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Dear Andrew

THEFT OF ELECTRICITY AND GAS

Thank you for the opportunity to comment on Ofgem's recent consultation paper on electricity and gas theft. As you know, EDF Energy has significant interests in energy supply, electricity distribution, and metering, and provides revenue protection services in four distribution service areas (including the area of WPD West). We therefore have a strong interest in the arrangements for dealing with theft of electricity and gas, and wish to see positive amendments to the current defective commercial, organisational, and regulatory framework.

From this perspective, we are disappointed that Ofgem's paper seems not to have significantly taken forward the revenue protection debate. Energy theft and its associated safety issues raise important matters of public interest affecting all customers and members of the public generally. An approach to these issues which relies on a simplistic application of the supplier-hub principle, the removal of licence obligations to provide revenue protection services, and the industry development of new codes of practice and a so-called incentive scheme is not, in our view, a well-rounded regulatory approach that is likely to be effective.

Our detailed comments below, therefore, are made without prejudice to these general remarks and our wider view that Ofgem's treatment of revenue protection issues continues to fall short of what we would regard as a robust fulfilment of the Authority's principal objective and associated duties.

Safety Issues

The illegal abstraction of energy invariably involves the use of unsafe actions, such as bypassing of electricity meters. The safety of our customers, of the general public, and of our staff is our highest concern. It is therefore vital that the solution developed ensures that all participants involved are aware of the safety implications of theft and report all suspected instances to the appropriate party without exception. We believe that current arrangements fall well short of this position and will not be materially improved by Ofgem's proposals.

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Revised Principles

We repeat the comment we have made previously that, for Principle 2 (relating to commercial incentives) to work, appropriate changes to the settlements framework are probably required.

Working Groups

We shall continue to participate actively in the working groups and to support the principle that all the parties involved need to be incentivised both legally and commercially to prevent, detect, and investigate the theft of electricity and gas. It is important that all industry participants are actively involved in these working groups if the ensuing recommendations are to be capable of being accepted and implemented with any prospect of success.

Losses Incentive and Units Distributed

We urge Ofgem to consider how distributors can effectively manage theft-based losses (all losses are strongly incentivised under the new price controls) if the control over the bulk of theft prevention, investigation, and detection is placed under the control of suppliers. As a minimum, we need mechanisms to ensure that suppliers are required to input all discovered units into the settlements system. Should this prove impracticable to achieve, we will need a method outside settlements for capturing and reporting such units for the purposes of the distributors' calculation of units distributed and losses.

Distributor/Supplier Boundary

It is imperative that the boundary proposed by Ofgem between distributor and supplier obligations for theft is clearly and accurately defined. This is necessary in order to ensure that in cases of theft that occur on or near the boundary the appropriate party is aware of its responsibilities. However, the specification of the boundary and the accompanying responsibilities also needs to embrace flexibility, so that a party who visits a site where it transpires that the matter in question is not something for which it is formally responsible is nevertheless dutybound not to leave a dangerous situation in place.

Reasonable Endeavours

We question Ofgem's rationale for the proposed extension of the reasonable endeavours scheme to the electricity market when it is far from clear that the current implementation of the scheme in the gas market has been successful.

For example, we note from Ofgem's theft paper of April 2004 that Transco received only 19 claims in 2003. Before such a scheme is extended to the electricity market, we propose that an appropriate investigation is carried out into why the number of claims in the gas market is so low. This will ensure that any problems are resolved before the scheme is extended.

Measuring Success

Given the safety implications of electricity theft, and the inherent difficulty in providing appropriate incentives to suppliers, we ask that Ofgem monitors performance to ensure that the solution adopted is working as intended and that the underlying policy objectives are being achieved.

Other Issues for Consideration

We believe that, in addition to the above points, a number of other issues will need to be reviewed by the working groups, including how to deal with theft that has occurred over time under multiple suppliers, and the need to ensure prompt and effective communications between the putative new revenue protection services and the police.

EDF Energy has significant interests in this area of work and wishes to see a cost effective and workable solution which ensures that safety is maintained and which benefits all parties while reducing energy theft. We therefore hope that you have found our comments helpful and we will be pleased to discuss them in more detail with you if that would be useful.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D. Linford', with a long, sweeping flourish extending to the right.

Denis Linford
Director of Regulation