

Andrew Wallace  
Office of Gas and Electricity Markets  
9 Milbank  
London  
SW1P 3GE

Paul Rogers  
Regulatory Policy Manager

Paul.rogers@ngtuk.com  
Direct tel +44 (0)1926 655584  
Direct fax +44 (0)1926 656520

24 June 2004

Dear Andrew

## **THEFT OF ELECTRICITY AND GAS – DISCUSSION DOCUMENT**

National Grid Transco (NGT) believes that theft of gas and electricity is an important issue for the industry to address. The evidence presented in the discussion document and seminar on 7 June highlighted inconsistent treatment of theft issues between sectors and parties within those sectors. Whilst diversity in approach is not in itself a cause for concern, the information provided indicates that there are a wide range of views of how much theft takes place and some indications that not all parties pursue theft with the same rigour.

In NGT's case, we have proactively worked with industry participants to raise awareness of obligations regarding the detection and prevention of theft of gas. Through this process it has become apparent that the level of importance given to these activities differs significantly between parties and recent analysis indicates that 26% of theft allegations passed to gas suppliers are closed before the appropriate investigation has been carried out. At this stage we therefore believe it would be premature to reduce the level of regulatory oversight until such time that arrangements are in place that ensure all gas suppliers are incentivised to pursue theft of gas cases appropriately.

We consider that where a customer steals gas from their supplier the contractual relationship that exists between them means this is the best interface to detect and investigate instances of theft downstream of the emergency control valve. Where theft can be shown to have occurred while the gas was in conveyance we believe it is reasonable that the relevant Gas Transporter (GT) should remain the party with responsibility for investigation into that theft.

Following any network sales and parallel developments such as RGMA in the gas industry, it may be appropriate to review the level of GT involvement with a view to placing suppliers at the centre of theft of gas management. We therefore believe that there is considerable merit in discussing in more detail through industry forums how theft issues can be addressed more effectively in the future.

### **Reasonable Endeavours**

During 2002 Transco worked with Ofgem and suppliers to derive a scheme to define the circumstances in which a supplier shall be presumed to have used reasonable endeavours to attempt to recover charges for gas illegally taken. In doing so, suppliers would be allowed to claim reimbursement for a proportion of the costs they were unable to recover from the customer. This scheme was termed the Reasonable Endeavours scheme and was an attempt to negate any financial disincentives there may be for suppliers to undertake detection and investigation of theft of gas.

In order to support these arrangements we organised a theft of gas workshop in March 2003 to discuss the mechanics of the Reasonable Endeavours scheme. Having undertaken to provide training to attendees at the workshop only 3 suppliers attended the session, which may be an indication of the priority suppliers accord this issue. Suppliers subsequently failed to make use of the scheme, so at their request, the scheme was reviewed and simplified in June 2003. This revised scheme was submitted for supplier approval and implemented in September 2003.

Despite these revisions we have not yet received any submissions under the scheme since it was implemented. Given that the scheme was agreed with the Authority and all suppliers through the Theft of Gas Forum we consider that the arrangements should be fit for purpose as they were introduced at the behest of suppliers to address specific concerns. Whilst we remain disappointed with the lack of supplier engagement in the Reasonable Endeavours process, we remain committed to facilitating the scheme and consider that it is a robust and sound process.

### **Revenue protection**

GTs' authority covers the gas service pipe up to and including the emergency control valve on the inlet to the meter but excludes the meter itself, which is owned by the relevant meter operator. GTs are responsible for theft of gas in conveyance, theft as a result of unofficial restoration of supply or gas consumed at sites without suppliers. In all other circumstances of theft we consider the present arrangements where suppliers have responsibility for investigation to be sufficient. In line with this boundary we believe that any requirement for GTs to provide Revenue Protection (RP) services would be inappropriate and that if Ofgem deems the provision of RP necessary by gas industry participants this should be done at the customer / supplier interface.

### **Theft of Gas Code of Practice**

The Theft of Gas Code of Practice (ToGCoP) was established by the Gas Forum and summarises the responsibilities of suppliers in respect of theft of gas. We believe that the ToGCoP is a worthwhile document and should be retained as a method of setting out the minimum requirements for suppliers to meet their licence obligations. The most recent version available to NGT was published in 1997 and would benefit from being reviewed and updated as well as having a formal ownership and change control governance arrangement. We are intending to organise a theft of gas forum for all relevant industry parties in August 2004 and would be willing to table the revision, ownership and change control of the ToGCoP as an agenda item for discussion at this workshop.

While the present version of the ToGCoP is out of date there is little to be gained from mandating accession to it, however if there is industry support for acceptance of an updated version then we consider that adherence to the ToGCoP should be mandatory for all parties. Mandatory observation of the schedules within the ToGCoP will enable Ofgem and the industry to be confident that there was a robust framework surrounding the theft of gas regime, which was being actively managed to accommodate any industry changes that may arise.

### **Regulatory intervention**

We consider that where there is an appropriate and effective regime for the detection and prevention of energy theft, regulatory action should not normally be required. It is apparent however that the present theft of gas regime is not working as effectively as it might and will require some form of regulatory involvement to address the failings that exist. For example, Transco provides information on a monthly basis to Ofgem summarising the number of instances where we have sent details of theft allegations to the relevant suppliers for investigation and the status of cases previously submitted to suppliers. If there is no action at 42, 56 and 70 days we remind the supplier and after 80 days we close the case. Ofgem are informed of all cases closed under the 80 day rule and we assume that they would take these cases up with the relevant supplier. During the

period 1 May 2003 to 30 April 2004 26% of all cases notified to suppliers reached the 80 day limit without us being informed of any action having been taken and were subsequently closed.

Whilst Ofgem should consider the appropriate level of regulatory oversight, we consider that the current theft of gas regime requires more regulatory scrutiny to address compliance with the existing arrangements. Without Ofgem taking a lead in encouraging adherence to current licence obligations there is little value in raising the possibility of decreased regulatory involvement.

### **Relevance of the draft principles**

We consider it a reasonable aspiration that where customers steal gas or electricity, they should face a high risk of detection and prosecution, however this is not realistic or achievable under the present industry arrangements. Customers who do take an illegal supply of gas or electricity should face reasonably high risk of detection through meter reading agencies, service engineers attending on site or supplier analysis of consumption history but we have seen little evidence of prosecution by suppliers.

Suppliers are obliged to inspect all meters every time they are read and at least every two years through the must read process. They also have licence obligations to provide information to the relevant GT of any actual or suspected cases of theft they become aware of. GTs are obliged to investigate and attempt to recover transportation charges that would have been levied in respect of that customer. We believe that all parties should comply fully with their licence obligations but that incentives could be considered as a supporting measure.

We acknowledge that the majority of instances of theft are likely to be discovered while a meter is being read by a meter reading agency or as a result of a visit from a service engineer. It is also likely that where meter readers are given financial incentives to read as many meters during a day as they can, the incentive to report a tampered meter may be reduced. We believe that it may be appropriate for some form of commercial incentives to be provided by suppliers to meter reading agencies to ameliorate this situation. In line with our position on regulatory intervention we consider that where appropriate commercial incentives cannot be put in place to facilitate the detection and prevention of theft there should be effective regulatory safeguards.

We believe that until it can be shown that all parties are both complying with their legal obligations and working together to reduce the instances of theft, the case for Ofgem involvement remains compelling.

### **What regime changes may be necessary**

We consider there may be some merit in developing the proposition put forward at the 7 June seminar that all suppliers pay into a fund to be used to provide incentives to detect and investigate instances of theft. The mechanics of how such a fund could operate would require some development, but any regime where suppliers are facilitating financial incentives on themselves to increase detection rates and successful investigations would be supported by NGT. We would be willing to table this as an agenda item for discussion at our August Theft of Gas Forum.

### **Prevalence of theft**

We noted at the 7 June seminar that many different views were given from industry parties as to their assessment of the prevalence of theft. Ofgem state in their discussion document that the costs could be of the order of £100m per year however some presentations at the seminar stated the range could be anything between £0.5m to £500m per year for both gas and electricity. Transco has requested evidence from shippers at the shrinkage forums as to the extent of the level of theft but has received no information to date. The 0.3% figure used in shrinkage calculations remains an estimate based upon historic data.

If you have any comments please do not hesitate to contact me or Jon Clay on 01926 65 5586.

Yours sincerely

**By email**

Paul Rogers

National Grid Company plc  
Registered Office: 1-3 Strand, London WC2N 5EH  
Registered in England and Wales, No 2366977

Transco plc  
Registered Office: 1-3 Strand, London WC2N 5EH  
Registered in England and Wales, No 2006000