Our Ref: UK-D/S&I/R&LC/THS

Your Ref:

Date: 29 June 2004

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Dear Andrew

OFGEM DISCUSSION DOCUMENT – THEFT OF ELECTRICITY AND GAS

Thank you for the opportunity to comment on the above. CE Electric UK Funding Company (CE) is the UK parent company of Northern Electric Distribution Ltd (NEDL) and Yorkshire Electricity Distribution plc (YEDL). This letter therefore represents the views of CE, NEDL and YEDL on Ofgem's discussion document.

Overall context of theft of energy

We are concerned that, in addressing the theft of electricity and gas in isolation, Ofgem's attention may be restricted to too narrow a focus. We believe that the concept of prevention and detection of theft should not be regarded as synonymous with, but rather as just one key constituent of, the important subject of revenue protection. We see revenue protection as encompassing more than theft of energy and, as such, we believe that an overall action plan is needed to ensure that all energy used by customers is properly accounted for and entered into the settlements process against the appropriate supplier. Past experience suggests that theft of electricity accounts for only a small proportion of electricity usage not accounted for. We would therefore propose that the scope of work going forward should also include:

- Registration – identification of exit points that have been physically energised before full registration of the MPAN;
- Metering – identification of sites where:
  - metering has not been fitted (in the case of CT-metered sites);
  - incorrect metering has been fitted;
  - incorrect metering details have been recorded (eg CT and VT multipliers); or
  - metering is not recording correctly (incorrect timeswitch operation, failed pressure fuses, faulty meters);

- Unmetered supplies – identification of inaccuracies in inventory information provided by customers and used by distributors to estimate consumption and of situations where connections that should be metered have been provided as unmetered.

Responsibilities and incentives

There are, generally speaking, two ways in which theft of energy can be detected – either by a visit to premises for inspection purposes or by assessment of abnormal consumption figures for sites. Typically only a supplier is able to do either of these: DNOs have only aggregated data for non-half hourly sites and no direct rights of access to meters, whilst only a supplier can disconnect for non-payment of debt. By the same token, the supplier must be the one to initiate requisite legal action as the sufferer of the direct loss (unless there is no supplier appointed). Consequently, responsibility for the initial detection of theft must rest with suppliers in all cases where suppliers are in place.

Experience shows, we believe, that suppliers are generally unable to recover all relevant costs from energy thieves – ie not just the costs of the energy stolen, but also the not inconsiderable costs of requisite follow-up encompassing court action, debt recovery, disconnection etc. This must act as a disincentive. Furthermore, suppliers identifying and reporting theft will face DUoS charges from the relevant DNOs. On the other hand, if suppliers are not proactive with regard to detection of theft, stolen units manifest themselves as distribution losses or group correction factor adjustments and, as such, are smeared across all customers and hence do not change the relative position of one supplier against another. Doing nothing on the theft detection front is clearly, therefore, the better option for suppliers from a commercial point of view. It is thus essential that existing disincentives be removed from suppliers, and appropriate incentives given to them, in order to make the system work.

Role of DNOs

We do not believe that there should be an obligation for DNOs to provide revenue protection services (which, for this purpose, we take to encompass solely the addressing of theft rather than the wider scope that we have set out above for the concept of revenue protection). We believe that the putting in place of a revenue protection service should rest with suppliers and that a revenue protection service should always be an agent of the supplier, because of the rights and obligations set out in legislation. Suppliers should be free to have these services provided by whomsoever they wish. Indeed, it may be that some DNOs would wish to compete within the market to offer revenue protection services, but, as DNOs potentially become further removed from involvement with metering (and hence from the need to acquire and maintain relevant expertise in that area) as current market developments gather pace, it becomes increasingly less logical that they should be *obliged* to maintain this kind of involvement. On the other hand, though, it could be argued, on the basis of these same market developments, that the best place to lodge a revenue protection service would be within metering businesses: there would thus appear to us to be merit in giving consideration to revenue protection forming part of the meter operator role.

It must be borne in mind also that, whilst ex-PES DNOs have incentives via both losses and DUoS associated with the detection of theft, new DNOs, who will not be penalised for losses, will only have the DUoS incentive. That said, the new proposed level of incentive/penalty of £48 per MWh merely reinforces the illogicality and inequity of the current approach by penalising DNOs to an even greater extent, despite their lack of the wherewithal, in terms of data and access, to respond to it.

Going forward, therefore, arrangements must not only recognise the realities of the current legal framework within which the relevant parties operate, but also the developments that have taken place with regard to structures, roles and responsibilities.

We believe the only differentiating factor that DNOs could bring to revenue protection arrangements would be the potential for them to smear costs across all customers, at Ofgem's behest, in order to remove the supplier cost disincentive referred to above. However, we do not believe it is necessary for DNOs to bear any responsibilities for carrying out revenue protection in order for use to be made of such a cost recovery route. Neither is this differentiating factor unique to DNOs – Elexon could be brought into play for a similar purpose. It must be borne in mind also that appropriate means of validation would need to be established before suppliers could be allowed to pass costs through into such a recovery mechanism.

Revenue Protection Code of Practice

We believe that a relevant protocol will continue to be needed and that there is enduring value in maintaining the revenue protection code of practice. We do not believe that it should sit under the DUoSA but, rather, that it should have stand-alone status similar to that of the MOCoPA and that its establishment and maintenance should be mandated via supply licences.

Since theft bears on the accuracy of settlement data, it could be argued that revenue protection could sit under the aegis of the BSC and the Performance Assurance Board to provide a service line for revenue protection that suppliers would need to have accredited.

Compliance enforcement

It is fair to say that one clear measure of success for the arrangements that will fall out of this current exercise will be a lessening of the need for regulatory enforcement action. However, an equally clear weakness of the current arrangements is that there is no audit of compliance with requisite obligations, which we see as an essential element of a successful outcome. We believe that Ofgem will need to ensure that there is appropriate compliance auditing in place to provide confidence that parties are meeting their obligations: this is potentially something that could be taken on by the Performance Assurance Board.

Principles for arrangements to detect, investigate and prevent theft

We are broadly in agreement with the draft principles set out by Ofgem in chapter eight of the discussion document, subject to the following points:

- The word “should” should be inserted between “electricity” and “face” in the second line of Principle 1. We believe that key to the fulfilment of this principle will be a successful major initiative to educate, and gain the support of, the police and the Crown Prosecution Service.
- We would wish to see Principle 3 modified appropriately to reflect our comment above regarding the need for compliance auditing.

Work programme

It is of some concern that the issues raised within the discussion document have been extant for some time, with little visible progress towards resolution: it is therefore our hope now that the further document to be published by Ofgem in September 2004 will set out not only a methodology but also a well-defined, rigid and concise timeline for driving these issues to satisfactory resolution.

I hope that you will find these comments helpful. If you would like to discuss any of them further, please do not hesitate to contact me.

Yours sincerely

Tony Sharp

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