

Metering Issues – Draft report to Steering Group.

This document provides a summary of the views of the metering workgroup on the meter related obligations in the gas and electricity supply licences. It also provides an overview of the current legislative framework with respect to metering along with a brief overview of recent metering developments.

1. Recent Developments in Metering

There have been a number of metering developments over the last few months, in particular in relation to metering innovation. The metering innovation debate has been stimulated by a number of factors including the government's carbon emission and energy efficiency policies, the international experience and the Energy Services Directive (ESD).

Ofgem undertook analysis on metering innovation which led to a consultation document being published on 2 February. This document discussed options to promote metering innovation.

The policy options set out in the consultation document discussed the potential barriers to innovation, for example standardisation, the two-yearly meter inspection and asset stranding. In addition, issues relating to responsibility for metering were discussed with options including mandating the provision of smart meters by network operators or suppliers. The document indicated that there could be some financial benefit to suppliers if the visual inspection requirement was relaxed or amended should a "smart" meter be installed. The "next steps" document is due to be published shortly which will assist in developing Ofgem's policy position on metering innovation.

The ESD is a European environmental measure and deals with the promotion of energy efficiency. Article 13 includes a requirement to provide time of use information to customers via a meter. However, DEFRA, the lead government department on ESD, has not yet provided definitive advice on its view of the scope of this Article or on the means by which this directive will be implemented in the UK. The ESD came into force on 17 May 2006 with an implementation date of 17 May 2008.

The issues outlined above will have a bearing on the structure of the metering obligations that will be in the supply licence.

2. Legislative Framework

The requirement to have a meter at a customer's premises is outlined in primary legislation. The Gas Act 1986 and the Electricity Act 1989 detail the obligations on gas transporters, electricity distribution companies and energy suppliers. Certain of these provisions are highlighted below.

The Electricity Act 1989

Schedule 7, paragraph 1 of the Electricity Act 1989 provides that a meter may be provided by the customer if the supplier so agrees; but otherwise, the meter must be provided by the supplier. A supplier may refuse to allow one of its customers to provide a meter **only** if there are reasonable grounds for such refusal.

Schedule 7, paragraphs 10(1) and (2) set out the requirement to keep a meter in proper order for correctly registering the quantity of electricity supplied. These

obligations fall on either the customer (if that customer provides, or has made arrangements for the provision of, the meter) or on the supplier if the supplier has provided the meter.

Schedule 6, paragraphs 7, 8, 9 and 10 set out the obligations relating to rights of entry to a person's premises and the obligations on the authorised person in relation to their conduct on site.

The Gas Act 1986

Paragraph 2 of Schedule 2B to the Gas Act 1986 provides that all consumers shall take their supply of gas through a meter which has been stamped by a meter examiner and is of a type appropriate for registering the quantity of gas supplied. If any consumer refuses to take supply through a meter that meets these specifications, the gas transporter may disconnect or refuse to connect their premises and the relevant gas supplier may cut off the supply of gas.

Paragraph 3 of Schedule 2B stipulates that the requirement to maintain a meter in proper order for correctly registering the quantity of gas supplied falls on either the consumer (if that consumer provides, or has made arrangements for the provision of, the meter) or on the gas transporter or gas supplier if the transporter or supplier has provided the meter. In circumstances where the consumer is responsible for maintaining the meter and fails to do so, the gas transporter may disconnect his premises and the gas supplier may cut off supply.

Paragraphs 23 to 28 set out the obligations relating to rights of entry and the obligations on the authorised person in relation to conduct on site.

3. Review of Specific Obligations

The Supply Licence Conditions that have been reviewed are listed below. These have been considered under a number of themes:

1. Meter provision
2. Meter maintenance
3. Conduct of supplier agent
4. Miscellaneous

Electricity:

Condition 7 Duty to Offer Terms for Meter Provision

Condition 17 Reading and Inspection of Meters

Condition 18 Licensee's Apparatus on Customers' Side of Meter

Condition 24 Code of Practice on Procedures with Respect to Site Access

Gas:

Condition 7A Code of Practice for Meter Reading etc.

Condition 17 Reading, Inspection and Testing of Meters

Condition 17A Adjustment of Charges where Meter has registered erroneously

Condition 24 Arrangements in Respect of Powers of Entry

Condition 24A Authorisation of Officers

Condition 24B Exercise of Powers of Entry

Condition 34 Metering Arrangements for Domestic Customers

3.1 Meter Provision

Condition 7 (Electricity) Duty to Offer Terms for Meter Provision Condition 34 (Gas) Metering Arrangements for Domestic Customers

Both of these conditions relate to the provision of a meter although SLC 34 is directed solely at domestic customers. SLC 34 was amended in July 2004 to include references to meter asset managers (MAMs).

SLC 34 of the gas supplier's licence ensures that the current supplier makes sure that there is a meter in place for each of its customers. SLC 34(7) provides that the licensee must not, in the case of a domestic customer, refuse to accept a meter which does not contravene section 17 of the Gas Act 1986 and which is fit for purpose except on the ground that:

- the customer is to be supplied by a prepayment meter and the meter installed is not appropriate; or
- the meter does not offer the facilities requisite for the purposes of the contract or having regard to its terms.

Arguably, therefore, on a change of supplier the onus is on the incoming supplier to make a reasonable offer to use the meter in situ. SLC 47(5)¹ adds that the old supplier must not remove a meter prior to a change of supply if another supplier undertakes, prior to the termination of the old contract, to make reasonable arrangements with the licensee.

This contrasts with the approach set out in the electricity supply licence where the onus is on the old supplier to offer to enter into arrangements with other parties e.g. the end consumer or another supplier. SLC 7(1) provides that where the licensee is the owner of any relevant metering equipment, it shall, on an application made by any person, offer to enter into an agreement for the provision of such equipment (whether by sale, hire or loan). Where the terms offered are accepted, the licensee must sell, hire or loan the equipment in accordance with those terms.

The group considered whether there continues to be a requirement on suppliers to secure the provision of meters through the licence framework, whether there is a continuing requirement to secure the metering arrangements on change of supplier and whether any differences in arrangements between the gas and electricity markets are justified.

Summary

Ofgem considers that competition in the provision of metering services is in the consumer's best interest. However, as stated above, the workgroup recognises that a number of other issues currently being debated will have an impact on how metering provisions will be framed within the new supplier obligations. Both the innovation debate and the ESD may lead to revised obligations in the future and with that in mind it will prove difficult to come to a definitive conclusion on all the current metering obligations, particularly those relating to metering provision.

¹ SCL 47 (5) (termination of contracts in specified circumstances): "Where a domestic customer terminates a domestic supply contract or ceases to take a supply by way of a deemed contract with the licensee for the supply of [electricity] [gas] the licensee shall not (a) exercise any right to recover any meter owned by the licensee at, or by reason of, the termination of such domestic supply contract or the cessation of supply by way of a deemed contract...."

A number of high level principles have therefore been considered. In particular, Ofgem has proposed for discussion certain principles for domestic meter provision for both gas and electricity. (The wording below is not proposed legal drafting.) These principles are as follows:

1. A licensee must ensure that a meter is provided to any of its domestic customers.
2. Where a domestic customer takes his supply through a meter which does not belong to the licensee or the relevant transporter/DNO, the licensee must accept that meter unless-
 - (a) the licensee requires the supply to be taken through a prepayment meter; or
 - (b) the meter is not suitable for the purposes of the licensee's contract with its customer; or
 - (c) the commercial arrangements for the provision of that meter are not acceptable to the licensee.
3. Where a licensee owns (or leases) metering equipment at premises to which electricity/gas is given or required to be given by another supplier, the licensee must, on request from any person, provide that person with such metering equipment for the purposes of supplying electricity/gas at the premises in question. The metering equipment must be provided on fair and reasonable terms and as soon as is reasonably practicable.
4. A licensee must ensure that its meters are "interoperable"; and it must agree standards with other licensees in order to ensure that this is the case.

The group endorsed the above principles and noted that there will be a role for universal interoperability in the context of domestic smart metering; however, this will require a workable definition for the concept, which is currently unavailable and will need to be developed.

The group also noted that the concept of interoperability would be highly relevant to the future regulatory treatment of the provision of prepayment meter infrastructure services for the domestic market (a matter under separate discussion in the Section D Workgroup) and that in principle a single licence condition dealing with the principles of domestic meter provision could also deal appropriately and effectively with that other matter.

Centrica had concerns about the principles proposed by the group. Centrica's views are set out in the Annex to this report.

3.2 Meter Maintenance

SLC 17 (Electricity) Reading and Inspection of Meters **SLC 17 (Gas) Reading, Inspection and Testing of Meters**

The obligations set out in SLC 17 differ between the gas and electricity supply licences. In the electricity supply licence, SLC 17 (1) requires that the licensee shall use all reasonable endeavours to ensure that, at least once in every period of two years (beginning with the date on which the condition comes into force), it inspects any non-half-hourly meter at premises at which it has at all times during that period been the supplier.

In gas, however, SLC 17 (1) requires the licensee to use all reasonable endeavours to ensure that, in the case of any premises at which it is the gas supplier, an inspection is made of the meter and its associated installation at intervals of not more than two years and where the relevant transporter informs the licensee that such an inspection is due.

It can be seen that, in both licences, the supplier must use all “reasonable endeavours” to accomplish an inspection. However, the gas licence specifies that this includes seeking a warrant to enter premises. One further difference between the arrangements is that the gas provisions relate to all meters whilst the electricity supply licence only refers to Non-Half Hourly metering systems.

The group felt that there may be four elements to these conditions which are discussed below:

Safety and Theft

Both licences refer to the inspection including an appraisal of deterioration of the meter that might affect its safety as well as looking for signs of tampering. Theft is currently subject to a project considering the licence obligations and the incentives that apply to suppliers. The Health and Safety Executive has raised concerns that if this obligation was to be removed safety standards would be compromised. To take these issues forward ERA suppliers have agreed to undertake a risk assessment exercise which will seek to set out views on the requirement to inspect meters on grounds of safety or to detect signs of theft.

Billing

The requirement to read the meter every two years was cited in the billing super complaint as a requirement on suppliers related to their billing performance as the obligation provides a backstop where the consumer is at risk of being billed on a long sequence of estimated meter reads. In line with the Ofgem conclusions on the energywatch billing super-complaint and the principles of better regulation, suppliers are moving to implement restrictions on back billing supported and incentivised through an Alternative Dispute Resolution (ADR) scheme. If these measures are not implemented by July 2006 Ofgem has publicly stated its intention to propose related licence obligations. These measures would be a more effective way of protecting consumers from poor billing. Ofgem is proposing that if the ADR and backbilling arrangements are delivered, then the obligation on domestic suppliers in SLC 40 to provide consumption data and the last meter read (on request) may be removed.

The group noted issues raised by consumer groups at the Vulnerable Customers and Codes Workgroup about the impact of the removal of the two year meter reading requirement on vulnerable customers and their ability to manage their finances to prevent the build up of debt.

Energy settlement

The arrangements for dealing with the accuracy of energy settlement are set out in the relevant industry agreements – the BSC or Network Code. Each agreement contains provisions for the frequency of the submission of actual meter readings for the calculation of settlement positions. The arrangements for Network Codes are more relaxed than those for the BSC. The

arrangements to support settlement should be defined and managed in the respective Codes or through the Supply Point Administration Agreement (SPAA) processes rather than requiring Ofgem enforcement action.

The working group noted that a recent proposal by EDF to make both the retail supply and network wings of the industry the subject of a common licence obligation replacing current SLC 16 and SLC 17 could be a possible future delivery mechanism to manage system safety, consumer safety and revenue protection. However, Centrica did not support the proposal

Summary:

The requirement to read and inspect meters may be removed from the licence conditions if:

- domestic consumer ADR and back billing arrangements are effective and
- the safety and theft related concerns associated with inspection of the meter are resolved. ERA suppliers have agreed to undertake a risk assessment to help inform the debate on the future requirements for meter inspections for safety and theft purposes. Given the more advanced features of smart meters, these aspects of the obligation are potential candidates for amendment or removal. It is hoped that the ERA risk assessment will inform this debate, as well as consider the appropriate delivery mechanism.

3.3. Conduct of supplier agent

SLC24 (electricity) Code of Practice on Procedures with Respect to Site Access

SLC 24 (gas) Arrangements in Respect of Powers of Entry

SLC24A (gas) Authorisation of Officers

SLC 24B (gas) Exercise of Powers of Entry

There is one SLC (SLC 24) on site access in the electricity supply licence and three related SLCs (SLC 24, SLC 24A and SLC 24B) in the gas supplier's licence. Both the gas and electricity SLCs require suppliers to provide a statement/code of practice setting out the arrangements for exercising their rights of entry. The provisions in the gas licence are more detailed than those in electricity. The justifications for the difference between the two regimes and for future alignment are the key areas considered by the workgroup.

The group agreed that there would need to be obligations in the supply licence as to how the licensee exercised its statutory powers of entry. A clearer approach would be to require a supplier to take reasonable steps to ensure that its agents adhere to the list of requirements set out in (for example) SLC 24 (2) of the electricity licence.

The supplier would also be obliged to prepare a policy statement on how its arrangements for complying with the requirements above would operate and this should be provided to anyone who asks for it. Such a COP could be aligned or based upon the current ERA COP.

A similar arrangement could be adopted for the gas obligations with the inclusion of wording relating to the sub-deduct arrangements.

Summary: Retain safeguards for the exercise of statutory powers of entry as a licence condition; remove the link with SLC 26 and SLC 27. Simplify by **redrafting**

the requirements; for example, the new condition could provide a list of procedures that would ensure that persons entering a premises:

- (a) are readily identifiable to members of the public;
- (b) use passwords provided for vulnerable customers;
- (c) are appropriate persons to visit and enter customers' premises;
- (d) are able to inform customers, on request, of a contact point for help and advice that they may require in relation to the supply of electricity; and

the condition could also require the licensee to develop a policy statement that outlines these procedures; such a statement should be made available to customers on request.

An identical provision can then be replicated for the gas supply licence.

3.4 Miscellaneous

SLC 7A (gas) Code of Practice for Meter Reading

This obligation covers two areas: meter reading and, for non domestic premises, the processes for the meter installation.

SLC 7A (1) provides that SLC 7A (2) has effect only if the Authority has designated a "meter reading code of practice" and has directed that the SLC 7A (2) should have effect.

SLC 7A (2) requires the licensee to inform any person on request:

- whether it has notified the Authority that it intends to comply with the meter reading code of practice and to require any of its meter reading agents so to comply;
- whether the Authority has made any comments in respect of the licensee's compliance (or that of its agents) with that code, and the nature of those comments;
- whether all of its officers engaged in meter reading are instructed to comply with the code of practice; and
- whether it has required any of its meter reading agents to so instruct its officers.

SLC 7A (3) applies to non-domestic premises only. In conjunction with SLC 7A (4) it provides that where:

- a meter is fitted to a new connection, and the person making the connection is not an approved meter installer (i.e. approved by the Authority as having the requisite expertise); or
- the licensee receives a notice of a proposed connection (or a copy of such a notice or any such information received by the relevant transporter) and it has not been stated in the notice that the connection will be, or has been, made by an approved meter installer,

the licensee must use its reasonable endeavours to secure that within the specified period an approved meter installer inspects the connection and, if he finds it unsatisfactory, carries out any appropriate remedial work.

This obligation is the hook by which the OAMI approval scheme operates. The OAMI scheme should be retained in the licence as a means to ensure that non-domestic installations are safe and appropriate.

Summary:

The reference to a meter reading code of practice should be **removed**. Obligations set out in SLC 7A(3) and (4) on the use of approved meter installers should be **retained** and **refined**.

SLC 17A (gas) Adjustment of Charges where Meter has Registered Erroneously

This obligation essentially relates to the actions a supplier must undertake once a meter has been identified as having been measuring erroneously. The obligation requires the supplier to adjust charges where a meter has under registered and repay charges where it has over registered.

SLC17A (4) further requires that where, in relation to the supply of gas to any premises, paragraph 4 of Schedule 2B² to the Act would apply but for the fact that the premises in question are secondary sub-deduct premises, the licensee shall use reasonable endeavours to secure by contract that the provisions of that paragraph shall, as nearly as may be, apply; and if the licensee has so secured, the provisions of this condition shall apply.

In essence this obligation puts secondary sub-deduct customers on the same footing as other customers.

There is no corresponding obligation in the electricity supply licence, but Schedule 7 of the Electricity Act contains provisions as regards the correct operation of meters.

Summary

The group consider this obligation needs to be **retained** in relation to secondary sub-deduct premises, where an adjustment to charges may affect other customers of other suppliers.

SLC 18 (electricity) Licensee's apparatus on Customer's Side of Meter

This condition sets the maximum power that may be consumed by a second meter that has been installed to ascertain or regulate the amount of electricity consumed. These arrangements are present where meter load research is being undertaken (for example, load profiling or where a check meter has been installed). This obligation would allow Ofgem to require compensation to be paid to the consumer should a prescribed load limit on a check meter have been exceeded.

² The Gas Act 1986 Schedule 2B paragraph 4 – Meter as evidence of quantity of gas supplied. This paragraph applies where a consumer is supplied with gas through a meter at a rate not exceeding 75,000 therms a year. Where the meter has been examined and found to be registering erroneously to a degree exceeding the degree permitted by regulations, then that meter is deemed to have registered erroneously from the penultimate date on which the read was ascertained (or such other date as may be determined by regulations).

Summary

The obligation should be **retained**. However, the group needs to consider whether the supply licence is the most appropriate place.

Note: a proposal by the group to retain an SLC does not prevent that condition from being considered for different (and better) drafting treatment under the SLR process.

AGREED

Centrica's views on the proposed principles for meter provision.

Centrica was concerned that the principles proposed by the group, without further clarification, may be inconsistent with metering competition. Consequently, Centrica considered that inclusion of these principles in the development of licence obligations may frustrate Ofgem's stated ongoing support of metering competition. Whilst Centrica recognised that these principles did not constitute legal drafting, if they were adopted in the licence they would appear to have the effect of extending regulation into areas where no obligations currently existed and where no evidence of market failure had been presented or established. The effect of this unnecessary extension of regulation would be to undermine metering competition and innovation as well as to potentially jeopardise existing industry contractual arrangements. The workgroup's proposed principles and Centrica's detailed views are given below.

" 1. A licensee must ensure that a meter is provided to any of its domestic customers. "

Centrica comment:

This absolute, new obligation, is unnecessary and perhaps unworkable. The Gas Act requires every consumer to take his supply through a meter failing which the transporter may disconnect or the relevant supplier may cut off the supply of gas. However, in the case of electricity the Act allows for the fact that an authorised supplier may give a supply otherwise than through an appropriate meter in such circumstances as may be prescribed

Moreover, since it is permissible for the customer to provide their own meter it appears to create a requirement that the supplier will provide a meter – ***in the absence of any other arrangement*** – and as such appears to be unnecessary.

"2. Where a domestic customer takes his supply through a meter which does not belong to the licensee or the relevant transporter/ DNO, the licensee must accept that meter unless-

- a) ***the licensee requires the supply to be taken through a prepayment meter; or***
- (b) ***the meter is not suitable for the purposes of the licensee's contract with its customer; or***
- (c) ***the commercial arrangements for the provision of that meter are not acceptable to the licensee."***

Centrica comment:

This principle tries to anticipate the specific circumstances where it might be unreasonable to provide a meter. It is unlikely that all reasonable circumstances have been anticipated.

This condition appears to suggest that a supplier cannot refuse to use the meter belonging to an agent of the previous supplier (or agent of the transporter/DNO), yet may refuse to use the meter belonging to the transporter/DNO.

Sub paragraph a) appears to be unnecessary since if the terms agreed with the customer require the use of a prepayment meter then sub paragraph b) will apply.

"3. Where a licensee owns (or leases) metering equipment at premises to which electricity/gas is given or required to be given by another supplier, the licensee must, on request from any person, provide that person with such metering equipment for the purposes of supplying electricity/gas at the premises in question. The metering equipment must be provided on fair and reasonable terms and as soon as is reasonably practicable."

Centrica comment:

This paragraph could have an undesirable effect in frustrating the development of metering competition.

It would appear that a supplier could be required to act as an agent for a number of 3rd party meter service providers where the supplier no longer has a relationship with the customer at the premises where the meters are installed.

It may be reasonable for any licensee that has an ongoing interest in a meter, via ownership or lease, to ensure that the in situ meter continues to be made available to the customer on a change of supplier as otherwise licensees may have perverse incentives not to provide services to competitors. However, where the supplier ceases to have any ongoing interest, then that licensee should cease to have any obligation in this area. In such circumstances the obligation should revert to any other licensee that now leases the meter.

In order to facilitate the change of supplier process it may be necessary to prevent suppliers from entering into any exclusive arrangements with meter operators and to possibly require suppliers to only enter into agreements with meter operators which are specifically open to other suppliers (at appropriate commercial terms)

"4. A licensee must ensure that its meters are "interoperable"; and it must agree standards with other licensees in order to ensure that this is the case. The group noted that there will be a role for interoperability in the context of smart metering; however this will require a concise definition for the term "interoperability"."

Centrica comment:

Any definition of interoperability must have regard to the potential effects in both credit meter and prepayment meter services.