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Dear Chris Chapman

### **Ofgem's Proposed Corporate Plan 2004**

I write in reference to Ofgem's draft corporate plan published earlier this month. In this document, Ofgem sets out its key work strands and performance indicators for the upcoming year. Shell Gas Direct (SGD) is a supplier to non-domestic consumers as well as a wholesale gas shipper. We welcome the opportunity to comment on the proposed corporate plan.

#### ***Priorities and vision***

We welcomed the opportunity to meet with some members of the Authority to discuss Ofgem's plans for the future. However, we are concerned that the different work deliverables are not encapsulated in an overall picture of the direction that Ofgem is taking the gas industry. During 2004/5, there will be *radical restructuring of the gas industry* through RGMA, separate LDZ price controls, potential sale of DN's, etc. The regime will look very different in a year's time than it does now. Yet, nowhere in this document nor in last year's plan is this mentioned. Ofgem appears to be working towards further restructuring, for example suggesting separating wholesale trading from retail operations, and perhaps even separating non-domestic from domestic transfers and potentially allowing NGT to separate out its Agency into a non-regulated entity. It would help if there was a shared view on future developments, even if these are subject to change.

It can also be difficult to understand Ofgem's priorities. Analysis from the customer transfer programme (CTP) shows the complexity in electricity market has led to problems for customers. This complexity is being replicated in the gas industry and holds the potential to increase difficulties with customer transfers. It is difficult to see how improvements to customer transfer arrangements (if required) can be introduced at the same time. Ofgem should be able to balance these objectives without expecting the industry to resolve the issues which arise after implementation. We recommend that the final plan has some indication of those projects which will be delayed should the need arise.

#### ***Creating and sustaining competition***

In response to Ofgem's consultation on the corporate strategy, we suggested that Ofgem take steps to make clear whether it is referring to domestic or all suppliers. SGD is concerned that Ofgem is aiming to secure agreement to gas supply licences including SPAA. Ofgem's most recent document on SPAA suggested that it would only aim to have *domestic* suppliers sign up to SPAA. We are now unclear as to Ofgem's intentions.

We support Ofgem's stated views to withdraw from regulation where appropriate. However, Ofgem both intends to review the licence conditions while at the same time attempting to introduce new licence conditions (eg SPAA). These tasks appear contradictory.

Ofgem will publish an assessment of proposed changes to industry processes under CTP later in the year. This must also include some independent analysis of the work produced by this CTP group. This project is not being taken forward by "the industry" but by the Energy Retailers Association which represents suppliers with domestic licences. It will be essential for Ofgem to ensure that any proposals do not discriminate against those who do not operate in the domestic markets.

Ofgem's action to secure release of offshore information should be complete in the first quarter. Significant levels of effort have been put in by all parties to secure an acceptable solution including agreement of release of data in no greater than 2 zones. The next steps should be to move forward to implement, including making necessary changes to Transco's licence in Q1.

### ***Regulating network monopolies***

SGD has written separately to Ofgem outlining our concerns regarding the sale of NGT's distribution networks. As stated above, there is high potential for this to negatively impact on consumers by creating difficulties in transfer processes and by reducing choice. If the sale is to go ahead, it will be important to ensure that a realistic timetable is set out to minimise the potential for increased costs to suppliers and consumers.

### ***Helping protect security of Britain's energy supplies***

We welcome Ofgem's confirmation that it considers competitive markets best ensure security of supply. Competitive markets need certainty about the environment in which they operate. Regulatory intervention should be avoided except where demonstrably necessary, not merely where scenarios can be drawn suggesting problems. For example, it should be noted that the UK will not be dependent on one source of gas supply; Shell considers that such diverse sources of gas will ensure on-going security of supply. It is also welcome that Ofgem will be publishing plans for the winter earlier to ensure that the market can respond in a timely manner without potentially negative effects on sentiment.

### ***A leading voice in Europe***

We concur with Ofgem's view that European energy markets and regulatory policies will have an increasing influence on Great Britain. We note Ofgem's plan to engage more fully with other EU regulators and the European Commission. We would like to stress that close cooperation and alignment between Ofgem and the DTI is essential. We would also like to emphasise the importance of transparency in the further shaping of regulation, for example in the European Regulators group. We believe it is important that this group's role and activities do not put the established Madrid Forum process in

jeopardy, where industry and consumer associations are also represented and can contribute to developments.

We believe it is important that industry is involved in the development of regulatory policy and would like to offer our input and cooperation.

### ***Improving Ofgem's efficiency and effectiveness***

We welcome Ofgem's commitment to completing regulatory impact assessments (RIAs). We continue to be of the view that further work can be done to improve Ofgem's communications. As part of its guidance on RIAs, best practice for publication of documents and consultations must be included. Ofgem's website diary is a good communication tool. Unfortunately, while some projects, such as the distribution price control review, appear to be well time-tabled with others, it is not clear whether or when future documents will arrive.

Ofgem's proposed performance indicators provide no measurement of activities of value to a licensed gas shipper and supplier. We suggest that performance measures on the keeping the website diary up-to-date are considered (as above) and objectives for time to respond to, or acknowledge, licensees' correspondence are introduced (excluding responses to consultations where this is unnecessary). Ofgem should also consider independent measures of its success, perhaps through surveys etc.

As well as the increased complexity that Ofgem is allowing to be introduced into the gas market, we are concerned about the potentially detrimental effects of the level of change occurring at the same time. Ofgem published 179 documents in 2003 and looks likely to exceed that number in 2004. This is a significant burden on the industry.

Ofgem has suggested that it is looking at other ways to involve the industry. While workgroups etc can be effective ways to work, guidelines for these will need to be developed. It must be recognised that there are limitations to the number of workgroups that can be supported by industry participants. This makes it important for Ofgem to ensure that all licensees are aware of discussions and conclusions being made. Ofgem also needs to be clear about defining any problem it wants to have resolved and ensure that it produces analysis to substantiate any initial views. It should also be made clear whether it is asking participants to come up with solutions or just developing the detail of its own proposed solution.

### **Conclusion**

SGD welcomes this opportunity to comment on Ofgem's draft corporate plan. We support Ofgem's on-going commitment to market approaches and improving its own efficiency and effectiveness. We remain concerned about the complexity being introduced into the market and the lack of clarity in the vision for future change.

Your sincerely

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