

**OFGEM DISCUSSION DOCUMENT 85/04
THEFT OF ELECTRICITY AND GAS
ENERGYWATCH RESPONSE JUNE 2004**

energywatch is the trading name of the Gas and Electricity Consumer Council and is the statutory representative of gas and electricity consumers in England, Wales and Scotland, established by the Utilities Act 2000 with the function of:

- Providing advice and information and representing the views of consumers to public authorities and other bodies;
- Investigating complaints and other issues of interest to consumers;
- Publication of advice and information which is in the interests of consumers;
- Provision of advice and information to consumers on matters related to gas and electricity conveyed through pipes and wires.

General Comments

energywatch welcomes the work being carried out by Ofgem in this area, it is essential that there is a transparent process for the detection and prevention of the illegal abstraction of gas and electricity, with clear roles and responsibilities on the various parties.

energywatch represents two constituencies in this matter, firstly consumers generally who are the ultimate victims of the dishonest minority. These consumers must be protected against the increased costs associated with theft, whatever the incentives and duties placed on the industry any losses will eventually be passed on to honest consumers. Secondly we have a duty to represent and protect consumers who are or have been the subject of an investigation into unbilled units. We would be remiss in this duty if they were not effectively and robustly represented both in the context of this discussion and in our general activities.

Theft of supply is a very serious matter, punishable by up to five years imprisonment. It is essential, both as a deterrent and for consumer confidence, that those found to be illegally abstracting gas and electricity are pursued through the courts based on robust evidence gathered in accordance with the rights of the individual. That less than 3% of electricity cases and no gas cases are prosecuted indicates that offenders can often undertake this activity with impunity.

There is also an issue of consumer education. Clearly energywatch has a part to play here and we would welcome any suggestions as to how consumers could be made more aware of this issue.

Estimates of the value of gas and electricity illegally abstracted vary significantly. Distribution Network Operators (DNO) estimate the value of stolen electricity to be between £44m and £132m annually, whilst the UK Revenue Protection Association (UKRPA) places a higher estimate of between £220m and £330m. The value of stolen gas is estimated as being much lower at around £37m.

Generally in the retail sector losses due to theft account for some 0.9%¹ of turnover, whilst around 25% of this is due to staff dishonesty which is not an issue in the gas and electricity industry it may be prudent to assume the same level of loss. We believe that it is essential that there is an accurate assessment of the value of stolen units so that any arrangements which are put in place are proportionate to the scale of the problem.

Response to Issues Raised in the Discussion Document

Responsibilities and Incentives

energywatch believes that where there is a clear and enforceable obligation under the conditions of the supply licence a commercial incentive on suppliers to undertake this activity should be unnecessary. Undetected theft places a burden on all honest consumers as the associated costs are spread across all suppliers and ultimately passed on to paying consumers.

Gas and electricity suppliers have a relationship with, and are accountable to, their customers and have a clear responsibility to minimise the impact of illegal abstraction on them. The decrease in suspected and detected theft since competition suggests that the current arrangements are ineffective in ensuring that suppliers discharge their duties.

We would support any initiative which would remove the current reverse incentive on suppliers and ensure that individual suppliers bear the full cost of unbilled units at their individual supply points. We welcome the Ofgem's intention to address the anomaly in which suppliers are not compelled to enter unbilled units into the settlement process as an important first step in this process. The current system is unfair on those suppliers, and their customers, who are successful at

¹ The National Survey of Retail Crime and Security – Centre for Retail Research

detection and prevention as they ultimately pay the price of non detection by other suppliers through additional smeared costs.

The structure of the DNO market provides a useful tool by which the regulator can place an incentive to reduce losses through the price control, however we believe that suppliers should bear ultimate responsibility for this issue. In addition there is no corresponding arrangement in the gas transportation market, therefore maintaining current arrangements would be ineffective.

We are concerned that the incentive placed on DNOs may provide a relatively cheap alternative to reducing distribution losses by other means. There is a double incentive in that the costs associated with recovering the lost units discovered are subsequently passed on to the supplier. Consumers therefore face paying twice, once in the additional charges recoverable by DNOs through the DUoS charges for reducing lost units and once again if the supplier fails to recover payment from the consumer.

We believe that regular meter inspections are the most effective method of preventing and detecting theft. We would welcome an extension of the gas suppliers' obligations for bi-annual inspections under LC17 to electricity suppliers. That there is no requirement to inspect an electricity meter where the customer has not been with the same supplier continuously creates an opportunity for theft to go undetected.

Provision of Revenue Protection Services

We do not believe that there should be a requirement on DNOs or GTs to provide Revenue Protection (RP) services, this would simply blur the lines of accountability. We believe that responsibility for the detection and prevention of theft lies with suppliers and it would be up to suppliers to decide how best to discharge those responsibilities. However there are significant benefits to be obtained from the provision of RP services by DNOs, in particular the many years of experience, local intelligence and expertise which have been accumulated by DNO RP services. Where DNOs choose to provide these services they should do so only in the capacity of a suppliers agent so that there is a clear and unambiguous line of accountability.

We would welcome a re examination of the charging structures where DNOs do provide RP services. The current transactional basis creates a clear disincentive on suppliers to share suspicions of illegal abstraction as they then become responsible for all associated investigation costs. Charging suppliers through DUoS charges on a pro rata basis would

encourage suppliers to make full use of a service for which they have already paid.

Codes of Practice

Gas and Electricity suppliers, and by proxy, the RP services which they employ enjoy significant powers including the power to force entry into consumers homes. Where these powers are exercised elsewhere in the industry they are the subject of extensive regulation and control.

We are very concerned that the RP Code of Practice in electricity and the Theft of Gas Code of Practice are not subject to any regulatory control. It is inconceivable that private companies should possess such powers and be regulated only by a voluntary Code of Practice with no visible enforcement procedure.

We believe that it is essential that all Revenue Protection activities be carried out within a Code of Practice mandated under the supply licence which as a minimum should set out the procedures for:

- accessing consumers properties whether voluntarily or under warrant, in particular a requirement for agents to state clearly the purpose of their visit;
- training of agents – presently members of the UKRPA are trained to NVQ level, a minimum level of training should be mandated under the licence;
- de-energising – we would like suppliers to be prohibited from de-energising consumers at the first visit. Meters should be exchanged like for like and a revisit arranged after a period of time dependent on the risk of re-offending as assessed by the RP agent;
- gathering of evidence – this should be done in accordance with the guidelines laid out in the Police and Criminal Evidence Act and with due regard to the consumers rights;
- interviewing consumers – we are concerned to note that some RP reports include sections in which the agent can indicate that the consumer has made an admission of guilt but not whether that admission has been made under caution;
- assessment of charges – a clear basis for assessment of charges and a maximum time period for which charges may be assessed and;
- a formal right to determination.

Whilst there is no doubt as to the professionalism of RP services weaknesses in the current system can be identified from energywatch complaints. Consumers who deny tampering are often left with no

right of recourse. Appendix 1 which is submitted in confidence details such a case.

Compliance

We do not believe that under the current system compliance and enforcement activity would be practical or effective. There is no obligation on gas suppliers and electricity suppliers could argue that they have discharged their responsibilities by accepting the terms of a DUoS arrangement with a DNO which provides RP services.

In the long term we would expect a robust regulatory regime governing suppliers' obligations and the manner in which they are discharged. We would expect any failure to meet those obligations to be met with swift compliance and enforcement action. We would not support any proposals for self regulation by the industry.

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