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Dear Mr Anthony

Appeal response: Notice of an appeal by British Gas Trading against a decision of the MRA Forum regarding MCP144 'Clarify the scope of "contract" as referenced in clause 16.1.2.1 of the MRA'

Thank you for the opportunity to respond to the consultation on British Gas Trading (BGT)'s appeal against the MRA Forum's decision of 29 July 2004 to reject a previous appeal by BGT on the Forum's decision to accept MCP144.

energywatch, in **opposing** BGT's appeal, is pleased to provide the following comments which we believe to be relevant to the grounds for appeal, and which, from our perspective, provide the best way forward for non-domestic customers in the circumstances where a supplier wishes to object to a customer transfer, as envisaged in MCP144:

- we believe that BGT's appeal, if successful, may hamper legitimate switching activity by some non-domestic customers. If such customers are on deemed contracts and are, in fact, poor payers, we find it difficult to reconcile this position with the incumbent supplier's need to object to that customer switching. Furthermore, while there may be some smearing of charges on prompt paying

customers to account for departing customer debts, this does not in itself provide legitimate cause for objecting to a non-domestic customer switching supplier where that customer so desires;

- non-domestic customers with genuine debt problems may well be identified through credit checks by new suppliers, who would not then offer a supply contract on favourable competitive terms, if at all. Our concern is that BGT's appeal is aimed at preventing a class of non-domestic customers, on deemed contracts and whose debt record may only be marginally poor, but who may benefit from switching supplier, from actually doing so;
- BGT argues that a non-domestic customer on a deemed contract, who wishes to object to a transfer, will not be able to do so if MCP144 is implemented, leading to a poor customer experience, and increases in the number of erroneous transfers. We believe this to be an entirely separate issue and would anticipate that erroneous transfers would only increase if issues surrounding objections are tied to deemed contracts, as opposed to negotiated terms between the supplier and non-domestic customer;
- acceptance of the BGT argument would merely return matters back for those on a deemed contract to the pre-MCP144 position, would be anti-competitive and because of their market position, would give BGT an unfair advantage over their competitors; and
- we support the alignment of gas and electricity supply markets in respect of having objection rights set out clearly in negotiated contracts only, and would therefore **wish to endorse MCP144**. We are concerned that, if BGT's appeal succeeds, this would legitimate a push by the same suppliers to have gas supply terms aligned with the different situation in the electricity market, which we consider would create the reverse outcome of what would offer best protection to non-domestic customers from supplier objections.

I hope that these views are reflected properly in your consultation process, and would be pleased to discuss them further with you.

Yours sincerely

Lesley Davies

Lesley Davies
Director of Policy and Research
energywatch