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Dear Bryony

**Gas Retail Governance, Further Consultation Response**

This response represents the views of the Quantum Energy Group currently trading as V-is-on and Fortum Energy. Thank you for giving us the opportunity to comment on this consultation.

As I & C suppliers, our experience indicates that although there is no formal governance between suppliers, supplier inter-operability works well and is not prejudicial to our performance or service. The voluntary Codes of Practice have been accepted in the main and no bad practices observed. We recognise that the new metering processes will require further standards for inter-operability and recognise that these should go beyond voluntary Codes of Practice. As such we support the requirement for more formal governance, but remain concerned about the plans to encompass the additional areas outlined in the consultation document.

The Supply Point Administration Agreement

**GT Involvement in SPAA**

We believe that the parties to the agreement should be GT's and suppliers and that this should be from the outset. GT's currently act in the role of data manager and are the only party that remains with a meterpoint through out its life. Shippers are the parties that contract with both suppliers and the GT's and are in effect sandwiched between the two, forced to reach agreements with both parties that will be to each parties benefit. This is an unreasonable burden on shippers, especially as the incentives on the supplier and GT are often very different.

We accept that due to the timescale that the inclusion of GT's will not be achieved before the go-live of the metering project, so we feel that Transco should be a party to the agreement initially with

the other GT's following suit shortly afterwards. We support the aspiration for more commonality in the SPA process between the GT's and believe that this can be better achieved via this governance.

The GT plays a significant role in metering and the importance of metering and meter reading is as important to its transportation business in terms of billing shippers as it is to supplier for billing consumers. In view of this and their current role as data manager, we see these as further reasons why we would wish to see their inclusion in the SPAA from the beginning or earliest opportunity. We acknowledge that in time the role played by the GT may change drastically from the role we know at the moment. The GT currently deems that passing data is not core to its business. We would not disagree with this, but the GT is currently acting as a data manager and we believe that this should be governed until a suitable alternative is in place and not before. Diluting requirements for Industry data we believe would be seriously detrimental and we believe that the GT should only be allowed to move away from its responsibilities here until a robust alternative is in place, even if this activity is not core to its business.

We are concerned about the effect of Transco's price control on its ability to make changes, which would not benefit them, but could ultimately benefit the consumer. We urge Ofgem to review this so that Consumers do not have to live with standards set many years ago, that leave the Industry embarrassingly behind in terms of Customers Service and expectations. This is of particular concern with regard to the services offered by Transco under its metering contract.

We also recognise that the 'gain share' proposal suggested by the GT's for funding would lead to suppliers being responsible for the majority of the cost. This proposal indicates that without a condition to join the SPAA being placed in a GT's licence, there would be no incentives for them to join. Consequently we would support the requirement being placed in the GT's licence and a review of the funding for the SPAA as a whole which reflects the anticipated behaviors and benefits that have determined that the SPAA is required.

#### **Other Parties to the agreement**

We believe that the SPAA workings should be transparent to the industry and that the views of Consumer Bodies should be submissable where appropriate. We acknowledge that the participation of Consumer bodies should not be reduced below the levels currently enjoyed and suggest that their involvement and levels of be determined on a schedule by schedule basis. We do, however, have concerns about Consumer bodies raising modifications etc.. We believe that suppliers will want to meet the needs of their consumers and will raise changes that best achieve these, as they have a greater understanding of the processes involved. We do

not believe that Consumers views should not be given equal consideration to those of suppliers. Consumers can legitimately give views about the services they want and the symptoms they wish to have removed, however it is only suppliers who should and can determine how best to do that. Consumers are unfamiliar with the operational complexities behind providing the services they enjoy. Consumers should be able to bring issues to the Forum for consideration.

### **Change Control**

It seems logical that all those that have an interest in a particular change should be able to vote and therefore be involved in making the decision. However as a gas only I & C supplier, we have concerns about the numbers of parties that may be able to declare an interest to I & C changes and also how I & C may be affected by changes basically required for other constituency areas.

For example there have been a number of Network Code changes recently, which have aimed to bring the rules governing the gas and electricity processes together. For those participants who do not have an electricity portfolio many of these changes introduce costs which cannot be recovered. We believe that there is a significant number of I & C participants, who also have other interests, such as domestic or electricity portfolios. We believe that decisions it is highly likely that changes will be passed in the I & C market, not because they are best for the I & C market, but because it would be better for the other interests held by I & C participants. We believe that this is a potential burden which we and our consumers do not want to bare. Whilst the SPA processes remain the same for domestic and I & C, we will continue to feel vulnerable.

We are uncomfortable with the SPAA providing for a minimum of 10 days for consultations. We would prefer the minimum to be 15 days in line with the Network Code. We would support reductions in the minimum for 'urgent' changes. However we would require the criteria for 'urgent' status to be determined in advance along with procedural processes for administering such changes.

### **Voting**

We believe that a cap of 20% is important to ensure that no supplier has an over whelming influence. However we are very concerned about the threshold of 65% for mandatory changes that are made within SPAA. These changes will essentially become conditions of our licence and failure to comply with them will put us in breach. We believe that the threshold should be higher and more reflective of the regime required to put in licence changes.

The voting is based on the numbers of meter point reference numbers (mprn) that a supplier has. In I & C there are differences between

those consumers that have small numbers of meters consuming large quantities of gas and those who have large numbers of meters consuming smaller gas loads. Suppliers tend to specialise in one area over another. Voting by mprn will not allow I & C participants to protect the interests of their large consumers with low mprns. The numbers of mprns that a supplier has in not necessarily reflective of the size of a business. The same cannot be said of the domestic market. Overall this could be detrimental to the Industry's reputation.

### **Derogations**

We are concerned about the possibility that our competitors may be in a position to grant derogations or otherwise and in essence determine whether we can remain in business. We believe that this should be deferred to Ofgem.

### **The SPAA Exec**

We support the election of Executive Committee (EC) members for one year periods. We also support the use of alternates, but would prefer that EC members be required to nominate an alternate, so that there would be no danger of suppliers' views not being represented. This is of particular concern for I & C suppliers, as there will only be one EC member for this constituency. We are also concerned that alternates may be attending meetings for long periods (for whatever reasons, but could include long periods for incapacity or sickness). We believe if the elected EC member, rather than their alternate, is unable to attend a specified number of meetings in succession, then a new EC member should be elected. The expectation would be that an EC member would resign their position if they felt they were unable to give the role the commitment required, but this is not always possible. The Forum should not be denied representation by their elected member of choice.

### Principles of Governance

We would support the ability of the SPAA to incentivise compliance, as minor breaches could be detrimental to other suppliers, but enforcement action by Ofgem for such instances would be harsh. A liabilities package may be suitable, however it is essential that these can be backed off where appropriate, through service providers. A particular concern here is the regulated service providers such as Transco metering, whose ability to meet standards will be influenced by their ability to incur and recover costs. Also it is important that it is understood what constitutes poor, average and exemplary performance and this is generally only possible through operating the regime.

Another issue is what should happen once liability payments have been paid. This in itself can lead to some odd behaviors in terms

of incentives and so it is important that consideration is given to this in setting up a regime.

Currently we do not believe that there are sufficient incentives for suppliers to put in robust monitoring schemes that measure performance. These have to be there to understand performance failure or otherwise for voluntary or mandatory schedules. Without them it will not be possible to make informed decisions for future governance, based on experience rather than anecdotal evidence. We also believe that compliance failures should be detected through this regime and that there should be no requirement for suppliers to make complaints against another supplier. Breaches must be self-evident. If suppliers are required to complain, we believe that suppliers may only complain if their own processes are in order for fear of the spotlight falling on them. This would not be beneficial to the supplier community as a whole.

The grounds for an appeal against a resolution should include the supplier being in breach of any law or regulation. As this is often a matter of legal interpretation, Ofgem's interpretation of the law or regulation would only be of value in terms of reassurance, where it is the policing body.

#### **The SPAA Licence Condition**

We believe that governance is required for metering in both the I & C and domestic markets, particularly as the passing of meter information can impact on the level of service that suppliers can give to their customers. We are concerned that a competitor can influence our business and that this would be outside of our control. For this reason we believe that both I & C and domestic suppliers should be party to the agreement. However it is important that the framework within which metering governance would sit is also appropriate to the I & C market. We would rather operate under voluntary governance with regards to metering, than commit to a regime, which was felt to be detrimental. Our major issue in terms of metering is that data should be timely and accurate. In a voluntary regime negligence in these areas may only be apparent some years later and the I & C market as a whole would have to live with the legacy. In terms of the proposals at the moment, we believe that other markets can influence the I & C market to such an extent we would be unable to support the SPAA in its current form.

We do not have a view on the inclusion of the Domestic Code of Practice within the SPAA, but have one area of concern. Our concern centres on consumers who fall around the threshold for medium and small consumers in terms of size. We are aware that some suppliers have their own threshold for determining commercial processes and that these may not mirror the definitions of 'domestic' and 'industrial and commercial' provided in the licence, which are based on usage. Consequently the application of rules

need to be considered and defined carefully, particularly around mandatory process changes. An example is the use of BISCUIT for the shipper agreed read of a small I & C meter.

In terms of the I & C Code of Practice, we have no evidence to suggest that this Code of Practice should not continue in its existing capacity as voluntary. We are unable to justify the additional costs of administering the Code in a more strictly governed regime.

We believe the apportioning of the cost of administering the SPAA is not reflective of the benefits that suppliers will gain. The benefits of the SPAA to the domestic market are evident, but this cannot be said for the I & C market. Costs however will be apportioned in line with the number of mprns. We are also concerned about what incentives there are for efficiency and to keep costs to a minimum. We remain concerned about the control of spending and supplier attitudes being reflective of their ability to pay. In a commercial sense we would like to see the benefits outweighing the cost.

#### Metering Governance

We fully support the inclusion of a metering schedule within the SPAA. We believe that I & C and domestic should not be held to the same rules and suggest two schedules to avoid any confusion. The current drafted schedule would support the Domestic arena only, as it does not take into account some of the issues surrounding large one-off meters. The process envisaged in the domestic arena would support volume transfers of meters of a limited variety. We expect more Consumers to be directly involved in the provision of their meters in the I & C market and the Supplier processes need to recognise this, if these Consumers are not to experience any issues directly as a result of changing supplier.

We do not believe that the SPAA should have any role or influence over the Transco metering contract. We believe that the Transco metering contract should be given as much consideration as other commercial metering arrangements in considering RGMA processes. We acknowledge the difficulties that Transco may have as a regulated body, but believe that if they resist changes, they will place an undue influence on suppliers to resist change, as Transco provide metering services for the majority of meters now and will for many years to come. This would be detrimental to innovation and the developing of metering competition for which we have all invested heavily.

We believe that Ofgem should develop a mechanism by which Transco may return to discuss the pressures on their price control, as a result of supplier requirements. Transco should be able to recover

reasonable costs of change through price increases for the services provided, as would commercial metering service providers.

#### Ofgem's Timetable

V-is-on have not been closely involved in the development of the SPAA and schedules. We have been under a lot of pressure to understand the complexities of this new regime and how it may impact us. We are extremely concerned the focus of the Ofgem timetable is on getting the SPAA in place to enable the delivery of the metering schedule for metering separation and the implementation of the RGMA processes.

Ofgem has not held to the timetable it originally envisaged for the required licence changes. It seems that the slippage in the programme is being recovered through reduced consultation and reduced consideration of the responses by Ofgem. We are extremely concerned about this suggested course of action.

We ourselves have been under pressure to provide this response and would have appreciated more time to consider the issue. As the metering separation go-live date at the time of writing the consultation was November 2003 and this date is now deemed to be unachievable, we trust that this and a level of reasonableness will prevail when the timetable is rescheduled.

The SPAA will be with us for many years and its impact and influence will go far beyond the metering schedule. As a consequence it is imperative that what is implemented works and does not destroy or impede gas supply competition, but rather that it aides and supports it. Clearly the meter schedules are important, but not at the expense of getting the SPAA as good as it can be.

If you have any queries or points of clarification, please contact me via email ( [anne.jackson@v-is-on.com](mailto:anne.jackson@v-is-on.com) ) or by phone (0208 632 8012).

Yours sincerely

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