



Beverly Ord

BP Energy
Witan Gate House
500-600 Witan Gate
Milton Keynes
MK9 1ES

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Jenny Boothe
Markets
Ofgem
9 Millbank
London SW1P 3GE

Direct: 01206 752019
Mobile: 07799 740739
Email: ordba@bp.com

Dear Jenny,

Ofgem consultation – the proposed restructuring of National Grid Transco’s metering business – 78/05

Thank you for the opportunity to comment on the proposed restructuring of NGT’s metering business and on the state of development of the competitive UK gas metering market. BP’s response is not confidential and may be placed in Ofgem’s library and on its website.

Before addressing the specific issues set out in Ofgem’s consultation document we would like to set out some broader concerns regarding the development of the competitive metering market and some comments on the background information provided as part of the consultation.

Development of the competitive metering market

Over the last 5 to 6 years BP has actively participated in the development of a competitive metering market through active participation in various Ofgem-sponsored workgroups leading to the implementation of the RGMA baseline. The cost of implementing the “unbundling” of the metering market has been significant, with large-scale IT changes required to support the development of RGMA-compliant communications across the industry, and it was expected that real improvements in both service and choice would be achieved in the short term.

BP and other representatives on those workgroups repeatedly expressed concerns over the ability of consumers to exercise choice in the face of Transco’s dominant position across the whole of the UK. We also wrote to Ofgem in light of the development of the MSA contracts by Transco which place Suppliers into a long term relationship with Transco in respect of those assets.

Steve Mulinganie noted in his presentation to the SBGI on 16 March 2005 that the development of the domestic market has stalled, with only the largest domestic Supplier

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BP Gas Marketing Ltd
Registered in England and Wales No. 908982
Registered Office:
Chertsey Road
Sunbury on Thames
Middlesex
TW16 7BP

BP Energy is a trading name of
BP Oil UK Ltd
Registered in England and Wales No. 446915
Registered Office:
Chertsey Road
Sunbury on Thames
Middlesex
TW16 7BP

being able to leverage its size in respect of “policy exchange” meters. The lack of liquidity around the change of supplier process (CoS) indicates that the market is unable to operate fluidly and in the manner envisioned in the development of RGMA.

In the I&C market there has been little activity to suggest that a competitive market is in operation and again it remains our belief that the root cause of the problem relates to the inability to transfer assets from the incumbent monopoly asset manager to commercial meter asset managers, i.e. the lack of liquidity in the market.

With the decision to sell four of its Distribution Networks (DNs), NGT will be focusing on the remaining four retained DNs and on the operation of the NTS. With regard to its metering business, NGT have chosen to retain both its in-area assets and its out-of-area assets. To this extent it is our view that NGT has a choice whether to remain active in those sold Networks and as such we believe that its business should be treated as that of a normal commercial meter asset manager, i.e. it should be subject to RGMA and make its assets available for sale or transfer.

To reiterate, we believe that the lack of activity around the CoS process suggests that Suppliers are unable to exercise choice in respect of their meter asset manager. We question whether such impediments to competition would be allowed to continue in the competitive supply market.

Against this background we are now being consulted on the proposed merger of Transco Metering with Onstream to form a joint business that will control through its various Transco metering contracts over 95% of the domestic market and over 99% of the I&C metering market. In addition to this, a proportion of those meters considered “in” the competitive market have been provided by Transco’s Onstream business, thus reducing the level of competitive meters in the market that have been provided by competitive meter asset managers.

BP notes that when Supply competition started in the UK the regulator at that time (Ofgas) required the incumbent UK-wide monopoly to lose a proportion of its market share to “kick start” liquidity in the market and to allow new market entrants the ability to acquire volumes to justify the cost of entering the unbundled supply market. In doing this the incumbent was required to publish its tariffs and was not able to “discount” its tariffs to retain market share.

As we have previously stated, we have actively participated in the development of metering competition and continue to believe that real benefits can be achieved for both Suppliers and Consumers from a fully competitive metering market. We firmly believe that the market needs to be transparent and liquid to operate successfully and we would welcome Ofgem’s support in achieving this goal.

Background information to the consultation

In section 2 of the consultation Ofgem comments on the development of the RGMA baseline, however in 2.3 the narrative fails to recognise that a constrained version of RGMA was implemented by Transco and that key principles of the baseline such as those flows supporting the sale or transfer of assets were excluded. Section 2.10 infers that I&C metering costs are not affected by a reduction in revenue from domestic meters, however the overall revenue for metering is capped along with the individual costs for the provision of domestic meters. Therefore, where the levied charges associated with the domestic capped charges are reduced, Transco would have the ability to increase the non-domestic charges up to the level at which they will not exceed the overall metering revenue cap.

In section 3 of the consultation, under 3.3 it is suggested that efficiencies can be achieved through the merger to the benefit of NGT’s overall metering business, however we note that no other commercial MAM in the market can seek such benefits. We question to what extent such a merger could lead to cross subsidy of Transco’s fledgling commercial business with its dominant incumbent business and the potential impact on existing and new market entrants.

We now address those specific issues set out in the consultation:

Issue 1 – What are suppliers’ views in respect of the extent to which they have been made aware of this proposed sale and the contract options they have been offered by NGT?

BP has been contacted by Transco contract management and received a high level briefing from Transco in December 2004. The nature of the briefing did not suggest any choice was available to Suppliers in respect of NGT’s intent.

Issue 2 – Whether suppliers consider that they can effectively access the price controlled tariffs for gas meters under NGT’s proposals?

BP is concerned that incumbent I&C consumers should not be adversely impacted by the restructuring of NGT’s business. As noted previously, I&C consumers are constrained in exercising choice through the inability to transfer their in-situ assets. In most cases the alternative of an asset exchange is complex and affects the commercial operation of the consumer’s business. As such it is not something most Suppliers would consider initiating as part of the CoS process at the start of their relationship with the consumer.

We note that the majority of domestic assets now fall under the MSA contracts and we presume that they would, under this proposal, fall outside the price control tariff. We believe it is important that I&C consumers do not see any sharp or disproportional increases in their metering costs following any merger and would welcome clarity as to how I&C consumers’ interests are being protected.

Issue 3 – What issues arise from the rebalancing of meter charges?

Whilst not directly impacted, BP notes that the primary impact of the unwinding of the Pre-payment subsidy would be on the Fuel Pool across the UK.

Issue 4 – Whether there are any issues raised by the proposal in respect of the transfer of status of the ‘Gas Act Owner’ and the associated responsibilities that are passed on with this transfer?

BP had concerns over any change in the Gas Act Owner (GAO) but was advised that in respect of those contracts of which BP are a signatory there would be no impact and the GAO would remain “T” for Transporter. However we note that the retention of “T” for both in- and out-of-area assets means that the GAO indicator of “T” can no longer be relied upon to indicate that it refers to the actual transporter of gas to the meter.

We note that there have been conflicting messages on the issue of GAO in the Metering DN Sales workgroup, with suggestions that it is the Supplier (“S”) or the Consumer (“C”) who could become the GAO. BP would be particularly concerned with a change to Consumer as GAO as this would have significant relevance to the operation of the MAMCoP and the robustness of existing system builds. We would also be concerned with a change to “S” in light of the well-documented concerns over the underlying quality of data controlled currently by Transco. In particular, any change of GAO status to “C” needs to be considered in detail, e.g. who would be the true obligated party to pay rental on the meters? Once the consumer is the GAO it could be fairly argued under the Gas Act that the consumer is the obligated party to pay rental to the new metering company. Would the consumer then have to enter into a contract for the rental of the meters with NGT directly?

BP believes that the scope of GAO in the Act needs to be revised to introduce a GAO of MAM. It is our belief that such a change is minor in scope and would bring the Act in line with the competitive market. We would welcome Ofgem’s views as to the viability of this proposal.

Issue 5 – Are there issues concerning the Weights and Measures Act 1985 that should be considered as part of NGT’s proposal?

BP is concerned with regard to the implications arising from any removal of the existing exemption in respect of the continued use of imperial meters as this would introduce significant inconvenience to our customers. However, in such an event BP believes there needs to be a clear policy on how such meters are to be treated and that any opportunity to further enhance the competitive market afforded by this requirement should not be lost due to existing contractual constraints. We seek clarity from Ofgem on how such assets are to be treated and whether they fall into the broader definition of “Policy Exchanges”.

Conclusions

In conclusion BP welcomes the opportunity to comment on the merger of Transco's metering business and on the broader issues of the development of the competitive metering market in the UK. BP believes that there are significant concerns over the merger of NGT’s metering business and that if the merger is allowed to proceed at this time, at the same time as the sale of NGT’s Distribution Networks, then the risk of a negative impact on the developing metering market is high.

BP further believes that Ofgem needs to consider more broadly the development of metering competition in the UK and the ability of Suppliers and Consumers to access competitive services.

Should you wish to discuss any issues set out in this response in more detail please do not hesitate to contact either myself or Steve Mulinganie on 07990 972568.

Yours sincerely,

Beverly Ord
Regulatory Affairs