention by HSE in April 2007. The Customer states that the redesign did not benefit the health and safety issue in any way. The Customer states that the HSE issues were discussed by phone in the two weeks preceding the meeting. The Customer states that they were not discussed at the meeting other than for the Company to inform him that the cables were about to be taken down, assuming that an agreement could be reached on the reduced cost scheme. The Customer states that the purpose of the meeting was to discuss price reduction measures and design implications.

- 1.10 The Customer states that almost 6 months had passed between the date of the application for supply to the date of the HSE intervention. The Customer

states that there had been plenty of time to implement the original and cheaper scheme, or a lower cost alternative.

1.11 *The Customer also disputes the Company's assertion that the Customer's concerns about delay were a reason to revise the scheme. The Customer states that although he was concerned about further delays it was not for the reasons stated by the Company but due to further delays compounding the already substantial delays suffered between November 2006 and May 2007. The Customer states that the Company's statement alludes to some advantage in avoiding the road crossing excavations. The Customer states that the excavations were not the responsibility of the Company but the responsibility of the Customer and that he had already discussed measures with the highway authority and appointed a contractor, with a view to receiving a permit within a matter of days. The Customer states that his costs for this were low, with an extra over the cost of field excavation of only £300.*

1.12 The Customer asserts that the extent of the first scheme had no influence on, nor caused any of the delays experienced. He adds that reducing the extent of the scheme could only produce cost saving, and not savings in time, as so much time had already been wasted by the Company. The Customer states that the additional road (5 metres wide) and shallow field excavations it is estimated would be dug fitted with rigiduct conduit and back-filled within a day with the road surface being resurfaced a little later. The Customer states that the changes to the scheme had little material, financial or time saving benefit to the Customer. The Customer adds that neither did the change bring forward the removal of overhead power lines, the cause of the most important delay. The Customer asserts that the second scheme was wholly unnecessary unless it produced a cost saving to the Customer, and if the true facts and costs were known to the Customer he would not have agreed to the changes to the scheme.

1.13 The Customer adds that the Customer had complained verbally about delays from the end of January 2007 when the Customer became aware that there was a substantial lack of progress. The Customer states that the Company were aware of a potential health and safety problem with the overhead lines because of his persistent verbal complaints about lack of activity and progress on the site. The Customer denies advising the Company of any change of requirements, he states that there was no change in requirements. The

Customer asserts that only complaints about lack of progress, continuing delays and excessive cost were communicated to the Company.

Commencement of works

- 1.14 The Customer disputes the Company's assertion that the Company removed or made safe the pole and overhead lines next to the road in January 2007. The Customer states that to enable safe roof work to the property disconnection or complete removal would have been required to make the system safe. The Customer states that the supply was not made safe at the times and dates claimed and indeed not until after part of the site was closed by a HSE prohibition order some months later. The Customer has provided dated photographic evidence of non-removal of pole and cables. The Customer states that the types of problems that the Company had to deal with in this case were not exceptional. The Customer states that there was an excessive delay in the removal of the overhead lines since his application was made in November 2006 and the lines were not removed until June 2007. The Customer adds that the Company had adequate time to complete this work earlier.
- 1.15 The Customer states that because the Company had not completed the provision of the new underground supply within a reasonable time, cables were left above building roofs in April 2007. The Customer explains that this was 6 months after the work was ordered. The Customer states that on 13 April 2007 the Health and Safety Executive ('HSE') banned work on site below the cables (the Customer has provided a copy of the letter from the HSE). The Customer states that the letter from the HSE proves that the over head lines next to the road were still in place after January 2007⁶. The Customer explains that the letter refers to the dangerous condition of the existing supply cables and the old meter which was the only live mains electricity supply to the site. The Customer states that the electricity to this equipment was provided by way of the over head lines at the front of the development next to the road which the Company claim to have made safe in January 2007. The Customer states that the observations of the HSE inspector concerned are important as if the HSE confirms that the original meter or sockets were "live" or in use at the time of the inspection then the over head power lines cannot have been

⁶ The Customer has also provided a letter from Scottish Power dated 13 April 2007 that shows live overhead lines were in place at that time above the Customer's scaffolding.

removed or made safe by the Company at the times that the Company claim to have completed the work.

- 1.16 The Customer asserts that delays by the Company caused changes to site requirements, as the Company's lack of progress meant that dangerous cables remained in place close to roofs upon which, by mid-summer, he needed to work on to make the building wind and water-tight. The Customer states that this delayed the construction of the building's interior and allowed damage to the building's interior due to ingress of water. The Customer States that the Company's argument that his removal of the roof caused safety problems which in turn generated a charge for the replacement of the service to 'house two' is spurious. The Customer explains that the Company must have already included the cost of the replacement service in the price, long before the roof was removed.
- 1.17 The Customer explains that the delay caused by the cables being left above building roofs affected 50 per cent of the work on site at the time and subsequently delayed the completion of the house which was to be sold first. The Customer explains that disruption to the contract amounted to losses of £49,110.62 (for the period April 2007 to September 2008) as it was sometime before the alternative cabling was complete. The Customer has provided a letter from his accountant as evidence of losses and adds that completion of the first house was pushed back to Christmas and therefore it entered the period affected by the United States Sub-prime Market led housing market slump. The Customer states that the delays caused by the Company almost bankrupted his business which has only survived by the injection of personal funds.
- 1.18 The Customer states that the Company were not "doing him a special favour" to bring forward the work to remove the overhead cables that were delaying construction work. Instead the Customer asserts that in reality the Company was massively behind with work that should have taken place at an earlier date. The Customer states that the Company's huge delays meant that the power project had to be divided into two parts to try and mitigate the health and safety issue which had stopped work on the site and that this must have incurred extra costs as it would not have incurred the economy of scale of a single larger contract. The Customer adds that no programme of works or schedule was provided to him by the Company. The Customer asserts that the

site was ready on time despite no programme or other notification from the Company as to the date required.

1.19 The Customer states that from the time work started on the site there were in place two petrol and one diesel electric generators. The Customer explains that it proves that from January 2007 the Customer expected the Company to arrive on site to disconnect the overhead power line and remove the existing single metered aging supply to the site as the Customer had an alternative power supply on site at all times. The Customer adds that because of the inconvenient position, limited range and general condition of the existing supply, the generators were used most of the time. The Customer states that because there was an alternative supply on site at all times the Company could have disconnected the existing supply and removed the overhead cables at any time.

1.20 The Customer states that the work to remove the overhead line, pole, transformer, termination and underground cable at the Premises was not undertaken on 7 June 2007 as contended by the Company. The Customer states that the connection work did not commence until after 16 July 2007. The Customer states that his diary entry shows a delayed start and two postponements. The Customer also asserts that the work could not have started before the delivery by the Company of Ridgiduct to the site on 14 June 2007.

1.21 The Customer disagrees with the Company's statement that the site was not ready for full installation of underground cables because service cable trenches had not been dug. The Customer states that the trenches from the main cable (95mm) joint to the individual houses were indeed excavated by the end of March well before the main cable trench was excavated. The Customer states that the trenches served a dual purpose as drainage trenches and that open drain tests were undertaken independently by building control and are verifiable. The Customer has provided a dated photograph of the trenches being laid on 12 March 2007.

1.22 The Customer disagrees with the Company's statement that the site was not ready for connection until August 2007. The Customer states that the Customer had no verbal nor written notification of deficiencies in his readiness to accept the supply. The Customer adds that the site was ready for

connection at anytime from January 2007 onwards and that all that was required was a trench route plan from the Company and 7 days notice to dig the trenches. The Customer states that the external wall mounted meter boxes were stored on site waiting for the Company to notify him of their required locations and that to fix them in position required half a day with two days notice.

1.23 The Customer states that at this stage the Customer was still yet to receive an invoice and that the Customer had assumed that this was because the invoice would be revised and a rebate of around 40 per cent would be returned to him and a new invoice issued.

1.24 The Customer asks for it to be noted that the Customer was informed by the Company's representative that because the existing system was very old and subject to extreme environmental conditions such as a recent ice-storm the system would require replacement and upgrading in the near future anyway (the Customer states that a photograph provided by him is evidence of this). The Customer states that the Customer felt the Customer was effectively subsidising the Company's long term network maintenance and that these costs should have been shared against the future maintenance costs for other users. The Customer states that the existing system dated from late 1950's to early 1960's and that it had a very limited remaining life span. He adds that it possibly only had 15% to 25% of its life-expectancy remaining. The Customer states that this maintenance matter should be taken into account when working out costs, and that a reduced price of around only 25% should be charged. The Customer states that photographic and HSE evidence submitted to Ofgem confirms the aging and unsafe nature of the supply to the existing meter (now removed). The Customer states that the photographic evidence of the old supply to the existing meter clearly shows sub-standard wiring by today's standards, with what appears to be flat grey twin and earth cable (unprotected) nailed vertically to the pole and connected at the top to overhead lines. The Customer adds that continuing down the pole to head height, within reach, the supply cable travelled horizontally to the building attached to a piece of 50mm x 75mm wood about 1.2 meters long. The Customer states that the cable then passed through the drilled wooden window frame to the meter. The Customer adds that there was no way that this route and method of construction could be considered to meet any modern safety requirements. The Customer states that this original electricity supply and

meter had to be replaced because that part of the system did not comply with the Building Standards (Scotland) Regulations 1990, as amended by the Building Standards (Scotland) Amendment Regulations 1993, the Building Standards (Scotland) Amendment Regulations 1994, the Building Standards (Scotland) Amendment Regulations 1996, the Building (Scotland) Amendment Regulations 1997, and the Building Standards and Procedure Amendment (Scotland) Regulations 1999. The Customer adds that the system also failed to comply with British Standard 7671: 1992 "The Requirements for Electrical Installations". The Customer states that the Company have confirmed its ownership of the cables and the meter to Ofgem. The Customer adds that the rest of the system is from the same date of construction. The Customer denies that the system condition was good. The Customer adds that the plastic insulation to the live overhead cables was peeling off.

Final connection / completion of works

1.25 The Customer does not agree that the Company completed the works by 30 August 2007 - rather the Customer is of the view that the final connection works were started approximately around that date. The Customer states that on completion there was a major failure due to an unknown short circuit and also the main underground joint failed which had to be re-excavated making a large hole and an awful mess in the driveway. The Customer adds that no mains power was available until the first meter was fitted on 24 September 2007. The Customer states that workmen attended the site spasmodically and that the works were not practically complete until March/April 2008 when safety covers were fitted below meter boxes. The Customer has provided an email from his neighbour as confirmation of this date. The Customer adds that drive surfaces were not satisfactorily reinstated for some months and that they created exceptionally muddy conditions. The Customer states that as the HSE were closely monitoring the site (because of electrical safety issues resulting from the Company's previous delays) the Customer was unable to allow Customers onto the site to view the house which was for sale until electrical work was completed (including the fitting of safety covers).

1.26 The Customer states that the Customer totalled the number of hours worked on site by the Company's workmen and assuming eight hour working days, the total was approximately nine man-days (more or less three men for three days). The Customer states that the work was spread over a lengthy period as

attendance varied. The Customer believes that including top labour rates, administration and travel, the cost of all in labour could not have exceeded £2,000 and that other costs (materials and plant) were minimal. The Customer states that the Customer believes based on these calculations a 40 per cent saving was easily achievable and that it was expected. The Customer states that the average hourly labour rates provided by the Company are almost double the norm, even when inclusive of very high overheads. The Customer states that the £65 an hour (inclusive of overheads) figure given by the Company is equivalent to a salary of £118,000 a year.

1.27 The Customer states that on 19 December 2007 the Customer received an invoice for the works and that this was nine months late. The Customer states that by failing to communicate the price of the works timeously the Company behaved unreasonably and failed to follow normal business practices. He adds that the invoice showed no reduction or rebate and in fact no change from the payment previously made based on the original scheme that did not go ahead. The Customer explains that assuming this was a mistake the Customer checked with the Company who stated that the revised scheme was more expensive than the original and that the Customer was lucky not to have received a larger bill. The Customer states that the Company has not provided a legitimate reason for not providing an estimated cost prior to the commencement of the new scheme. The Customer states that this could easily have been done within the time available and that it is his view that it was not done so that extra costs could be added to the bill and presented after the works were completed as a fait a comple.

1.28 The Customer stated that the Customer checked the value of the work again from built-up known costs and confirmed to himself that a 40 per cent saving should have been passed on to him even with the application of higher cost rates. The Customer states that the figures provided by the Company (at paragraph 1.23 of appendix two to this determination) illustrate that costs allocated to each item of work are high. The Customer states that the works involved such as removing cables and jointing cables are of the very simplest kind, they do not take a long time to accomplish and the parts are simple and cheap. The Customer reiterates that the purpose of his request to the Company for a revised scheme was to reduce costs. The Customer alleges that the prices the Company has supplied to Ofgem for material are unrealistic and excessive. The Customer states that they reflect list prices rather than the

heavily discounted prices that the Company obtains for sourcing materials such as cable direct from manufacturers.

Wayleaves

- 1.29 The Customer states that wayleaves were granted immediately on request by both himself and his neighbour. The Customer understands that no wayleave application was made to any other party. The Customer does not see that applications for wayleaves caused any delays in his connection or that they required the original scheme to be revised. The Customer states that references to wayleave problems have only been made since the dispute was referred to Ofgem for determination. The Customer states that lack of due diligence by the Company meant that wayleaves were not obtained in good time although ample time was available during the 6 months of delays the Customer experienced (November 2006-May 2007).
- 1.30 In response to the Company's argument that obtaining the wayleave would increase costs the Customer argues that costs of the first scheme, including wayleaves, had been agreed and paid in full and in advance. The Customer believes that it is normal practice to assess all the components of a contract (including the feasibility and cost of wayleaves) before the issue of any quotation. The Customer believes it was wrong for the Company to take full and advanced payment for work including wayleaves which it clearly never intended to do. The Customer states no extra wayleave costs were attributable because they were already estimated and included as part of the payment two months prior to the meeting to discuss and agree a reduction to the size, extent and cost of the scheme.
- 1.31 The Customer states that the Customer has approached the four parties requiring wayleave agreements and they have told him that they have never been approached, and that they consider that such an agreement would not have been problematic. The Customer states that the Customer was never consulted, nor given a choice of whether the Company should apply for the wayleaves. The Customer adds that it appears that the Company simply had no intention of doing the original scheme and that they wanted a simpler scheme which cost them less and was more profitable to them. The Customer points out that the Company during the course of the determination has completely changed its statement about wayleaves. He notes that the

Company has admitted that it did not in fact approach any landowners about wayleaves for the initial proposal. It is the Customer's view that the Company had more than sufficient time to apply for and process the wayleaves, had they exercised due diligence. The Customer asserts that the Company dissembled *regarding the facts and its intentions regarding provision of wayleaves*. He adds that the Company had agreed a contract and taken full payment on the basis of a factual misrepresentation as the Company clearly had no intention of undertaking the work as contracted and shown on the plan.

1.32 The Customer states that the Company claims it received wayleave approval on 11 June 2007; however, the approved wayleave was one of the four wayleave applications which the Company states was abandoned. It is the Customer's view that this remaining wayleave should have been pursued much earlier (and not abandoned) as the Company would have known it would still be required for any alternative scheme.

1.33 The Customer summarises that the four original wayleave requirements were not pursued and only one was applied for, yet he has not seen any reduction in the cost of the work to reflect this. It is the Customer's view that he should have been consulted about the abandonment of the wayleaves.

Number of connections

1.34 The Customer disputes that the Customer should be charged for three connections at the Premises as contended by the Company. He states that there are three houses but one of those houses had an existing power supply and meter. *The Customer regards the replacement of the pre-existing neutral earth to the pre-existing transformer as a maintenance issue, the cost of which should have been attributed to the Company and not to the Customer.* The Customer states that the Company told him that the Customer would only be charged for two new connections. The Customer explains that the existing supply was considered to be old and dangerous and that the Customer understood that it was to be upgraded free of charge. The Customer has provided a letter (date stamped 11 February 2008) from the Company that refers to only two service joints and photographs of the old wiring and meter that the Customer believes should have been replaced free of charge. The Customer states that the photograph the Customer has provided shows a *Heath-Robinson cable arrangement from the pole to the meter which is clearly*

out of date, unsafe (old and wrong type of cable) and unprotected. The Customer states that this existing unsafe supply was replaced with a new supply to the opposite side of the same house (house number 2).

1.35 The Customer recognises that the Company has suggested that the Customer made part of the supply unsafe as a result of construction works thus necessitating the renewal of the service that would not otherwise have been needed. The Customer disputes this suggestion for the reasons given above (including age and neglect) and asserts that despite any changes made by the Customer the supply was clearly sub-standard and in a state of deterioration as evidenced by the photographic evidence provided. The Customer adds that in any case the meter position was protected with a waterproof structure until its final removal. The Customer states that it is important to note that the application for renewal of supply was made in November 2006 and that at that time and many months later no work had yet taken place on the part of the building containing the old supply. The Customer states that this renders the Company unable to argue that the Customer's actions in any way contributed to the way the Company priced the project. The Customer adds that the Customer did not undertake any work on the building containing the supply until March 2007 and that therefore it would be impossible for the Customer to have affected the safety or condition of a supply that the Company asserts no longer existed at that time. The Customer adds that on no occasion did the Company write to the Customer or make any verbal comment regarding their dissatisfaction with what the Customer was doing, nor did the Company make any communication about the Company's intended activities on site.

1.36 The Customer states that the position of the replacement meter was agreed at the first site meeting and that the Company requested moving the location as the route to the other end of the building, which was to become house number two, was shorter and simpler. The Customer agreed to this however the Customer does not consider that this amounts to the Customer requesting the Company to "alter" the location or otherwise of the existing supply. The Customer states that it was altered solely at the request of the Company who suggested a route easier and cheaper for them to construct. The Customer has provided as evidence a plan of 'house two'. The Customer states that this shows and demonstrates quite clearly that changing the location of the meter to the other end of the house was not advantageous to the Customer. The Customer explains that the high energy use facilities such as kitchen, utility

room, bathrooms, boiler and hot water tank are all located close to the original meter position, and away from the new meter position at the other side of the house. The Customer states that he was persuaded by the Company to agree to the change in meter position on the grounds that the Company cost saving (which was anticipated would be passed on to the Customer) would be greater than the increased cost in internal wiring. The Customer states that the Company did not advise the Customer of any cost implications to the Customer of the alternative choices available for the meter position. The Customer adds that there was no verbal or written explanation or notification. The Customer states that the cost of this work should not be charged to the Customer, nor one third of the cost of the rest of the system.

- 1.37 The Customer states that a letter, date stamped 11 February 2008 (after the Customer had been invoiced for the works), from the Company offers a new quotation for the works and refers to two connections. It is the Customer's view that this supersedes the letter the Customer received dated 29 November 2006 referring to three connections in error, and therefore the contract acceptance signed and dated 9 March 2007. The Customer disputes that whether or not the letter, dated 11 February 2008, was "computer driven" it is still binding on the Company. The Customer states that the new offer referred to in the letter (date stamped 11 February 2008) was never made by the Company. The Customer states that the Customer should not have been charged for the cable to the second house, 52.3 per cent of the total amount of 25mm cable. The Customer also asserts that no charge should also be made for the meter and connection including labour and all materials.

Length and use of cable

- 1.38 At the start of the determination process the Customer disputed the amount of cable used. The Customer stated that as there was only 50 metres of trench, and no overhead cables were replaced, it is inconceivable that (80m + 70m) 150 metres of cable could have been used. Some way into the determination process the Company revised down the amount of cable it had stated it used during the determination process from 120 metres to around 60 metres. The Customer now generally agrees with the length of cable used. The Customer asserts that the use of the new 95mm underground cable is shared with the up-stream properties. The Customer has alleged that the Customer has found that the Company has on numerous occasions mis-measured and the

Customer states that the Company, in a letter to Ofgem dated 7 September 2009, has admitted that they measured from paper plans and drawings. The Customer states that professionals would never measure from drawings due to the paper shrinking and stretching depending on temperature and printer/fax settings.

- 1.39 The Customer notes that the lengths of cable that the Company state were used in the connection has changed since the start of the determinations process, the Customer notes that there has been surprisingly little reduction in the associated costs.

Sand blinding

- 1.40 The Customer disputes the Company's description of the works undertaken by the Customer as "trench excavation". The Customer states that the work also included the construction of ridgiduct, the provision and laying of sand blinding and the back filling of the trenches.

- 1.41 The Customer states that no sand blinding was supplied or installed by the Company. The Customer explains that the Company provided him with 50m of 110mm black plastic Ridgiduct protective cable tubing (an alternative to sand blinding). The Customer explains that his workers dug the trench and buried the tubing in the base of a trench ready for it to receive the 95mm cable. The Customer explains that his workers left a draw cord in the pipe so the cable could be pulled through later by the Company. The Customer has provided Ofgem with a photograph of exposed sections of cables, joint and black conduit.

- 1.42 The Customer states that the Company's cable pullers pulled the cable through the already buried pipe and that this took an hour for two cable pullers. The Customer adds that other trenches on the site had been left open to receive the 25mm service cables and that blinding material had already been placed in them by the Customer's workers. The Customer explains that the Company simply placed the 25mm cable in the trenches which took only a few minutes, the Customer's workers then completed the blinding process and back-filled the trench. Due to the limited amount of work undertaken by the Company the Customer disputes the charges declared by the Company for cable laying.

Cable jointing

1.43 The Customer disputes the charges levied by the Company for cable jointing as whilst the Customer accepts that it is a task requiring expert knowledge the Customer states that it is relatively quick to implement. The Customer states that the joints took two men and one labourer just over one day to complete. The Customer states that a cable joint that failed had to be re-dug and replaced. The Customer believes the Customer has been charged for the failed joint inappropriately. The Customer believes that even discounting the charge for the failed cable joint the jointing charges levied by the Company are still excessive.

Labour costs

1.44 The Customer states that the total man-time for the project as a whole (all phases) was three men for three days. The Customer explains that one of these days was spent removing the old cables. The Customer does not agree with the labour costs provided by the Company and states that they should have been closer to £200 per day per man including overheads.

1.45 The Customer does not believe that the labour costs applied by the Company should include travel time to site. The Customer states that most workers are not paid for travelling time to and from the workplace and that where in exceptional circumstances it is required a reduced hourly rate is applied as operatives are not required to exercise their trade skills during travelling. Even so the Customer asserts that excessive quantities of travelling time claimed by the Company should not be billed to the Customer because bad planning and management on the Companies part produced numerous short and spasmodic site visits by the labour force.

1.46 It is the Customer's view that the Company's extra cost is purely due to inefficiencies caused by bad management and site control. He adds that the duplication of site visits due to the Company's poor planning and need to split the project into parts as a result of the Company's own delays and lack of due diligence. The Customer states that it was well within the Company's capabilities to implement the whole scheme in one phase at an earlier date. The Customer states that alternatively it is possible that the Company has loaded the cost of other project overspends onto this project.

Further concerns

- 1.47 The Customer disputes the value of the work as excessive, and asserts that the Company did not fully answer Ofgem's questions regarding the costs. The Customer disputes the inclusion of sand blinding as part of the Company's activity on site and inclusion in the Company's cost schedule at paragraph 1.23 of appendix two to this determination. The Customer states that sand blinding should be removed from the cost of the main cable laying and the service cable laying (both materials and labour) as this was carried out by the Customer not the Company. The Customer also asserts that the cost of pole erection is low, that SP has not off-set cost reductions correctly and that it has done so in a bias way. The Customer adds that where the Company has reduced the materials cost for the cable, since it was found that 60m less cable was used, the main cable laying labour and overhead cost should also be reduced pro rata to correspond to the reduction in length. The Customer states that the reduction in the length of the cable should reduce the costs for mains cable laying from £2,471 to about £1,045. The Customer adds that a further reduction of around 50% should then be applied for the cost of the sand blinding that was wrongly charged leaving a cost of around £500 for laying the main cable. The Customer states that this reassessment should also be applied to the other areas e.g. service cable laying.
- 1.48 The Customer states that as well as his concerns about the charges levied for the work, the Customer suffered excessive and unreasonable delays in implementation due to the lack of due diligence exercised by the Company and additionally poor workmanship/quality control. The Customer states that the excessive delays caused by the Company resulted in labour and other costs increasing in the months before his connection was completed, not withstanding the costs for the Customer's business.
- 1.49 The Customer explains that a major joint in the new underground system failed because of incorrect mould construction on-site which left a gap allowing the ingress of water.
- 1.50 The Customer disputes the Company's statement that there was only one serious fault. The Customer states that a major but intermittent electro-magnetic field remains at the site which has caused a neighbouring dog to pass

out and to have fits and that this may also effect susceptible humans. The Customer states that it has not been notified by the Company about rectification of this matter and disagrees that it was rectified on 25 February 2008. The Customer considers the work to be technically incomplete while this fault remains. The Customer disputes that the Company has adequately reported and communicated a serious health and safety issue to the Customer *on whose land the problem occurred*. The Customer states that there has been no communication with the Customer (also the landowner) about this serious issue. The Customer asserts the relevance of the fault to the determination as it affects site safety and completion of the works, and therefore the date of completion, as well as the obvious danger to wearers of heart pace-makers.

1.51 The Customer also states that it took the Company months and several attempts to complete surface reinstatement at the site due to the need to re-dig the site.

1.52 The Customer states that when providing his connection the Company has failed to comply with a number of the industry codes it is signed up to e.g. ISO 9000. The Customer adds that the Company has failed to comply with its own standards of performance as detailed in its own corporate responsibility plan.

1.53 The Customer is of the view that the concept of "reasonableness" is a value judgement which in the case of his connection balances the value of a good monetary payment against and in return for the provision of a good quality service. The Customer states that as the quality of the service provision the Customer received was poor, then equally the payment for that service must be reduced.

1.54 The Customer disputes that the second scheme was more expensive than the first. The Customer states that there was reasonable time to prepare a quote and that the Company denied the Customer with a choice of scheme. The Customer adds that it is his view that the Company deliberately withheld information to prevent his intervention.

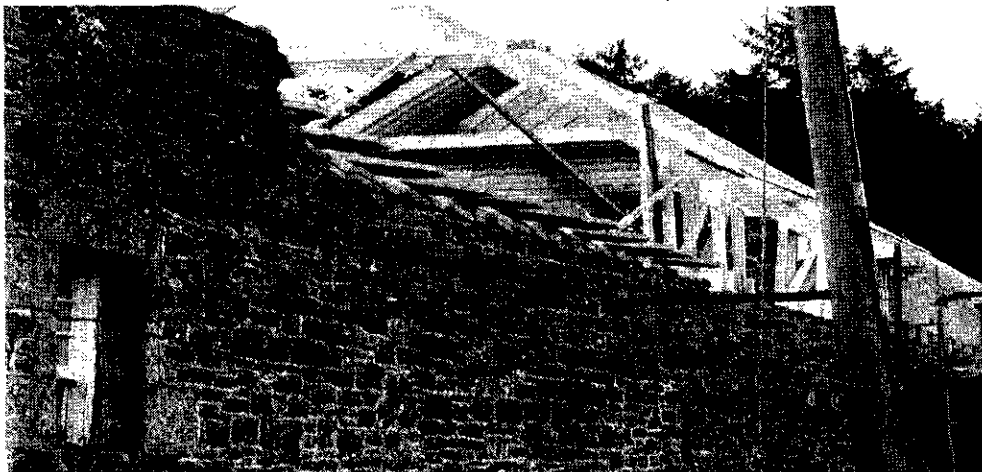
1.55 The Customer states that the Company's remarks that it acted flexibly are wholly disputed. The Customer states that the Company provided poor service and delays. The Customer adds that the Company has not worked diligently or in a planned or well managed way and that the Company has only provided

benefit and flexibility for themselves with little in the way of thought for the Customer. The Customer states that the Company has cost the Customer a lot of money, and by disrupting site work has brought the Customer close to bankruptcy.

1.56 The Customer states that despite being signatories to various "good management schemes", ISO's, etc., the Company expects the Customer to believe that its system of record keeping is based entirely on memory and recollection supported by no material evidence. The Customer states that the Company's unsupported arguments have changed on a number of occasions over the course of the determination process. The Customer adds that many of the Company's statements have been substantially changed or withdrawn in the light of the evidence provided by the Customer. It is the Customer's view that the Company's answers to Ofgem's questions have been evasive, incomplete, unsubstantiated and misleading. It is the Customer's view that for such a large company it is implausible that the Company have so many missing records in key areas of business. The Customer states that energywatch was given information by the Company which has now been significantly changed as a result of in-depth investigation by Ofgem. The Customer states that had energywatch had this information at the time it investigated the Customer believes the outcome of that investigation would have been different.

1.57 Photographs provided by the Customer in his email of 29 October 2009:

Exterior View showing cables clipped to the wall:



Interior view showing service termination equipment:



APPENDIX TWO

1. VIEWS OF THE COMPANY

- 1.1 The Company states that having received the Customer's request for a connection offer in November 2006 they requested some further information which they received on 4 December 2006. The Company states that in December 2006 it made its first visit to the site and that during the course of that visit the need to make safe the existing overhead service was discussed. The Company states that the service needed to be made safe if the Customer was going to remove the roof of house 2. The Company adds that also at that visit the Customer informed the Company of the involvement of the HSE in view of the proximity of scaffolding to the existing low voltage ('LV') overhead mains. The Company does not have any written record of these events and must rely on its recollection of the visit. The Company believes that it attended the site in January 2007 to make safe the overhead service.
- 1.2 The Company states that they provided a quote in March 2007 and acknowledged the Customer's payment on 21 March 2007.
- 1.3 The Company states that a design was prepared in order to provide the quotation, however, it became aware that site development works were being delayed due to the proximity of the LV overhead line that ran adjacent to the site. The Company explains that a site meeting was arranged for 4 May to discuss a revision of the design. They add that a plan was prepared and work was scheduled for construction in June.
- 1.4 The Company explains that the figure quoted in the March 2007 quotation amounted to £8,642 (plus VAT) and that it was based on the removal of 4 spans of overhead power line, the installation of 120 metres of new LV underground cable in a trench excavated by the Customer and the provision of a connection.
- 1.5 The Company states that the quotation did not include the costs of the first visit in January 2007 to make the existing overhead service safe but that it did include the costs of a replacement for the LV overhead line to 'house two'.
- 1.6 The Company has explained that the quotation did include the cost of the replacement service to 'house two' for two reasons. Firstly the Company is of

the view that the new location for the service was decided by the Customer and that the Customer had free rein as to where the new meter positions were to be located. The Company adds that the scope of the works was discussed with the Customer and in the Company's opinion the Customer was aware that a charge would apply for services to new meter positions. Secondly it is the Company's view that the service to 'house two' was made unsafe by the Customer's builders who removed the roof section over the meter position and left the meter position exposed to the elements. The Company states that had the roof section not been removed, and the supply point had remained watertight and secure, then the supply point would not have needed to be made safe

1.7 The Company states that the breakdown of costs was as follows:

The Company states that following the acceptance of the quotation the Customer advised that there had been a change to his site requirements. They explain that the HSE had identified their concerns to the Customer regarding the erection of scaffolding in close proximity to the live LV overhead line. The Company state that they discussed with the Customer how the project could proceed based on the restrictions placed by the HSE. The Company do not hold any note of the meeting to discuss a revision of the original scheme.

1.8 The Company states that the original scheme required four wayleaves, including wayleaves from Buccleuch Estates and BT. The Company states that based on previous experience they anticipated difficulties in obtaining a wayleave from BT. The Company has confirmed that it did not actually apply for these wayleaves and only anticipated they were likely to be subject to delay.

1.9 The Company states that as the Customer was concerned about any delay in completing his project, it was agreed to proceed with an alternative proposal that avoided the need for a road crossing. The Company explains that as a result it was agreed that the first three spans only of overhead line would be

removed. The Company adds that although less undergrounding was involved, the amended scope of the scheme now included the installation of a new terminal pole and associated overhead line works. The Company states that in order to expedite delivery, the work was carried out without a revised quotation being issued and that the work was completed in August 2007.

1.10 The Company states that subsequently the Customer wrote to them querying why the change in the scope of the works carried out from that quoted had not resulted in a refund. The Company states that the costs of the work carried out exceeded that quoted for but that it had absorbed this additional cost. The Company explains that although less underground cable was installed than was originally quoted for (in a trench excavated by the Customer), the cost savings were more than offset by the costs of construction and installation of a new terminal pole. The Company states that it provided the following breakdown of the actual costs of carrying out the work after the Customer referred the matter to Energywatch:

• Installation of underground cables	£2,726
• Overhead line works	£5,305
• LV services	£1,825
• Total	£9,854 (plus VAT)⁷

1.11 Further to the above breakdown the Company has provided Ofgem with a detailed list of the elements of work involved in the connection and the costs associated with each element (see paragraph 1.23 of this appendix). In providing Ofgem with information about the materials used in this connection the Company originally stated that 123m of cable had been used in the connection. The Company later clarified that the cable issued for the job amounted to 123m, whereas the on-site measurement of the cable used was 64m (52m in track excavated by the Customer plus 8m on the LV pole and 4m on the HV pole). This reduced the costs of the cable charged to the Customer by £240.

1.12 The Company states that the work was carried out in two phases in order that the Customer could proceed with his building work. They explain that in the first phase the overhead line in front of the steading at the Premises was removed and that this work was carried out by contractors on the Company's

⁷ This figure is stated in a letter from the Company to energywatch dated 7 September 2009. This figure was later reduced by £240 (see paragraph 4.11)

behalf. The Company do not have information about the size of the team used, but it would have expected the work to dismantle the LV span, pole and stay to require three linesmen and a HIAB crane lorry driver.

- 1.13 The Company states that in the second phase a new terminal pole was erected and the overhead line to the side of the development was replaced by an *underground cable*. They go on to explain that the existing neutral earth was at pole 1 of the LV overhead line which was dismantled and that a new neutral earth was established at the transformer pole. The Company states that the second phase could not commence until a wayleave from the Customer's neighbour was obtained.
- 1.14 The Company states that the jointing team travelled approximately 50 miles to site and that this reduced the amount of work they were able to do within a working day. The Company states that the average hourly rate for skilled jointers/linesmen used for costing purposes is £65 per hour, taking into account related costs such as travel time, tools, work programming, management and the costs of providing a quotation, as well as more general support costs and overheads.
- 1.15 The Company have confirmed that it would be normal practice to remove all the overhead line and connect the underground cable section from the transformer in one visit but that this not happen in this case. The Company have explained that they attended the site in June 2007 to carry out works, but at this time the site was not ready for the service connection. The Company states that it received the required wayleave for the revised scheme on 11 June 2007. The Company states that the site was not ready to receive a connection until August 2007 and that on 30 August 2007 a labour and jointing team attended to connect the three services to the development in the trench excavated by the Customer.
- 1.16 The Company has confirmed that it would have been able to complete the *work, including service connections, during the June visit had the site been ready*. The Company states that they should have informed the Customer of what needed to be done so that the work could be completed but they do not have a written record of having done so. The Company states that given that the Customer carried out the excavation for the new main cable, had the service excavations and meter positions been ready at the same time,

this work would have also been carried out on the same visit. The Company states that at the time they understood that the Customer's priority was the removal of the overhead line so that the Customer could continue with roofing work on the site. The Company states that the breakdown of costs provided remains applicable if the work had been done in one visit.

- 1.17 The Company has confirmed that no upgrading of the LV network or other Customers' services was carried out and that no upgrading work was carried out at the pole mounted transformer. They have also confirmed that the LV overhead line was assessed and found to be in satisfactory condition and that the replacement of the line was not in their construction programme at the time.
- 1.18 The Company, when referring to its use of 4 core LV cable, states that it is standard policy to maintain the use of a separate neutral and earth conductor for all network alterations. In response to the photographs provided by the Customer showing the original meter box and cable the Company states that the cable shown from the pole to the meter position does belong to them.
- 1.19 The Company states that the reference to two connections in its quotation letter is system driven and that there were in fact two new services and one existing service to be altered. The Company does not have any record of saying that it would not charge for changes to the existing service.
- 1.20 The Company states that the Customer, when estimating costs, appears to have failed to take into account the costs of dismantling the existing overhead service and replacing it with a new underground service.
- 1.21 The Company states that a fault in a joint in the new system was acknowledged on 12 February 2008 and rectified and closed by 25 February 2008. The Company further acknowledges that a communication with regards to the Customer's neighbour's dog has taken place, but adds that this is not relevant to this determination.
- 1.22 The Company states that it believes that it has been flexible in accommodating a change in the scope of works following the quotation being issued and accepted. They explain that it would be normal in such cases for the original quotation to be withdrawn and the Customer refunded before a new estimate

and quotation was prepared. The Company states that had the original quotation been withdrawn and a new quotation issued it would have further delayed the Customer's project and that this was not done in this occasion to assist in the progression of the work. The Company states that it has absorbed the additional costs that have been incurred. The Company adds that energywatch advised the Customer in a letter dated 30 June 2008 that based on the information provided to them by the Company the original quotation of £8,642 (plus VAT) was reasonable for the work involved.

1.23 Detailed list of elements of work submitted by the Company (figures are exclusive of VAT):

	Company Labour (£)	Materials (£)	Contract (£)	Activity
Mains cable laying	2471			Labour to lay and blind mains cable
64m Main cable		491 ⁸		Cable material only
Mains cable jointing	2053	492		Jointing
Overhead line (contract)			2876	Dismantle Over Head Line / install new pole
Service cable laying	617			Lay and blind cable
70m service cable		135		Service cable material only
Service jointing		84	395	Service Jointing
Total cost of the work	5141	1202 ⁹	3271	9614 ¹⁰

⁸ Previously reported by the Company as £731 as included 60m of unused cable

⁹ Previously reported by the Company as £1,442 as included 60m of unused cable

¹⁰ Previously reported by the Company as £9,854 as included 60m of unused cable

APPENDIX THREE

OFGEM'S BREAKDOWN OF ESTIMATED REASONABLE COSTS (FIGURES ARE EXCLUSIVE OF VAT)

Item	Company actual cost (£)	Ofgem estimated cost (£)	Ofgem comments
Material cost for 63m of 4c95LV cable	491	481	
Material cost for 70m of service cable	135	274	
Providing ducts to Customer		247	Material cost of providing these ducts not separately identified in Company's costs
Install 63m of 4c 95LV cable sq mm in trench and ducts installed by Customer	2471	453	
Install 70m of 25 sq mm single phase service cable in trench and ducts installed by Customer	617	324	
LV service jointing - 2 services from multi service breeches joint plus 1 individual service	479	979	Ofgem cost includes service terminations
LV cable jointing (pot end and pole termination)	2545	1750	
Install new terminal pole, stays, terminate existing line	2876	2044	Estimated cost does not include second visit
Cost of a second phase visit by a 4 man team and vehicle		2000	Estimate of reasonable cost
Total (plus VAT) before reductions	9614	8552	
Reductions			
Estimate of what would be considered a reasonable reduction if the Customer should not have been charged for the connection to 'house two'		500	Estimate of reasonable reduction
Estimate of what would be considered a reasonable reduction if all of the work had been completed in a single visit		2000	Estimate of reasonable reduction
Total (plus VAT) after reductions		6052	

Please note that Ofgem's estimated cost includes an overhead to cover travel on a general basis (please see paragraph 4.32 of this determination).