

**DETERMINATION NO RBA/TR/A/DET/156**

**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 DOMESTIC PREMISES**

INTRODUCTION

- 1.1. [REDACTED] ("the Customer") of [REDACTED] ("the Premises") has referred for determination by the Gas and Electricity Markets Authority ("the Authority") a dispute concerning the reasonableness of charges levied upon the Customer by EDF Energy Networks (LPN) ("the Distributor") in relation to an electricity connection at the Premises.
- 1.2. The dispute arises under section 19 of the Electricity Act 1989 ("the Act") and has been properly referred for determination by the Authority under section 23 of the Act. Pursuant to section 23(1A) (b) of the Act, the Authority is required to determine the dispute in these circumstances.
- 1.3. Copies of the Views of the Customer and Views of the Distributor in relation to this dispute are attached as Appendices 1 and 2 (respectively) to this Determination. The responses to the parties' Views and further comments are attached as Appendix 3.

STATUTORY OBLIGATIONS

- 1.4. Section 16 of the Act provides in relevant part:

*(1) An electricity distributor is under a duty–*

*(a) to make a connection between a distribution system of his and any premises, when required to do so by–*

*(i) the owner or occupier of the premises...*

*for the purpose of enabling electricity to be conveyed to or from the premises...*

*(2) Any duty under subsection (1) includes a duty to provide such electric lines or electrical plant as may be necessary to enable the connection to be used for the purpose for which it is required.*

*(3) The duties under this section shall be performed subject to such terms as may be agreed under section 16A for so long as the connection is required.*

*(4) In this section and sections 16A to 23–*

*(a) any reference to making a connection includes a reference to maintaining the connection (and continuing to provide the necessary electric lines or electrical plant);*

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*(b) any reference to requiring a connection includes a reference to requiring the connection to be maintained (and the continued provision of the necessary electric lines and electrical plant); and*

*(c) any reference to the provision of any electric line or electrical plant is a reference to the provision of such a line or an item of electrical plant either by the installation of a new one or by the modification of an existing one.*

1.5. Section 19(1) of the Act provides that:

*"Where any electric line or electrical plant is provided by an electricity distributor in pursuance of section 16(1) above, the distributor may require any expenses reasonably incurred in providing it to be defrayed by the person requiring the connection to such extent as is reasonable in all the circumstances."*

1.6. 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.

1.7. Regulation 24 of the Electrical Safety, Quality and Continuity Regulations 2002/2665 ("the 2002 Regulations") provides in relevant part:

*"(1) A distributor ... shall ensure that each item of his equipment which is on a consumer's premises but which is not under the control of the consumer (whether forming part of the consumer's installation or not) is—*

*(a) suitable for its purpose;*

*(b) installed and, so far as is reasonably practicable, maintained so as to prevent danger; and*

*(c) protected by a suitable fusible cut-out or circuit breaker which is situated as close as is reasonably practicable to the supply terminals..."*

## FACTS OF THE CASE

### BACKGROUND

1.8. The Customer states that he contacted the Distributor on 15 May 2009 regarding the replacement of an old fuse at the Premises. The Customer maintains that the fuse was in working order at the relevant time and that his purpose for contacting the Distributor was simply to enquire whether the fuse could be moved to a more convenient location within the Premises. The Distributor, however, logged the Customer's call as informing the Distributor that the cut out at the premises "was damaged, not tampered with and the wiring exposed".

1.9. The Distributor's log indicates that one of the Distributor's engineers attended the Premises on 16 May 2009 but was unable to gain access to inspect the service line and cut out on that date. They returned to the premises on 18 May 2009.

1.10. On 18 May 2009, the Distributor's meter operative gained access to the site and was able to inspect the electrical line and plant there. The operative found that builders were on site and the "main cable, cut-out smashed" and that both the

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service line and cut out were in an unsafe condition. These findings are all recorded in the Distributor's log.

- 1.11. The Distributor's log also records that its engineer reported the presence of builders on the Premises on 21 May 2009, when the Distributor's jointer attended the Premises to fully assess the damage to the cable and cut out. The Distributor reported on his submission to the Ombudsman that the builders had knocked down the wall to which the service line was attached.
- 1.12. The Distributor's jointer considered that the service line and cut out needed to be replaced as a matter of urgency in order to restore the safety of the connection. Therefore, on 21 May 2009, the Distributor's jointer disconnected the service to the Premises at the mains in the street and installed a new service line and a new cut out. The Distributor took the view that a new service line and cut out were required as the old ones were too damaged to be repaired. In order to install a new service line, the Distributor undertook groundwork outside of the Customer's Premises and isolated the new service from the mains.
- 1.13. On 21 May 2009, the Distributor did not provide the Customer with a quote for the replacement of the service line and cut out as the Distributor considered this replacement to be required as a matter of urgency in order to restore the safety of the connection. Furthermore, on that same day, the Distributor performed an emergency disconnection and unplanned works were undertaken to reestablish the connection and relocate the fuse and cut out as requested by the customer. In these exigent circumstances, the Distributor considered that there was insufficient time for a quote to be provided.
- 1.14. On 21 May 2009, as the Distributor's engineers carried out works to replace the service line and cut out at the Premises, the Customer telephoned the Distributor's customer relations department to raise an official complaint regarding these works; specifically the Customer queried the necessity for such works, the manner in which the works were undertaken and the costs incurred. The Customer also informed the Distributor's customer relations department that he would not accept liability for any charges that might result from the replacement of the service line and cut out.
- 1.15. On 8 June 2009 the Distributor's customer relations department sent the Customer a courtesy letter explaining that the issues raised in the Customer's telephone call of 21 May 2009 would be dealt with by the Distributor's cable damage department.
- 1.16. On 8 July 2009 the Distributor invoiced the Customer a total of £2,570.05 via invoice 91436017 for works done on 21 May 2009 to repair and restore the connection at the Premises.
- 1.17. Further correspondence between the Customer and the cable damage department ensued throughout the months of July and August 2009, in which the Customer disputed that there had been damage to the service line and cut out and disputed the charges levied by the Distributor. In reply, the Distributor stated that replacement of the service line and cut out was carried out as emergency work,

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that this work was necessitated by damage to the existing service line and cut out, that such damage had been caused by the Customer and that, as such, the Customer was liable for the resulting charges.

- 1.18. On 19 August 2009, the Customer referred his complaint to the Energy Ombudsman, following the suggestion of the Distributor's customer relations department.
- 1.19. On 11 December 2009, the Energy Ombudsman issued a Provisional Conclusion in this matter under Case Reference 505246. After reviewing all the available evidence, the Energy Ombudsman concluded that he could not recommend that the Distributor "waive" the charges levied in light of the essential character of the works that were carried out. The Energy Ombudsman considered the Customer responsible for the charges and took the view that no further action was required by the Distributor.
- 1.20. By letter of 18 May 2010, the Customer disputed the Ombudsman's decision. In response, the Ombudsman informed the Customer that he could refer the matter for determination by the Authority, which he did on 1 June 2010.
- 1.21. The Customer states that the Distributor forced the work to the service line and cut out upon him without properly establishing the condition of the equipment in question. He states he was not provided with an explanation as to why his request to reposition an old fuse led to a new service line having to be installed. He states that the Distributor installed a new service line without his permission and without providing an explanation regarding this course of action. He is adamant that the Distributor did work on his property against his will and did not inform him of who would be responsible for payment or what the cost would be. He also objects to the fact that he was not provided with a breakdown of the charges involved before receiving an invoice for the total charges in July 2009. The Customer argues that, in light of the above, it was not reasonable for him to be charged £2,570.05 for the work done to replace the service line and cut out.

## FACTS IN DISPUTE

- 1.22. The Customer and the Distributor disagree as to (1) the extent and nature of the damage to the cut out, service head and incoming cable at the Premises and (2) the cause of any such damage. The Authority's findings of fact on these two issues are set out in the "Consideration of Evidence" section below; these findings have informed the Authority's Determination on the issue of whether it was reasonable in all the circumstances for the Distributor to charge the Customer for the replacement of the service line and cut out.
- 1.23. The Customer strongly denies that there was damage to the cut out, the service head or incoming cable at the time he called the Distributor on 15 May 2009. He states that the underground cable was always hidden underground so it would have been impossible for him (or anyone) to establish its condition on 15 May, much less report problems with it. The Customer argues that the fact that the electricity at the Premises was working perfectly on 21 May 2009 is proof that there was no fault with the electrical line or plant installed at the Premises.

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- 1.24. Furthermore, the Customer argues that, insofar as there was any damage to the service line and cut out, this was the result of ordinary wear and tear of the equipment, and was the Distributor's responsibility. In support of this argument, the Customer states that he bought the Premises in 2002, at which time he contacted the Distributor to request that the electricity supply to the Premises be inspected. The Customer states that, in 2002, the Distributor inspected the cut out and service cable and deemed the service not to be ideal, but still operational. According to the Customer, the Distributor said in 2002 that the cable could be left, but also recommended a replacement at a cost of £900. At the time, the Customer chose to leave the cable in its current state instead of paying for a replacement. The Customer suggests that, in light of the less than ideal condition of the Distributor's equipment in 2002, it is likely any damage to the service line and cut out observed on 21 May 2009 was simply the result of further normal deterioration of the equipment.
- 1.25. The Distributor argues that the service line and cut out were damaged and that such damage was caused either by the Customer or the builders who were carrying out works at the Premises with the Customer's authorization on and around 21 May 2009.
- 1.26. The Distributor maintains that the initial call received from the Customer on 15 May 2009 reported that the cut out "*was damaged, not tampered with and the wiring exposed*". This is how the call was logged in the Distributor's internal records. The Distributor relies upon this call log in support of its argument that the damage to the service line and cut out was caused by the Customer or his builders.
- 1.27. Furthermore, the Distributor's log states that its engineer reported the presence of builders on the Premises on 21 May 2009 and reported that the builders had knocked down the wall to which the service line was attached. The Distributor relies upon these facts as further evidence that the Customer's builders caused the damage to the service line and cut out. The Distributor states that the damage done to the service line and cut out was such as could not possibly have been caused by age or deterioration of the equipment.
- 1.28. The Customer has commented that the Distributor has no proof that the wall to which the cut-out was attached was knocked down. He states that the fact that there was refurbishment work taking place elsewhere on the Premises does not mean there was an impact upon the equipment in question. He states there was no impact at all.
- 1.29. The Distributor points out that in observance of its statutory duty under the Electricity Act 1989, it has to seek to recover all the costs of repair when a third party has damaged one of its cables.

## CONSIDERATION OF EVIDENCE

- 1.30. The Authority has carefully considered the statements of facts and comments from both parties (which are set out in Appendices 1, 2 and 3 and summarized

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above in this Determination) and the evidence provided by both parties in support of their distinct factual accounts which included photographic evidence of the groundwork undertaken. Neither the Distributor nor the Customer provided photographic evidence of the cut out or fuse.

- 1.31. In reviewing the case, the Authority has taken into consideration the Customer's narrative witness account of the events from 15 to 21 May 2009 and the Distributor's written incident log for the period of 15 May to 21 May 2009.
- 1.32. On balance, the Authority prefers the evidence provided by the Distributor given that there is a contemporaneous incident log which substantiates their factual claims. Furthermore, the Authority finds that the Distributor's account of the nature and cause of the damage to the service cable and cut out is plausible given (1) the presence of builders within the immediate vicinity of the damaged equipment on and around 21 May 2009 and (2) the Customer's account of the condition of the cut out and the service cable in 2002.
- 1.33. The Authority also finds that damage to the supply of the nature described in the Distributor's incident log could not have been caused by ordinary wear and tear and could only have been caused by tampering. The Authority considers the incident log is a reliable source of evidence and believes there is no incentive for the Distributor to fabricate the evidence recorded there by different company representatives.
- 1.34. For the reasons given above, the Authority finds that on 21 May 2009 (1) the Distributor's jointer found the cut out and the old service line in a damaged and unsafe condition and determined it needed to be replaced and (2) the damage to the old service line was caused by the interference of a third party other than the Distributor (possibly the Customer himself or the builders engaged in refurbishment work on the Premises at the relevant time); not by ordinary wear and tear of the line.
- 1.35. Finally, in considering the safety of the supply on 21 May 2009, the Authority considers that the assessment of the Distributor's trained jointer is more reliable in this respect than the Customer's lay opinion. For that reason, the Authority accepts the Distributor's submission that the supply to the Premises was unsafe on 21 May 2009 and emergency work needed to be carried out to make it safe.
- 1.36. Using the above findings of fact, the Authority considers below the reasonableness of the charges levied by the Distributor under section 19 of the Act.

## DISCUSSION AND CONCLUSIONS

- 1.37. In this section, the Authority assesses the merits of the parties' representations on the reasonableness of the connection charges levied upon the Customer on

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the basis of the facts as found above. The parties' representations are set out fully at Appendices 1, 2 and 3 to this Determination.

1.38. The text of section 19 of the Act is set out at paragraph 1.5 above. The Authority considers that section 19 allows a Distributor to recover from a Customer expenses associated with the provision of electrical line or plant where:

- (a) The electrical line or plant is provided by the distributor in pursuance of its section 16(1), EA 1989 duty to make and maintain a connection;
- (b) The level of the expenses that the distributor seeks to recover is reasonable;
- (c) It is "*reasonable in all of the circumstances*" for the distributor to recover the said expenses from the person requiring the connection.

1.39. The Authority finds that the replacement service line and cut out were plainly provided by the Distributor in pursuance of its section 16(1) duty to maintain the Customer's electricity connection.

**Reasonableness of charging the Customer for the replacement of the service line and cut out**

1.40. In assessing the reasonableness of charging the Customer for the replacement of the service line and cut out, the Authority has taken account of the following relevant circumstances:

- (a) On 21 May 2009, the service line and cut out at the Premises were fully assessed by the Distributor's jointer and pronounced to be damaged and unsafe;
- (b) The Distributor has a duty under regulation 24 of the 2002 Regulations to maintain all of its equipment on a consumer's premises which is not under the control of the consumer "*so as to prevent danger*". Therefore, once the Distributor became aware that the old service line and cut out on the Premises (which formed part of the Distributor's equipment and were not under the control of the Customer) were unsafe, it was under a regulation 24 duty to restore the safety of that equipment;
- (c) On 21 May 2009, the Distributor properly treated the replacement of the old service line and cut out as an emergency and set out to render the connection safe;
- (d) The damage to the service line and cut out was caused by a third party (other than the Distributor), either the Customer or his builders;
- (e) The Customer did not wish the Distributor to replace the service line and cut out and expressly refused to pay for such replacement;

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(f) The Distributor did not give the Customer a quote for the replacement of the service line and cut out.

- 1.41. Weighing the abovementioned factors, the Authority finds that, notwithstanding the Customer's protests at the replacement, it was on balance reasonable for the Distributor to charge the Customer for the replacement service line and cut out given that (1) for safety reasons the line needed replacement as a matter of urgency and (2) the damage that caused the service line to be unsafe was done by the Customer or the builders carrying out refurbishment work to the Premises with the Customer's authority.
- 1.42. For the avoidance of doubt, the Authority considers that the Distributor acted lawfully in undertaking the replacement works as the service line and cut out are the property of the Distributor, such that it enjoys a broad discretion in dealing with these. Secondly, as stated above, the Distributor is under a statutory duty under the 2002 Regulations to ensure the safety of its equipment installed on a customer's property; and, in this case, discharged that duty by replacing the service line.
- 1.43. Furthermore, the Authority considers that, in light of the urgent nature of the replacement works, it is not unreasonable for the Distributor to charge the Customer for the replacement service line and cut out notwithstanding the Distributor's failure to provide the Customer with a quote for this work. There is no legal requirement for the Distributor to provide a quote for emergency work of this nature.

**Reasonableness of the Expenses incurred by the Distributor in replacement of the service line and cut out**

- 1.44. In assessing the reasonableness of the expenses incurred by the Distributor, the Authority has sought technical advice to establish whether it was reasonable, given the extent of damage to the service line and cut out, for the Distributor to disconnect the old service and install a new one, undertaking ground works outside the premises in the process. Based on the evidence provided by the parties and the advice received from technical advisors, the Authority considers that the replacement of the service head and a section of the service cable was a reasonable step given the damaged state of the cut out and the cable, which rendered the connection unsafe. The ground works were necessary since the footpath needed to be excavated in order to disconnect the damaged cable in the public highway and join a new section of cable to the existing service.
- 1.45. Regarding the level of expenses incurred by the Distributor for this work, the Authority considers these costs reasonable and proportionate given that the work was carried out under unplanned (emergency) conditions within the day. On this matter, the Authority sought a second opinion to provide a balanced assessment of the costs incurred by the Distributor and charged to the Customer. The invoice

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amount of £2,570.05 without VAT is considered reasonable given the circumstances, which involved unplanned jointer's work and ground works.

- 1.46. The cost of direct and indirect labour was reviewed by the technical advisors and considered as proportionate for this type of job. The total of 10 hours for the jointer and 9 hours for the jointer's mate are regarded as proportionate to the amount of work undertaken since it involved travelling to the site, waiting for ground work crew to excavate the public path (2 hours) and carrying out the service line replacement work. The cost of labour would also be enhanced by the London weighting. The indirect labour costs related to contractors for excavation, removing and replacing the service cable, removing spoil and replacing with sand, GSB type 1 road stone and a final concrete permanent reinstatement. The indirect labour costs are also considered to be reasonable for works of this type.

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- 1.47. The Authority finds that the Distributor's expenses in this matter (of £2570.05) were reasonably incurred and it is reasonable for the Distributor to recover these expenses from the Customer under section 19 of the Act.

**This document constitutes a notice stating reasons for the Authority's decision for the purpose of section 38A of the Act.**



RACHEL FLETCHER (15 OCTOBER 2010)

DIRECTOR, DISTRIBUTION

**Duly authorised on behalf of the Gas and Electricity Markets Authority**

## Appendix : Customer submission of facts and reasons.

### Note

- 1 Please ensure that each question below is answered as completely as possible.
- 2 Please ensure that you provide all the information you consider is relevant to assist us in understanding [whether there is a dispute and, if so, the grounds for such a dispute/the grounds of the dispute]\*.
- 3 Where you do not consider a question is relevant to your case please indicate this in your response.
- 4 Please provide copies of any documentation you consider is relevant to your case, cross-referencing the documentation in your responses to the questions where appropriate.
- 5 Please note that such documentation may be used to support your arguments but will not be treated as a substitute for your reasoned arguments which should be set out below.
- 6 If you wish to provide information in addition to that requested in this template please do so at the end of your submission.

### Questions

1. Please explain exactly what is in dispute in this case, attaching any relevant paperwork to back up your argument.

THIS DISPUTE RELATES TO THE REASONABLENESS OF A NEW CONNECTION CHARGE AT [REDACTED] WHICH REPLACED AN OLD CONNECTION WHICH WAS AT THE TIME IN WORKING ORDER AND HAD BEEN FOR MANY YEARS. EDF FORCEFULLY DID THE CONNECTION AGAINST MY WILL, AND WITHOUT EXPLANATIONS AS TO WHY A NEW CONNECTION WAS REQUIRED AS OPPOSED TO MY OTHER ACTION. ALSO THE MATTER OF COST WAS NEVER RAISED BY THEM UNTIL SOME MONTHS AFTER THE WORKS WERE FINISHED, AND NO QUOTATION WAS PROVIDED IN ADVANCE OF THE WORKS STARTING OR DURING. ALSO NO PAPERWORK WAS PROVIDED UNTIL INVOICE WAS SENT 08 JUL 09.

2. Where applicable, please provide a description of the works this dispute relates to attaching any relevant paperwork.

REPAIR TO UNDERGROUND ELECTRICITY CABLE AT [REDACTED] (ATTACHMENT 1).  
ESSENTIALLY A WHOLE NEW SUPPLY WAS INSTALLED, WHEREBY THE UNDERGROUND CABLE WAS NEVER TOUCHED BY US, AND ONLY THE MAIN FUSE INSIDE THE HOUSE WAS SLIGHTLY OLD AND DUSTY DUE TO REFURBISHMENT WORK AT THE TIME. EDF NEVER EXPLAINED WHY A DUSTY OLD FUSE WHICH WAS WORKING FINE, REQUIRED THEM TO REPLACE THE WHOLE SUPPLY INCLUDING THE UNDERGROUND CABLE, WHICH INVOLVED DIGGING THE PUBLIC HIGHWAY, ETC.

THE ONLY EXPLANATION GIVEN AFTER THE WORKS FINISHED, AND AN INVOICE WAS SENT DATED 08 JUL 09, WAS THAT THE UNDERGROUND ELECTRICITY CABLE WAS REPAIRED. THAT CABLE WAS OBVIOUSLY NOT NOTICEABLE PRIOR TO THEM DIGGING THE PHOENIX HIGHWAY. IT WAS THEREFORE IMPOSSIBLE FOR EDF TO KNOW THE CONDITION OF THE UNDERGROUND CABLE BEFORE EXCAVATING. CONSIDERING THE FACT THAT THE ELECTRICITY SUPPLY WAS WORKING FINE, INDICATES THAT THERE WAS NOTHING WRONG WITH THE UNDERGROUND CABLE. EDF AND NEAPER PROVIDED ANY EXPLANATIONS AS TO HOW THEY CAN JUSTIFY CHARGING £2,570.05 FOR THE WORK WITHOUT ANY PRIOR WARNING TO A CUSTOMER OR KNOWING THE CUSTOMER TO GET ALTERNATIVE QUOTES! THIS ACTION EXCLUDES ANY COMPETITION AND EDF EFFECTIVELY ACTED AS A MONOPOLY.

3) Please explain how you have escalated your complaint with the Company. Please provide your complaint ID (if you have one) and details of any correspondence attaching any relevant documentation. (Note: Ofgem expects that any dispute has been escalated through the Company's formal dispute resolution procedure and that this avenue has been exhausted prior to it being referred to Ofgem for determination.)

Complaint ID... REF. 91436017(335390H)

Contact... [REDACTED]

Details of dispute escalation. OFFICIAL COMPLAINT WAS RAISED WITH EDF CUSTOMER SERVICES. AS SOON AS I WAS INFORMED THAT THEY WILL DO THE WORK AGAINST MY WILL. THAT WAS DONE ON 21 MAY 09 (ATTACHMENT 2). THIS WAS ESCALATED TO [REDACTED] 1/7/09. THIS WAS THEN PASSED TO [REDACTED] (ATTACHMENT 3) ON 2/7/09. THE MATTER WAS THEN REFERRED TO [REDACTED] (ATTACHMENT 5), [REDACTED] (ATTACHMENT 6), AND FINALLY WITH [REDACTED] (ATTACHMENT 7).

4. Please provide your Consumer Direct / Energy Ombudsman reference along with details of any correspondence you have had with either of these bodies. Please attach any relevant paperwork. (Note: Ofgem expects that any relevant dispute has been referred to Consumer Direct / the Energy Ombudsman and that this avenue has been exhausted prior to it being referred to Ofgem for determination.)

Consumer Direct / Energy Ombudsman ID... REF. 505 246

Contact.....

Details of Consumer Direct / Energy Ombudsman referral. THE MATTER WAS REFERRED TO THE ENERGY OMBUDSMAN ON 19 AUG 2009. A DECISION WAS ISSUED ON 9 APRIL 2010, WHICH ESSENTIALLY DID NOT QUESTION AT ALL EDF'S POSITION, BUT STATED THAT THE OMBUDSMAN IS UNABLE TO COMMENT ON MATTERS CONCERNING THE REASONABLENESS OF THE CHARGES. AFTER REJECTING THE OMBUDSMAN'S DECISION ON 18 MAY 2010, I WAS INFORMED THAT I AM ABLE TO PURSUE THE MATTER THROUGH OTHER CHANNELS, AND WAS REFERRED TO OFGEM. (PLEASE SEE ATTACHMENT 8)

5. Please provide details of the quote provided to you by the Company, attaching any relevant documentation. If no quote was provided please give details as to any other information provided by the company to justify the new connection.

THERE WAS NO QUOTE PROVIDED PRIOR TO THE WORKS. THERE WAS NO EXPLANATION PROVIDED. THE WORKER ON SITE [REDACTED] INFORMED ME THAT HE HAD BEEN TOLD BY HIS BOSS TO DO THE WORK AND THAT HE WAS GOING TO PROCEED AGAINST MY WILL. HE INFORMED ME THAT THE ONLY ACTION I COULD TAKE WAS TO COMPLAIN TO EDF CUSTOMER SERVICES, WHICH I DID IMMEDIATELY (ON 21 MAY 09). PRIOR TO RECEIVING AN INVOICE DATED 8 JUL 2009, I WAS NOT EVEN TOLD THAT I WOULD HAVE TO PAY FOR THE WORK, LET ALONE THE COST OF IT.

6. If the Company has provided you with a breakdown of the disputed charges please provide us with this information and attach any relevant correspondence.

THE ONLY BREAKDOWN WAS PROVIDED AFTERWARDS IN THE INVOICE DATED 08 JUL 2009 (PLEASE SEE ATTACHMENT 1) IT IS ENTIRELY UNCLEAR WHAT EACH ITEM REPRESENTS AND HOW THE COST IS DERIVED, OR HOW IT COMPARES TO

WHAT OTHER COMPANIES CHARGE FOR THAT TYPE OF WORK.

7. Please include any other facts relevant to the case for example whether the Company has offered any compensation, etc and attach any relevant correspondence information on security or network maintenance as an explanation for the installation of a new supply.

EDE NEVER PROVIDED ANY EXPLANATION, OTHER THAN TO SAY THEY HAD TO REPAIR THE UNDERGROUND CABLE, WHICH WAS FUNCTIONING FINE AT THE TIME. THEY HAVE TRIED TO BLAME THE NECESSITY OF INSTALLING NEW SUPPLY ON SOME REPAIR/MAINTENANCE WORKS AT THE HOUSE, WHICH HAD NO IMPACT OTHER THAN DUST. WHEN I CONTACTED THEM INITIALLY I WANTED ADVICE ONLY ON WHETHER WE COULD MOVE THE FUSE SLIGHTLY TO THE RIGHT OF ITS ORIGINAL POSITION FOR CONVENIENCE. I NEVER GOT AN ANSWER, BUT INSTEAD EDE WENT WITHOUT EXPLANATION OR NOTIFICATION WORKMEN TO REPLACE THE WHOLE CONNECTION.

8. Please provide details regarding any previous dealings with the Company and attach any relevant correspondence.

N/A

- last time contacted EDF 2002/2003 when he purchased the house - Attachment 4

9. Did the company offered any form of compensation at any stage? Please provide any relevant correspondence to this effect.

NONE

## **Appendix 2 – Company’s response to Customer’s case**

### **Note**

- Please ensure that each question below is answered as completely as is possible.
- Where you
- do not consider a question is relevant to your case please indicate this in your response.
- Please provide copies of any documentation you consider is relevant to your case, cross-referencing the documentation in your responses to the questions where appropriate.
- Please note that such documentation may be used to support your arguments but will not be treated as a substitute for your reasoned arguments which should be set out below.
- If you wish to provide information in addition to that requested in this template please do so at the end of your submission.

### **Questions**

1. Please provide a description of the works this dispute relates to attaching any relevant paperwork.

1.1. ██████████ called EDF Energy Networks to attend to a smashed cut out. The engineers found the service and cut out unsafe and beyond repair, therefore had no alternative but to carry out emergency works. The cost of this work has been passed on to ██████████ as the owner of the property.

1.2. In chronological order:

- 15 May 2009 – ██████████ called EDF Energy Faults and Emergency line to report there was damage to the cut out at this property with exposed wiring and it needed attention. An engineer attended the following morning but could not gain access as this was a building site which was boarded up; a message was left for customer to contact us again to give us access.
- 21 May 2009 – Access was granted to the site and engineers attended and found the service and cut out had been tampered with and damaged and was in an unsafe condition. This service had to be disconnected for safety at the mains in the street. This is common practice to safely make dead the service within the entire boundary of the property. In order for ██████████ to still have power, a new service was installed with a new cut out as the old one was too badly damaged to repair.
- Call details from ██████████ reporting damage and engineers report attached. See appendix 1

2. Please explain how you dealt with the Customer’s complaint. What escalation process did the Customer’s complaint go through? Please provide the complaint ID (if you have one) and details of any correspondence attaching any relevant documentation. Please provide evidence of steps taken to resolve the issue directly with the customer.

Complaint ID.....Our Comms ID 242378

Details of Company staff who have dealt with the complaint... ██████████

██████████.....

Details of dispute escalation process followed

- 2.1. Normal complaint process followed leading to case being sent to Ombudsman.  
Please see attached documents in Appendix 2 which includes the chronological order of contacts.....
3. Following this complaint being escalated through your complaints handling procedures, it has still not been resolved. How have you satisfied yourself that the charges levied are reasonable/cost reflective? What is your justification for the level of charges levied?
  - 3.1. Please see attachment of invoice (in Appendix 1) which reflects normal charges for emergency situations such as this.
4. Please provide details of the quote you provided to the Customer, attaching any relevant documentation. In the event that a quote was not provided to the customer, please provide an explanation and relevant documentation that would justify this course of action.
  - 4.1. No quote provided as it didn't go through the normal connections process as dangerous situation was called in by [REDACTED] as an emergency job. Due to the obvious damage and safety issues this work was completed under our emergency procedure. Invoice attached for your information (in Appendix 1).
5. Please provide a breakdown of the costs incurred during the connection and relevant documentation justifying these charges.
  - 5.1. Please see previous comments in question 4. [REDACTED] didn't go down the normal connections route as we not only made safe but reconnected without him having to go through the normal procedures.
6. Please provide details regarding any previous dealings with the customer and attach any relevant correspondence.
  - 6.1. [REDACTED] was unhappy with our stance on recouping our expenses and contacted the Ombudsman who considered all the evidence and his final decision required no further action from EDF Energy Networks. Please see attached documents from Ombudsman Appendix 2.

### **Appendix 3- Comments and replies by the parties**

#### **Comments on statement of facts submitted by both parties**

- 1.1. [REDACTED] (1) - The chronology provided by EDF is incorrect, and wrongly states that on 15 May 2009 I contacted EDF to report 'damage' to the cutout. The fact is that I contacted EDF to ask for their advice on slightly changing the positioning of the cutout, which was perfectly possible as there was plenty of spare cable. There was no damage to either the cable or the head, which were both old, but in good working order. At no point during my dealings with EDF did I ever state that there was any damage to the connection.
- 1.2. [REDACTED] (1) - If, as alleged by EDF I had damaged the connection but did not want to be responsible for the repair, it would have been illogical that I would then contact them and request a visit, as the supply was working fine.

#### **Replies**

- 1.3. **EDF (1)** - Points 1 and 2, we believe these are inconsistent in respect of conversations [REDACTED] had, a point made by the Ombudsman.
- 1.4. [REDACTED] (2) - The Ombudsman never made the statement alleged by EDF. The Ombudsman acknowledged that there was no proof provided as to the content of the initial conversation.
- 1.5. **EDF (2)** - Our records show a call was received on our Emergency Line and in response to this our member of staff raised an incident number
2. [REDACTED] (1) - No detailed documentation or account has been provided by EDF of events prior to 21 May 2009, which is the date when work started, and I was first told of their intention to replace the whole supply. This is also the date when I lodged my complaint with EDF Customer Services. This means that all the records of the job were prepared after EDF had been alerted by me that I objected to the new supply. Hence their records cannot be deemed unbiased under any circumstances. It is quite telling that in this short period between 18 May-21 May 2009 the description in the EDF 'Incident Log" changes from 'Equipment Damage(Internal)' to 'Faulty Underground Cutout' by dispatcher [REDACTED], and then finally becomes 'Cable Damage Supply OK'. There is no explanation whatsoever why an alleged 'Internal' equipment damage suddenly becomes a faulty underground cutout, and then cable damage. Moreover the underground cable was always hidden underground so it would have been impossible for anyone to ascertain its condition at that time. The fact that the supply was working fine indicates that there was nothing wrong with the underground cable. This clearly shows the chaotic approach displayed by EDF and how unclear and inaccurate their records are

#### **Replies**

- 2.1. **EDF (1)** - Point 3, the information was updated after our Meter operative had gained access.
- 2.2. [REDACTED] (2) - EDF state that 'the information was updated after our Meter operative had gained access'. However, all the different alleged faults are nothing to do with the meter. Instead they mention 'faulty underground cutout' and 'cable damage supply'. Indeed the meter at the property was never changed.

The fact remains that the description was changed on 21 May 2009, which is the day when the work started. That means that EDF forced the works on us without even having a clear idea of what the actual condition of the equipment was. Indeed they put in their worksheet 'faulty underground cutout' whilst the cable was still underground and they had no way of knowing if it was faulty or not. The fact that the equipment was working perfectly, is proof that there was no fault.

- 2.3. **EDF (2)** - Following the content of the initial call and the consumer reporting damage to the cutout, the operative (referred to as a Meter Operative) was assigned. This is normal practice in the case of a single supply incident and the indication that the cutout was damaged. The staff is technically trained to deal with all aspects of this kind of repair (their function is not to solely deal with changing meters). It was only after our operative had gained access to the property that an updated assessment of the damage could be made. It is at this point our ENMAC system is updated, in this case to a revised description. The ENMAC system is designed to be updated and previous records can not be amended retrospectively. The work was reassigned and it is on the full assessment (21<sup>st</sup> May) the extent of the damage to the service was fully established and the requirement to disconnect for safety reasons and replace to ensure continuous supply.
3. [REDACTED] (1) - In the Appendix2, EDF makes the assumption that the state of the connection was affected by the works at my house. That assumption is not backed by any evidence whatsoever, and is completely wrong.

#### Replies

- 3.1. **EDF (1)** - Point 4, in our summary of complaint there is a comment that a wall had been knocked down.
- 3.2. [REDACTED] (2) - The fact that there was refurbishment work taking place elsewhere in the house does not automatically mean that there was any impact on the equipment in question. In reality there was no impact at all. EDF have never provided any proof for this wild allegation.
- 3.3. **EDF (2)** - we do have a call recorded in which [REDACTED] does say the wall had been removed.
4. [REDACTED] (1) - The cost invoiced by EDF only after completion of the work is extortionate, and they have not provided any explanation or breakdown of hours or rates. Let alone a comparison of how their rates compare to those of other contractors.

#### Replies

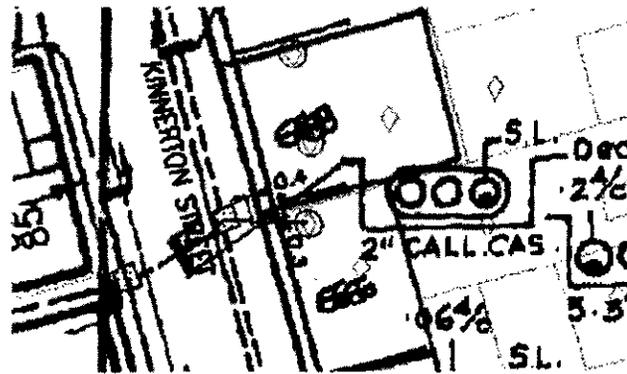
- 4.1 **EDF (1)** - Point 5, no breakdown was requested.
- 4.2 [REDACTED] (2) - I made it very clear to EDF that I did not wish them to carry out any work at my property. They did the works against my will, and did not inform me of who would be responsible for payment or what the cost would be. As far as I'm aware any business which deals with members of the public in financial matters has a regulatory obligation to inform their customers in advance in such situations. Otherwise the public has no opportunity of querying EDF's decisions, or to compare their charges to those of their competitors. In our case EDF violated this obligation and abused their monopolistic position.

4.3 **EDF(2)**- As detailed before the works were carried out under Emergency / Safety conditions

**Responses from EDF to technical questions posed by Ofgem**

**1.1. Please provide a scale drawing of the connection to the property from the LV main in the street. This should show:**

- **The original connection**
- **The point at which the "damaged" service was disconnected**
- **The point at which the new service was connected to the LV main**
- **The dimensions and type of the excavations and reinstatement work carried out**



The plan below shows the location of the new connection jointing to the previous connection at the change of colour from red/blue. This is where the damaged service was disconnected. The new service was connected to the existing service and not the existing main.

The dimensions of the reinstatement were 0.8x0.6x0.6m and the excavation approximately the same size. The top surface was concrete. These details have been taken from the Incident Log and further information on the excavation can be seen in the photos which have been provided previously.

**1.2. We would like EDFE to document the steps taken from their Incident Log which seems to be as follows:**

- 15 May - customer reports problem**
- 16 May - EDFE visits property but cannot gain access**
- 18 May - EDFE visits property and report on the condition of the connection/cut out**
- 21 May - EDFE visits property, decides service needs to be replaced back to the LV main, work carried out and completed.**

Further to our conversation on this question, I understand you wanted a summary of the salient points of the Incident Log covering the date range above. Accordingly I have provided these below:

15 May – customer reports damage to cut out including it not being sealed correctly and wiring being exposed

16 May – EDFEN meter operative visits property but cannot gain access as it is a building site and was boarded up

18 May – EDFEN meter operative visits property and reports on the condition of the connection/cut-out as being smashed and unable to tape up to make safe (it was also identified and reported that the cut-out was exposed)

21 May – EDFEN jointer visits property, assesses problem and identifies that service needs to be replaced as it was “too mangled” to repair. The work was then carried out and completed that day.

For further details please refer to the Incident Log itself.

NB: Please see our previous response for information on the different skill sets and reasons for sending a meter operative over a jointer on the above dates.

**1.3. We need EDFE to explain/confirm why a complete new service was required in this case.**

A complete new service was not installed as it was not replaced all the way back to the main. A section of service was required in this case as the jointer identified that both the service head and a section of service cable had been damaged and needed replacing. As a section of the cable and the service head needed replacing this left no option but to joint on a new section of cable beyond the damaged cable. This was conducted by disconnecting the damaged cable in the public highway.

**1.4. The breakdown of costs appears to show ten hours of jointer resource and nine hours for a jointer’s mate on 21/5. This seems more than would be expected so please provide justification as to the need of this resource.**

The resources’ time includes that spent travelling to site, awaiting arrival of the ground works contractor, carrying out the work and returning from site. The resources were not re-assigned while awaiting the arrival of the ground works contractor (2 hours), as it would not have been feasible for them to carry out any additional work during that period of time. Our safety rules require us to deploy two resources (the jointer and his mate) for the purpose of safe working around live electricity cables. These times have been recorded in the detailed Incident Log, a copy of which has already been supplied to you.

**1.5. The biggest cost is the ground works so we do need a more accurate description than the one already provided. Please provide the following:**

- **Written commentary on the work carried out**
- **Table of rates agreed with the Contractor**
- **Exact dimensions of the excavations (from the photographic evidence it looks less than 5m)**

As per earlier correspondence on this matter, the charge includes all works for **unplanned\*** LV underground work including the excavation and reinstatement, signing, guarding and all associated street works requirements for works in the footpath. It is based on a commercially tendered schedule of rates and the charge includes all such jobs involving excavations of up to 5 metres in length, with an additional per metre charge beyond this size.

The exact dimensions for this excavation to allow us to access the cable to disconnect the damaged section and joint on a new section are included in the answer to Q1 above. As the dimensions of this job (see the answer to Q1 for precise figures) fit within the sub- 5 metre category, this is the correct charge from the schedule of rates.

\* Unplanned work includes work requiring a response within 2 hours at any time of day or night on any day

**1.6. You mentioned the work at [REDACTED] premise was of an unplanned nature and that would justify the number of hours and some of the cost apportioned to it. Our technical experts established you had 3 days to plan this work since you determined the unsafe nature of the service on the 18<sup>th</sup> of May and started the work on 21<sup>st</sup> of May. Can you explain this delay and why you still regard this incident as unplanned?**

We did not have three days to plan the work as the member of staff who attended on the 18<sup>th</sup> was a meter operative rather than a jointer, our normal procedure for a single supply failure in LPN. A meter operative is not expected to make judgements on cable/jointing work, but is on cut out damage/replacement. Accordingly it was only when the jointer attended and could fully assess the damage to the cable and cut out that we could understand the scope of the required work and its implications.

Furthermore, we regard this as unplanned work as planned work would still have necessitated an emergency disconnection followed by a planned reconnection a few weeks down the line as the work schedule allowed. This would have resulted in [REDACTED] being off supply for a number of weeks whilst the work was fitted into the planned schedule.

**1.7. Technical consultants have also mentioned that it is standard practice for DNOs to have photographic evidence of the damaged equipment in these type of cases. You have submitted photographic evidence of the groundwork, but not of the cut out or damaged service head inside the premise. Does this evidence exist in this case? If it does not exist, is there a reason for this course of action?**

I have checked the records and no photographs were taken in this instance. I am not aware of a specific reason for this.

**Responses by [REDACTED] to further questions from Ofgem**

**1.1 We would like to request any additional evidence that you are able to provide regarding the following:**

- **Original state of the cut-out and service cable which were replaced by the Company on May 21 2009 – Any photographic evidence, letter or email from the Company would be useful**
- **Details as to the exact location of the original cut-out within the domestic premise**

I personally do not have photographic evidence of the cut-out and cable, but I believe the building company took photos, and I can request that they send me what they have. Suffice to say that the installation was working fine at the time and we had never had any problems with it whatsoever since I moved in in 2003.

The main cutout was located in a box at ground level, against the left front wall of the house, on the inside of that wall. It was a very unusual position as it was in the way, and hence we wanted to move it to its current position. The reason for contacting EDF was to check that it was ok for us to move the cutout to the current position(which was possible to do with the existing cable as there was plenty of it). Instead EDF declared that they were installing the new supply against my wishes, and ended up putting it exactly where we were proposing in the first place.

**1.2. Additionally, we would like to know if you paid for the new connection as charged by the Company in July 2009. We could not establish this information from the records available to us.**

I have not paid any money in relation to the new installation, as I have maintained all along that the charges were unreasonably incurred, and were never agreed by me. Indeed I was never even told about any charges until after the event. I do think that EDF acted like a monopoly, by not informing me in advance of their plans, and did not allow me to get an independent opinion as to whether I needed new supply, or compare their cost with that of any competitor.