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Dear Andrew

### **Theft of Electricity and Gas – Ofgem Discussion Document**

This response to the Ofgem discussion document, "Theft of Electricity and Gas", is submitted on behalf of RWE Innogy and follows our attendance at the Ofgem seminar held on 7 June.

Whilst the seminar was helpful, in conjunction with the Discussion Document, in identifying and delineating the issues, and brought together the relevant parties, it did not point towards any obvious conclusions. I would suggest that we will not reach an agreed and satisfactory conclusion without further discussion by interested industry participants. I note in this respect that you anticipate one of the outcomes of the discussion document and seminar might be a proposal to set up working groups to deliver recommendations on the key areas. At this stage any other outcome or detailed suggestions would be premature, but the comments below give our general view at this point.

#### **Draft Principles**

Before turning to the specific questions in the discussion document, let me deal with the draft principles behind the Ofgem review. Whilst we agree with them in general, further regulatory imposition should not be considered. It must be possible to agree and arrange incentives that will promote and encourage the action required without any additional regulatory oversight. If incentives are on the right parties, this would negate the need for Ofgem to be actively involved in compliance.

#### **The Questions**

*Responsibilities and incentives*

*Effectiveness of the Reasonable Endeavours Scheme*

We feel that, ideally, the responsibility for identifying theft and interference should be on those parts of the industry which have a regional base and knowledge. In other words, the DNOs, perhaps acting contractually through local metering agents, in conjunction with national suppliers. Local agents have more face to face contact with customers and access to their meters and DNOs already have an economic incentive

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to identify and deal with theft. Responsibility, incentive and local knowledge would in this arrangement complement one another. There would of course still be a need to deal with loss of revenue to suppliers and additional costs to customers, and it would be for discussion how this could be achieved. It would also be necessary to build in some economic incentive between supplier and DNO to cover the reporting of RP issues to the DNO.

A similar model might apply in gas. However, if it were decided that responsibility should remain a joint one between supplier and distributor/transporter, then in gas the Reasonable Endeavours Scheme (RES) could be made to incentivise suppliers more by making it easier and more transparent and by allowing them to recover more or all of their costs. Presently, the RES, while useful in principle, is considered bureaucratic, with this being perceived as outweighing the Scheme's benefits. A similar scheme for electricity would require further consideration by the industry.

### *RP Services*

Again, we consider it would be preferable for RP services to be provided by companies experienced in this field and which have a knowledge of a particular geographic area. This was reinforced at the seminar by comments from the floor. We would anticipate therefore arrangements for DNOs, GTs, or other companies with experience in these matters, to provide RP services for use by suppliers on specific networks, whether in or out of their areas.

Given the probable sale by Transco of DN assets it is important that these issues are considered in advance of any sale. It may, for example, be appropriate to include RP services within the scope of the Agency such that it can be provided centrally on behalf of all DNs and possibly IGTs. Alternatively it may be appropriate to place obligations on DNs and IGTs individually.

Our discussions on this matter also indicate that a review of industry procedures for communication between parties would also be appropriate.

### *RP Code of Practice*

It would be beneficial to have the electricity code reviewed with a view to setting common and consistent requirements throughout the industry. The code was drafted under a previous regulatory structure and the subsequent separation of distribution and supply needs to be fully recognised. However, it would seem a wasteful exercise to undertake such a review until a settled view as to obligations in this area has been reached.

The theft of gas code of practice should also be reviewed and updated, but again this should not be done until a settled view as to obligations in this area has been reached. In both electricity and gas, the review should be carried out by a properly representative and constituted industry group, with the assistance of Ofgem. Given that Ofgem does not wish to be closely involved, adherence to any codes could be governed through a voluntary arrangement monitored by an external auditor.

At the seminar, there were several methods discussed as being employed to assess the amount of energy used but not metered in cases involving abstraction. It might be helpful if agreed, consistent and transparent processes are used and that consumers and their advisers are made aware of this at the appropriate time.

*Approach to Compliance*

We agree that arrangements should be capable of being sustained without the need for involvement by Ofgem.

We would be happy to discuss these comments with you further if that would be helpful and would be prepared to consider participating in any industry discussion groups.

Yours sincerely

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