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Dear Serafino

Business Connectivity Market Review

I am writing to provide SSE's comments on the above consultation. SSE is a large energy company with regulated infrastructure assets in electricity distribution and transmission. Although we have other interests in the communications markets, our main interest in this consultation is as a customer of BT's retail low bandwidth traditional interface leased lines. These are used as dedicated communications circuits to provide protection services for our electricity networks that serve some 3 million premises in Great Britain.

Along with other utility companies, we have made representations in response to earlier Ofcom consultations – for example those on next generation networks (NGNs) – about concerns that these “legacy” circuits may be withdrawn as BT develops its NGN platform. We have similarly been in constructive commercial discussions with BT on this matter. The consultation document addresses this issue in the discussion leading up to question 19 (reproduced below) on the proposed remedies for BT's significant market power (SMP) in the above market and our response to this question forms our one area for comment with respect to the consultation.

Question 19: Do stakeholders agree with Ofcom's assessment about the appropriate regulatory option and our proposed remedies for the retail low bandwidth traditional interface market in the UK? In particular, do you think that Ofcom should accept BT's proposed voluntary undertakings that it will continue to supply new analogue and sub-2Mbit/s retail circuits until 2011 or earlier if, subject to industry agreement and consent by Ofcom, the underlying platform is closed at an earlier date; that it will not increase its prices for analogue services more quickly than the rate of inflation (RPI-0%) for a period two years following the publication of the LLMR statement i.e.

from 2008 to 2010; and that it will commit to a further two-year cap, the level of which would be agreed with Ofcom prior to 2011?

We agree with Ofcom's assessment of BT's continuing SMP in this retail market and that some further measures are necessary to protect the interests of customers such as ourselves who use these circuits for purposes that support critical national infrastructure, where alternative communications provision is costly and not capable of being delivered in short timescales.

Our aim is to secure our existing high performance protection circuits at lowest whole life cost. Compared with investing in our own communications infrastructure, it does appear that the most economic option would be for BT to maintain the existing circuits – albeit that the specification of these circuits would need to be formally enhanced to provide us with comfort that they will continue to provide an adequate infrastructure for the purpose of protection signalling going forward. We believe there should be regulatory oversight of the charges proposed by BT to maintain these legacy circuits, as we strive to ensure that our own electricity customers are subject to the lowest overall cost to run our price-controlled networks. We therefore agree that a retail price cap of RPI-0 for 2 years for these circuits followed by a further price cap (to be determined) is appropriate.

As a package, we believe that the remedies described in the consultation (backed by Ofcom's intention to bring in a requirement for cost-orientation of charges should BT breach the voluntary undertakings described or if Ofcom and BT fail to reach agreement on a voluntary obligation to apply in 2010 to 2012) are welcome but do not go quite far enough to provide reassurance for users of these circuits for any period beyond the very short term. Given the long lead times that are likely to be required to develop other solutions for utility protection circuits, it still begs the question of what could happen in terms of availability and price of these circuits from 2012 onwards. We estimate that it would take us 5-8 years to develop alternative infrastructure and ideally, the regulatory remedies would last for at least this length of time. Failing this, it would be helpful if Ofcom could commit to reviewing this market again before the end of the proposed 4-year period such that the regulatory requirements on BT could be extended, if the market conditions warranted it. A four year interval appears consistent with the period between Ofcom's market reviews to date.

I hope these comments are helpful and would be happy to discuss them if you have any queries.

Yours sincerely

Aileen Boyd
Regulation Manager