

# WPD Decision Document:

## An update report on our Consultation on Allocation and Reservation of Capacity

*August 2018*

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# 1. Background

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As a Distribution Network Operator (DNO), we have an obligation to connect new customers to the network by constructing new assets and upgrading the existing network to provide customers with the capacity they need.

In the past two years we have seen an upturn in new demand connection enquiries with many of these characterised by relatively large capacity requirements and long build out timescales. We have also seen a rapid increase in requests to connect battery storage schemes which require large and immediate demand capacity requirements alongside their equivalent export capacity requirements.

The increase in demand for capacity means that in certain areas the network has become constrained so no further connections could be made without significant reinforcement. A considerable number of these constraints can be attributed to capacity which has been contracted under new connection schemes and reserved but has not yet been taken up by an end user. Typically we experience this issue following the receipt of applications to connect housing or commercial units that may 'roll out' over a number of years.

The issue of constraints on the network triggering costly and time consuming reinforcement is well understood and has been subject of much of the work undertaken by Ofgem through its consultation on quicker and more efficient connections. Where investment in the existing network is needed, the connecting customer will need to pay some of the cost, with the rest being shared between all other users of the network through the application of charges for Distribution Use of System (DUoS). Whilst this is true it is equally important that electricity bills are kept as low as possible for all customers. We are not allowed to reinforce the network ahead of need and recover the cost of doing so from our wider customer base unless we can demonstrate how all customers will benefit.

As a result of the issues we are encountering we decided to consult with stakeholders to seek views on a proposed approach to the way in which we will allocate network capacity to new customers and how we will allow them to reserve this capacity prior to the connection and energisation of the end user connections. The consultation included four underlying principles we believe should be applied when considering the allocation of capacity following an application.

This document sets out a summary of the responses, indicating whether or not respondents agreed with the principles and, where they differed, reasons for reaching that view. We have considered all the points put forward and reached a conclusion as to how we want to progress this piece of work.

## 2. Summary

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We received over 20 responses from stakeholders representing a broad spectrum of connections stakeholders including Local Authorities, Local Enterprise Partnerships, independent connection providers (ICPs), independent distribution network operators (IDNOs), developers and consultants.

The responses covered a range of views with support for the approach we have tabled as well as some with concerns of its impact on them. Local Authority and Local Enterprise Partnership respondents particularly understood the issues and were broadly supportive and keen for us to be able to work closely with their development plans. We think it is important to work together and in this respect we have previously created a webpage for Local Authorities and Local Enterprise Partnerships providing details of methods of engagement, such as our stakeholder workshops, senior manager point of contact and connection appointments to access a local engineer for discussions ahead of submitting an application. In addition, further information can be viewed via this webpage in relation to strategic network investment, strategic planning and our Long Term Development Statement. The webpage is available to view [here](#).

Whilst respondents were generally supportive and in agreement with the principles laid out in the consultation, there were concerns around the impact of restricting the ability to reserve capacity on large long-term developments and a call for WPD to be flexible in its approach.

We therefore will proceed with the development and implementation of a set of processes and procedures which will ensure a balanced approach to these wide ranging stakeholder views. Our conclusions are set out under this document and the 'Next Steps' section outlines our approach and timescales for developing policy.

An anonymised table of responses to the nine questions that we set out under our consultation is available to view on our website:

<https://www.westernpower.co.uk/Connections/New-Connections/Capacity-allocation-and-reservation.aspx>

In some instances, respondents provided additional commentary separate to the specific questions we asked. These additional comments have also been taken into account when undertaking a review of the responses received.

### 3. Responses and Conclusions

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In this section we summarise the responses received from stakeholders to the various issues raised in the consultation document. The questions follow the structure of those in the original consultation document, in which we set out 4 principles we believe should be applied when considering the allocation of capacity following an application.

#### Principle 1 - Capacity should be allocated according to customer's defined and validated requirements assessed against a set of qualifying criteria.

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*Questions in this section:*

- 1) Do you consider the criteria for the customer to validate the requirement for their requested capacity is appropriate?*
- 2) Are there any other criteria or is there any other evidence WPD should consider when assessing the validity of a customer's requested capacity?*

#### Criteria to validate the requirement for capacity is appropriate

We explained in the consultation that we do not believe a customer should be able to reserve capacity unless they provide an application that confirms and validates their capacity requirements and programme of works. In order to validate the requirements we felt that the customer should be able to provide:

- Detailed load requirements for each of the required end connections on the development
- Detailed build-out programme/schedule demonstrating how the overall required capacity will be taken up by end users over the timescale of the development
- A letter of authority where the applicant is not the land owner or the developer
- Outline planning permission (detailed planning required as a milestone in the formal offer letter)

In the responses received, the majority generally supported the principle to validate requested capacity, particularly with regard to small and medium development. One respondent advised that 'the customer should be prepared to provide a detailed assessment of their load take-up/profile and be able to fully substantiate the rationale adopted'.

Some respondents were concerned that these requirements would restrict the ability to secure capacity for large-scale long term developments and commercial sites where the detailed load requirements may not be known. One respondent said that 'early engagement on long term requirements will help to avoid the surprise of finding out that certain sites cannot

accommodate high energy demand uses without significant reinforcement works'. Two respondents also felt that the 'minimum cost option' favours short term decisions and could prevent large-scale or longer term development.

Some respondents believe that outline planning should not be a pre-requisite to an application whilst another challenged the benefit of providing a letter of authority from the landowner/developer and its ability to verify capacity requirements.

### *Conclusions:*

Whilst supportive of the principle, there was concern raised that it should not be for WPD to validate or specify the required capacity for connections. We want to be clear that the criteria we set out are not intended for WPD to verify individual capacities nor to specify what the requested capacity should be. Having a requirement for the applicant to detail their capacity requirements for the connection(s) on the development is intended to verify that the overall requested capacity is required and is not speculative.

With regards to the letter of authority, we believe it is important to substantiate the application in terms of establishing the applicant's relationship with the landowner/developer. By confirming the scope of the development area being applied for and what the applicant has authority to request, it ensures that capacity is not allocated beyond the landowner/developer's requirements. For example, where the developer has only engaged the applicant to apply for the initial phase, and the application should not be for the all phases of the entire development, the letter of authority would substantiate the requirements. We therefore think that having a requirement to provide a letter of authority is an appropriate pre-requisite.

In response to the concerns regarding the 'minimum cost option' applied to connection offers, our view is that the risks of constructing and reserving capacity which may not be required, whether it be a large scale or commercial development where the long term requirements are not fully known and are therefore speculative, should sit with the parties triggering the works and not with the wider customer base through DUoS contribution to reinforcement. In our response to Question 9, we set out alternative options which would cater for this scenario such as the use of an infrastructure offer and reservation of capacity arrangements. This enables the connections for the speculative plots to be requested at a later time once more detailed requirements are known. We also feel that the risks associated with the initial requested capacity not meeting the requirements of the ultimate end users (tenants), potentially requiring sections of the constructed network to be replaced, should also be borne by the triggering parties and not the wider customer base.

Whilst we believe there is value in setting the outline planning requirement as a pre-requisite to ensure applications were made closer to the required connection date, we think that the proposed milestones relating to planning to be set out in the connection offer will ensure scheme progression. We are, however, minded to proceed with the requirements for detailed loads, build-out programmes and a letter of authority as a requirement for securing capacity when applying for a formal connection offer.

## Other criteria or evidence WPD should consider when assessing validity

Some alternative criteria were provided for WPD's consideration. Whilst one respondent suggested we remove the 'Outline Planning' milestone on the basis it will not always be required, a number of others requested that we give weight to whether the outline planning relates to an allocated site within the Local Development Plan (LDP).

Additional requested criteria include:

- Take account of the difference between speculative schemes for developer profit and speculative schemes for provision of local or regional economic development;
- Site allocation in an up to date adopted local plan;
- Remove requirement for outline planning as not all schemes require this step;
- A clear timetable from outline planning and submitting reserved matters to on site construction;
- The degree of certainty of project 'go ahead';
- Energy reduction methods installed within the building to be reviewed post connection to ensure the demand has not increased
- Access to development funds
- Status of planning permission
- History – e.g. non-implementation of permissions, land banking, previous scheme delivery of the applicant
- Relevant details of any S106 legal agreements tied to planning consents
- Realism of the maximum capacity applied for
- Consideration of the strategic importance of a large housing site
- Consideration of the commercial inward investment

## Conclusions:

Many of the respondents' suggested additional criteria linking to past performance, planning status, or priority within the local government / national government's strategic priority. WPD would not be able to apply these criteria and effectively discriminate between customers or types of customers, our Licence obligations would not let us decide which schemes are able to progress in this way and we do not believe it is WPD's role to make these judgements.

We believe that implementing and enforcing the appropriate milestones in connection offers will ensure projects which are able to progress and have been granted the appropriate planning permissions etc. can do so and those which have stalled and are not progressing will not cause an unreasonable bottleneck.

We do not believe there is strong support for any particular additional requirement which can be implemented whilst adhering to our licence obligations. Therefore we are minded not to add any additional requirements for securing capacity upon application at this stage.

## Principle 2 - Capacity should be allocated on a strict date order of confirmed requirements and in line with WPD interactivity procedures.

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*Questions in this section:*

*3) Do you consider it correct that a customer should only secure a place in any interactive connections queue where they have clearly defined requirements and an immediate need for the connection?*

In the consultation we confirmed that we have a well-established process for dealing with occasions where we receive two or more applications which make use of the same part of the network, the interactive connections process. A place in the interactive connections queue is secured once certain information is provided and an 'Application Date' confirmed and a large development may secure their position in any interactive queue under a connection offer for the first phase of a development.

The majority of respondents agreed that a place should only be secured in any interactive connections queue when they have clearly defined requirements, although concern was raised over the use of the word "immediate" given that the interpretation may differ between customers.

One respondent stated 'given the pressure on housing requirements and the need for economic growth, capacity should not be taken up by those who do not have clear plans in place and cannot deliver growth within a reasonable timescale'. Another asked if an application's place in the queue 'will be time limited' to ensure they do not become a blockage where they are allocated but not moving forward.

Amongst those both in agreement and against this process, some respondents queried how flexible this approach would be with regard to accommodating unforeseen/unavoidable changes. It was noted that, with any large scale project, delays may occur for a variety of reasons and an allowance for this should be included within any cut off dates.

One respondent felt that customers should not be unduly discriminated against and that it is 'unreasonable for customers to have their connection capacity requirements verified by a distributor before they are offered terms for the provision of a connection' whilst another felt that the risks of breaking up the requirements on a project may become a 'complete barrier to investment'.

### *Conclusions*

Whilst we do not believe it is appropriate to apply a separate time limit to an application's position within any interactive queue, we feel that the capacity reservation period and



milestones within the connection offer provide an effective method of releasing capacity back to the network from schemes which are not moving forward.

As previously mentioned in our response to question 1, we are not seeking to verify individual capacities for connections or specify what those capacities should be. However, we do believe it is reasonable to understand the requirements ahead of capacity being reserved and therefore no longer available to subsequent applications.

We agree that the word 'immediate' may cause concern as for one customer this may be 'next week' whilst another may feel that this is within the next two years. This may be better described as requiring the detailed requirements of the end user(s) to secure a place in any interactive queue, i.e. those covered in Principle 1 above. Further to this, the milestones include in the connection offers will ensure the development progresses and capacity is taken up by end users without unreasonable delay.

### Principle 3 - Capacity should be allocated according to the immediate requirements of the end users and not on a speculative basis or for future undefined developments.

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*Questions in this section:*

*4) Do you agree that existing network capacity should not be allocated and reserved beyond the timescales of the construction programme for the connection works on infrastructure-only or speculative developments?*

*5) Over what time scales do you think it is reasonable to secure capacity ahead of its actual usage?*

*6) Do you agree that it is a reasonable cost signal to require speculative developments to pay 100% of the reinforcement costs and uplift for operations, repairs and maintenance?*

*7) Do you think this represents a workable solution to reserving capacity and if not, are there any alternative approaches that you believe WPD should consider to supplement or replace the approach we are proposing here?*

### Reservation of capacity from existing network capacity

We set out our views on the reservation of capacity which is to be obtained from the existing network for schemes which are to be considered speculative. So as not to encourage

inappropriate behaviour we set out that we believe the customer should only reserve the available existing network capacity for 3 years post acceptance of the connection offer to prevent a disadvantage to other connection customers with firm requirements. This belief was based on the view that, as no financial commitment was required to secure network capacity, developers were sometimes incentivised to make a 'capacity grab' without fear of financial risk.

The majority of respondents were in agreement to setting a period for reserving existing network capacity for speculative developments, provided the process is fair and includes some flexibility where sites are progressing but over a longer timescale than planned.

One respondent agreed that if WPD did not adopt this stance then developers would continue to grab capacity to de-risk their development. Another felt that this should incentivise uptake of the allocated capacity and discourage long-term speculative developments that may block shorter term developments with validated requirements. A third respondent felt the matter should be taken further and speculative development should not be able to reserve capacity at all. All development should be able to demonstrate that it is actually going to come forward and is not just an exercise in the valuation of land.

We think this may be a step too far as developers must have some level of security that capacity will be available for them when construction begins but that security comes at a price and must by necessity be time bound to ensure developers who come behind and are in a position to proceed are not unfairly penalised.

Some felt that a 3 year reservation period was too short, with one suggestion that the requirement should be to start the installation within 3 years for larger developments and another advising a timescale depending on the size of the number of dwellings for a domestic development. Another respondent felt that 3 years was appropriate but with an opportunity to extend to 6 years where suitable evidence of progression could be provided.

We agree that installation should start as soon as possible after acceptance of the connection offer. This is governed by the use of milestones (see questions 8 and 9) and encourages developers to only request firm capacity when they are in a position to utilise it. As we reference later in Question 9, there are alternative means of assessing costs and timescales for delivery via a request for a Budget Estimate or Feasibility Study. Utilising these routes will provide an indication at outline planning stage without ring fencing capacity that may or may not ever be used.

One respondent thought the 3 year timeline wholly unreasonable and unduly discriminatory, citing that build out times for developments consisting of 500 – 750 plots could take 8 – 10 years and larger sites even longer. They also felt there were insufficient grounds to discriminate between the time for which customers will have capacity available dependent on the connection works required to accommodate that connection. As an example, they stated it was possible that a small domestic development could trigger network reinforcement and, under WPDs proposals, the development would have their required capacity available for 10 years prior to it being required. However, a much larger development which can be accommodated on the existing network would only have their capacity available for 3 years. However, they also agreed

that there should not be an open ended enduring right to capacity but that any “clawback” mechanism should be fair and proportionate.

We understand that large developments can have longer build out times but when it comes to utilisation of existing network capacity we believe it is unfair on other developers who are ready to proceed to reserve capacity for protracted periods. Our view is that the longer the build out period, the more speculative the development is likely to be. By nature, it becomes increasingly difficult to predict market forces 5, 10 or 15 years out.

It was also identified that IDNOs will also enter in to a Bilateral Connection Agreement which sets out the connection capacity and that it is important that arrangements in the connection offer are consistent with the BCA. We agree and undertake to make it clear in our connection offers how any capacity ramp-up shall apply. This will be reflected in the BCA.

### *Conclusions*

We believe that developers should not be able to reserve existing network capacity for long periods of time, particularly where the application relates purely to infrastructure works and no connections are initially required. This would be deemed as speculative as the development is phased over a period of time and the phases are unclear (as defined by the Common Connection Charging Methodology (CCCM) provided in Schedule 16 of the Distribution Connection and Use of System Agreement).

Developers should only be able to secure existing network capacity where they have provided detailed requirements for end users and not for long term requirements that, by nature become more speculative, the further out the development extends. It is not equitable that a smaller development that is ready to move forward should be delayed because reinforcement works are required due to capacity committed to a larger, more speculative development.

Whilst we set out within the consultation our belief that 3 years post acceptance of the connection offer is appropriate, we are mindful of the Authority’s recent decision relating to IDNO connections under DCUSA Change Proposal 294<sup>1</sup>. The Authority’s decision not to veto the change means that the ‘Development Phase’ over which time an IDNO may ramp up capacity has been extended from 3 years to 5 years at the date of energisation unless otherwise agreed.

As a consequence of this we need to be mindful that developers choosing not to utilise an IDNO route are not disadvantaged and are able to benefit from the same ramp up timescales should they choose to ask WPD to own and operate the network. On this basis we will ensure that these routes are aligned and non-discriminatory.

<sup>1</sup> <https://www.dcusa.co.uk/SitePages/Activities/Change-Proposal-Register-Archive.aspx>

## Capacity reservation timescales

In addition to the reservation of capacity from existing network, we also set out in the consultation a proposed methodology for securing capacity from constructed capacity, recognising that a customer has made a financial commitment. For both sole use assets built to service the development and for reinforcement of existing assets, we proposed a reservation period of 10 years which aligns with the Electricity (Connection Charges) Regulations 2017, during which the customer may receive a partial refund from any subsequent connection made using assets the original customer has paid for (providing that the scheme includes end connections and is not for infrastructure only).

In the capacity responses there were varied opinions on what timescales are appropriate for securing capacity ahead of its actual usage, ranging from 3-5 years to 10 years in agreement with our proposal and up to 15 years to align with planning departments/council core strategies.

A number of respondents gave no timescale, advising they believe the timescale for reservation should be based on the size of the development and supported by evidence that the development aligns with strategic priority given or where there are contractual/funding guarantees in place.

One respondent did not believe that the application of a 10 year period where customers have contributed to shared assets is beneficial and welcomed some more detailed analysis or reasoning from WPD as to why we believe this is reasonable or how it fitted with the drafting in our Charging Statement.

We believe extending the reservation period out to 10 years is reasonable on the basis that the developer has made a financial commitment toward the scheme and that it harmonises with timescales for considering capacity under the Electricity Connection Charges) Regulations 2017.

## Conclusions

Our proposal is that the reservation period should start from first energisation and not post acceptance. The milestones in the relevant connection offer will ensure that there is no undue delay in energisation prior to the reservation period.

The majority of respondents felt that capacity should be reserved based upon the size of the development. As a general principle this might make sense but we believe a two tier system is more transparent and easier to administer. Hence, if a developer has made a financial commitment then they should expect to retain that capacity for longer than if they had not.

We think 10 years is a reasonable time for a developer to retain capacity where they have fully funded the sole use connection works. For any longer period, where we felt that there was an opportunity to feed other customers from those sole use assets we would require the developer to evidence that the development was still progressing in accordance with the original work programme. If this was not evidenced to our reasonable satisfaction we may utilise part of the capacity created to feed other customers.

Where a developer has contributed to reinforcement costs, either partially or fully, and we utilise some of the capacity that the developer has contributed to within a 10 year timescale to feed other developers, we will refund a proportion back as long as the original developer remains eligible under the Electricity (Connection Charges) Regulations 2017.

## Contributions for speculative developments

We advised that the charging methodology enables us to mitigate the risk of having stranded assets by charging in full for any reinforcement undertaken for speculative developments and apply additional charges to reflect the ongoing operation, repair and maintenance costs. We asked whether it was a reasonable cost signal to require speculative developments to pay 100% of reinforcement costs and uplift for operations, repairs and maintenance.

This attracted a mixed response. A slightly greater number agreed with the principle and felt that paying 100% would discourage capacity banking which in turn may cause delays to firm developments. One respondent strongly agreed with the principle, citing that speculative development does not benefit anyone except those that either own land or manage land.

Those in disagreement felt that this could damage the viability of encouraging growth and investment as the costs become prohibitive. There was a fear that the implementation of this proposition would place a severe burden on smaller developments.

Some respondents felt that a clearer definition of “speculative” was required as it means different things to different people. We understand “speculative” has a slightly different emphasis under local planning scenarios. However the Common Connection Charging Methodology (CCCM) provided in Schedule 16 of the Distribution Connection and Use of System Agreement, which all DNOs are obligated to abide by, is very clear on its interpretation and we do not believe further clarity is required.

Another respondent thought that speculative development costs could be shared by multiple development sites under a consortium approach.

WPD is open to consortium applications and will consider such approaches. However, experience has shown us that it is not easy to coordinate a joint approach and on many occasions developers are not in a position to go forward at the same time.

## Conclusions

We think that there is merit in charging an applicant 100% of the reinforcement costs where the development is deemed speculative and that it is right to charge a capitalised charge for future operations, repairs and maintenance of the distribution system where there is no guarantee that these costs can be recovered through ongoing DUoS charges. Applying these charges sends a cost signal to the applicant such that if the development does not subsequently take place, the risk is with them and not the wider customer base.

The ability for WPD to charge in this manner is already set out in the CCCM which effectively means there is nothing to prevent us from taking this process forward. However we want to review this approach in light of current network scenarios, consider best practice and refine processes to ensure we apply the methodology consistently and in a transparent manner.

The CCCM also dictates that we may, at our sole discretion, allow capacity to be reserved on the infrastructure provided to service a speculative development on the commercial terms agreed between WPD and the applicant in respect of the development. We will review our current processes and policies and amend them where appropriate to do so, to ensure the manner in which an applicant may reserve capacity on a time bounded basis is clear and easy to understand.

## Alternative approach

In the consultation we advised that some DNO's offer the customer the ability to reserve capacity on infrastructure assets by paying a reservation charge. We asked whether this represents a workable solution and whether there are any alternative approaches we should consider.

Although relatively even in terms those who did or did not support this solution, it was noted that "anything which does not help to resolve the bottlenecks in network capacity availability is a hindrance to development". One respondent advised there should be "a system whereby large business units help to decongest the grid enabling the capacity they give to be used by new smaller developers without the need for grid reinforcement".

Some respondents suggested that WPD should have a team which could deal specifically with the speculative side of energy requirements for investors and developers, working more closely with planning authorities and local plan teams.

One respondent suggested that the process of applying charges should include the ability to partially refund this charge should the site build out as anticipated within a defined period.

## Conclusions

In terms of the capacity of reservation charge, we are concerned that this would have a discriminatory effect on those who can or cannot afford to pay it. For those who can, we do not believe it would be a strong enough cost signal to deter them from reserving capacity in excess of their realistic requirements in the event that they may be able to benefit from it in the future. For those who cannot afford it they could be stuck in the 'bottleneck' waiting for capacity to be constructed behind those that are able to pay to reserve the capacity. We therefore believe that the approach we have set out elsewhere in the report for reserving capacity is a more pragmatic and non-discriminatory solution.

Although there were suggestions for a partial refund process, we previously set out that we do not believe that the risks and associated costs for constructing capacity which may not be required should be borne by the wider customer group through DUoS charges. There may be a potential for the triggering customer to receive a refund under the Electricity (Connection Charges) Regulations 2017 from any subsequent customer utilising assets which were paid for on the original scheme. However, this may only apply where an end connection was made which enables refunds within 10 years of energisation provided the initial contributor continues to meet the eligibility requirements. This process, however, does not apply to infrastructure only schemes.

With regards to approaching commercial customers to release capacity, there will be opportunities for customers to contract to provide flexible services where their capacity can be utilised to avoid or defer reinforcement required for new connections.

Whilst we mentioned in our summary the new webpage for Local Authority and Local Enterprise Partnership's to engage with WPD, there are also connection appointments available for customers to engage with a local engineer on both short term and long term needs. More information can be found [here](#). In addition, WPD's Strategic Network Investment team engage with Local Authorities on their growth plans and how these will impact on WPD's network. More information can be found [here](#).

## Principle 4 - Capacity should be allocated with defined milestones for the obtaining of planning permissions, commencement of construction and completion of connection works.

*Questions in this section:*

- 8) Do you agree that it is a reasonable cost signal to require demand customers to comply with a set of project progression milestones in order to retain their connection offer and its allocated capacity?*
- 9) Do you agree with the milestones set out above or should we consider any alternative set of milestones?*

### Project progression milestones as a cost signal

Having a set of project progression milestones set out as terms to the connection offer agreement ensures that there is a contractual basis in which WPD can challenge slow moving or stalled projects. The ability to remove them from the queue if the project is not progressing releases unutilised capacity for other customers to be connected faster or with less cost.

Within the consultation, we set out a number of proposed milestones to be applied to demand developments:

- i) the customer has submitted a valid detailed planning application to the local authority;
- ii) the customer has and retains some form of land rights for the development, e.g. some form of freehold or leasehold interest;
- iii) the customer has obtained detailed planning consent;
- iv) a detailed programme of works is agreed and the connection works commenced;
- v) the customer's installation is connected to the network and energised

We asked whether requiring compliance with milestones is a reasonable cost signal to which all respondents had some level of agreement. Additional commentary requested that milestones were flexible and that the rules applied were sensible, pre-determined and understood.

One respondent commented that a rigid approach to milestones will lead to distortions in the market, where developers are forced to commence projects early to retain capacity or risk losing capacity mid-way through a project, advising "where you are investing £10m+ in a project, suddenly finding capacity withdrawn midway through a project would be a huge risk".

## *Conclusions*

It is clear from the responses we have had that there is support for project progression milestones to ensure capacity is allocated to schemes which are moving forward and we are minded to proceed with this approach. We do recognise the requirement for flexibility where delays are for reasons outside of the customer's control, for example archaeological excavations delaying onsite works commencement.

Our approach to administering these milestones is to ensure that cancelled or indefinitely delayed schemes do not hold up other scheme which can progress, we do not seek to withdraw capacity from schemes which are demonstrably progressing but have suffered set-backs. Customers should feel assured that, where a milestone is missed, we will provide an opportunity to evidence the reasons for any delays and how the scheme is continuing to progress. Where sufficient evidence is provided, we will enter in a revised agreement with new target dates. Where sufficient evidence is not provided, or no response is received, we may then proceed to withdraw the connection offer and return any unused capacity back to the network for use by subsequent applications.

## *Alternative milestones*

The majority of respondents agreed with the milestones we set out, particularly for small and medium sized developments. Some respondents felt that, for larger schemes, the milestones should align to timescales defined through the planning process or be bespoke to each development, including commencement of enabling works or phased commencements, although phased developments are usually provided with separate connection offers and therefore each phase will, in such instances, incur its own set of milestones.



It was noted that some developments may require a Development Consent Order as opposed to Planning Consent, which may result in a minor amendment of the milestones to submit an application and obtain a development consent order in place of planning consents where applicable. One respondent advised that for some large scale sites, such as an enterprise village, there will be multiple planning applications. Outline planning would secure the ability to commence infrastructure works but detailed planning would be submitted for individual plots once the end use was determined. Within the consultation we advised that milestones may be extended by agreement where the customer can evidence to WPD's satisfaction that the scheme is still progressing. Where outline planning has been obtained and evidence provided that the site works are ongoing we may therefore revise the target timescales for detailed planning consents.

One respondent felt that it may be more appropriate for a developer to 'show that they have had pre application discussion with a local planning authority and that there is in principle support for their development'. We believe this may, in some instances, be difficult to evidence as a specific milestone therefore we would take account of these discussions where they are used in evidence of project progression.

It was noted that it is a requirement for planning applications to have regard to viability which would include utilities costs in advance of planning applications being submitted. In the very early stages of the process a formal connection offer with the inclusion of project progression milestones may be unsuitable. A number of alternative options are available including a budget estimate which is free of charge, although this will not include detailed studies to determine any reinforcement requirements. However, we also offer feasibility studies which incur a fee but would provide a more detailed study to establish the viability of making a connection to our network and agree an outline engineering scheme for connection.

One respondent felt that the requirement to have some form of land rights should give regard to the fact that many applications, particularly for large scale schemes, will come from land promoters rather than landowners or developers themselves. However, we do not believe that this should prevent the milestone being met as promoters will usually be appointed on behalf of a landowner or developer and therefore able provide sufficient evidence that those land rights are in place.

There were suggestions of giving priority to schemes such as those which are allocated within a local development plan or have local importance and local support or funding. There was also a suggestion to implement a milestone for progression of contestable design works where an ICP solution has been selected. However, we are obligated under our Distribution Licence (Condition 19.1(a)) not to discriminate between any person or class of persons. We therefore believe that applying any prioritisation outside of a pre-determined set of rules or applying milestones specific only to competitive connection providers would be in breach of this licence condition.

The completion milestone was felt to be problematic by one respondent who felt it may act as a barrier to investment if there is any risk of WPD withdrawing capacity due to delays during

construction. As discussed in our response to question 8, where milestones are missed the customer will be provided with the opportunity to evidence that the site is progressing. It is accepted that issues may arise in the course of the works but the inclusion of a completion milestone will prevent capacity being reserved for an open ended period for developments which have been abandoned.

One respondent felt that many of the suggested milestones were inconsistent with the provisions of the Electricity Act and the Electricity Distribution Licence. Section 12.4(b) of the Distribution Licence requires that an offer of connection must set out “such other detailed terms as may be appropriate for the purposes of agreement”. The Electricity Act 1989 stipulates that “it shall be the duty of an electricity distributor to develop and maintain an efficient, co-ordinated and economical system of electricity distribution”. By setting out appropriate terms, including milestones, within any connection offer we are seeking to prevent capacity being reserved for indefinite periods on non-progressing schemes. Without this process, we would be required to construct networks capable of delivering the contracted capacity as opposed to required capacity which is both uneconomical and inefficient. We therefore believe that the inclusion of milestones within the connection offer is consistent with both the Electricity Act and the Distribution Licence.

### *Conclusions*

There was a high level of support for the milestones we set out within our consultation document. We shall therefore move forward with our proposal to implement them. There was also a desire for milestones to be tailored according to the size and type of development therefore we shall give consideration to introducing an additional milestone that will link to the developers build out programme to allow us to identify and manage slow moving schemes.

Flexibility will be applied to revise targets where customers can evidence that they are working towards achieving the milestone and that the project remains in progress. We will also consider how the milestones are applied when a Development Consent Order rather than Planning Consent is required.

## 4. Next Steps

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Our conclusions made under this document identified a number of areas for development:

1. **Letter of Authority** – establish process for the use of a letter of authority to substantiate the application in terms of establishing the applicant's relationship with the landowner/developer and to confirm the scope of the development area being applied for and what the applicant has authority to request.
2. **Application information requirements** – update ground rules for information requirements in order to secure capacity under a formal Connection Offer, for example detailed load provision and build-out programmes.
3. **Connection Offer milestones** – review and extend existing milestones thus strengthening our ability to ensure projects which are able to progress and have been granted the appropriate planning permissions etc. can do so and those which have stalled and are not progressing will not cause an unreasonable bottleneck, for example using an additional milestone that will link to the developer's build out programme. Consider how the milestones are applied when a Development Consent Order rather than Planning Consent is required.
4. **Development Phase** – following the implementation of DCP294, review and clarify the applicant's ability to ramp-up capacity requirements for up to five years post energisation.
5. **Capacity reservation rules** – clarify policy and process relating to the ability to reserve capacity post energisation using a two-tier system based upon whether or not an applicant has made a financial commitment, for example allowing an applicant to retain capacity for a longer period where they have fully funded the sole use connection works or has contributed to reinforcement costs, either partially or fully.
6. **Speculative developments** – clarify policy and process relating to existing methodology for dealing with speculative developments by charging an applicant 100% of the reinforcement costs where the development is deemed speculative and charging a capitalised charge for future operations, repairs and maintenance of the distribution system where there is no guarantee that these costs can be recovered through ongoing DUoS charges. Clarify how capacity can be reserved on speculative developments.
7. **Infrastructure Offers** – progress the development of infrastructure offers for use on e.g. large domestic or commercial developments where the long term requirements are not fully known and are therefore speculative.

We will develop policy and processes based upon each of the conclusions set out under this report and further engage with stakeholders to keep them informed of our detailed decisions. We will be open to further feedback and, if we deem it appropriate, tailor our initial proposals to take account of this feedback.

Our aim is to develop our ideas during the Autumn so that we can provide stakeholders with further clarity and detail on how we intend to develop each action area by the end of December 2018 and implement all associated policies and processes by the end of March 2019.

## 5. Case Study

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We have set out here an indicative example of how we might deal with large long term development in terms of how we would engage with a local authority or developer from initial discussion stage, through to formal offer and finally over the lifetime of the project. This example is based on our current thought processes and is subject to modification.

### **Development Plan**

A Local Authority set out its plan for the growth and development of a significant area which encompasses large residential and employment allocations. It includes 3,750 new houses and a new business park which is to be built out over a 25 year period. The overall anticipated capacity requirements were estimated to be in the region of 15MVA. Significant electrical infrastructure is required to bring supplies to the development area and reinforcement of the existing network required.

### **Initial engagement**

The Local Authority contacted WPD to alert us to its plans. A face-to-face discussion took place at which point we were able to fully engage and establish the Local Authority's immediate and long-term requirements. We were able to discuss current capacity availability in the locality and how electrical infrastructure could be provided. Consideration was given to the likely timing of the infrastructure provision based upon the phasing of the development. As a consequence WPD was able to inform the Local Authority of the likely requirements, the timescale for provision of major works and the indicative charges for connection.

### **Electrical Infrastructure requirements**

Through a desk-top exercise it was established that there was sufficient capacity to serve the initial phases of development. However, in order to supply the remainder it was necessary to undertake reinforcement by upgrading the transformers at the local 33/11kV Primary substation.

Funding was to be via private sector and developers would be expected to apply directly to WPD for each phase or a number of phases at a time. WPD offered to undertake a Feasibility Study in order to provide a more detailed assessment of the infrastructure requirements. The Local Authority declined this service but instead requested a free of charge Budget Estimate.

### **Subsequent applications**

Subsequent to the initial engagement with the Local Authority a number of applications for a Connection Offer were received. These requests came from developers, independent connection providers and an independent distribution network operator. WPD requested a Letter of Authority from each of the applicants, signed by the land owner/occupier giving permission for the applicant to apply for a connection offer for their proposed development. One applicant had no such authority and was therefore not considered.

All the applications were based upon a requirement for the full capacity of 15MVA over a 25 year period. Upon request for further information, applicants were unable to provide clear details. Estimated build out times were provided based on the number of connections against the 10 year plan, i.e. 500 plots per year. Specific details and capacity requirements for the commercial units were unknown and end users had not been identified. The phasing of the overall development was largely uncertain with only the initial phase set out with any degree of certainty. Outline planning was given but there were a number of Reserved Matters still outstanding.

The applicants were looking to secure capacity and so a Budget Estimate (which is non-binding) was considered unviable. They were however, able to provide specific details relating to Phase 1 of the development and so WPD agreed to provide a connection offer for this part. Phase 1 consisted of 350 residential dwellings with a capacity requirement of 700kVA. This demand could be supported on the existing network without the need to undertake any reinforcement works.

The Connection Offer carried milestones for connection that included the requirement for the customer to, a) submit a valid detailed planning application to the local authority, b) to retain some form of land rights for the development, c) to submit a detailed programme of works and d) obtain detailed planning consent.

The Connection Offer included a ramp-up of capacity over a five year period after which period WPD had the right to reallocate any capacity on the existing distribution system to other customers. The capacity provided under the sole use assets would be reserved for a ten year period.

### **Longer Term Development**

A number of applicants still wanted some ability to secure the remaining overall capacity (14.3MVA) for a period of time.

WPD assessed the situation against the Common Connection Charging Methodology and considered the remaining development to be speculative as it met a number of the pre-requisites, i.e:

- the detailed electrical load requirements were not known;
- the development was phased over a period of time and the timing of the phases was unclear;
- the capacity requested catered for future expansion rather than the immediate requirements of (an) end user(s);
- the capacity requested catered for future speculative phases of a development rather than the initial phase(s) of the development;
- the infrastructure only was being provided, with no connections for end users requested.

WPD issued an Infrastructure Offer on the basis the development was speculative. It included the requirement to upgrade the existing transformers at the primary substation the cost of which was fully chargeable as cost apportionment was not applied. The connection charge was

uplifted to include a one-off capitalised cost representing the net present value of the ongoing operation, repair and maintenance costs.

Under the Infrastructure Offer WPD agreed to reserve the capacity created following the reinforcement for ten years from the point of first energisation. At the end of that period WPD was under no further obligation to reserve any unallocated capacity but caveated that it may agree to extend the milestone where the customer could evidence the development was significantly progressing.

## **WPD Update Report: Consultation on Allocation and Reservation of Capacity**

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