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Dear Sir/Madam

Gas Post-Emergency Metering Services

In February of this year, Ofgem was approached by National Grid Gas (NGG) for a consent under its transportation licence to carry out gas post-emergency metering services (PEMS). PEMS are provided following an emergency call-out on a gas distribution network (DN), and involve maintaining or restoring the flow of gas to the outlet of a meter. The network engineer undertakes any necessary meter work and if a new meter is required this is sold on to the relevant supplier who transfers it to their Meter Asset Manager (MAM). NGG and other DN owners have put in place PEMS contracts with suppliers and independent gas transporters (IGTs).

Consents for carrying out PEMS had previously been issued to NGG and other DNs for this activity on an annual basis, starting in 2005. However, NGG put forward the view that an extended or evergreen consent for PEMS would be preferable in order to reduce administrative burden and provide increased certainty for the industry.

After considering NGG's request, Ofgem issued a further one-year PEMS consent for the 2007/08 financial year as an interim measure, but undertook at that time to look into the issues around PEMS in more detail with a view to arriving at a more enduring arrangement. Accordingly, over recent months we have carried out policy and legal analysis and discussed this issue informally with both suppliers and DN owners.

The key conclusions of our work to date are as follows:

- There is a **strong case for PEMS being provided by DN owners**. Whilst in theory the network engineer could simply make the arrangements safe and leave the supplier to arrange for a MAM to carry out any follow-up work, this would likely lead to considerable additional cost and inconvenience for customers. Ofgem would not however wish to deter any third-party MAM who believes it can offer competitive PEMS from entering the market.
- **PEMS activities fall within the definition of "permitted purpose"** in the transportation licence. Accordingly, **it is not necessary for the DNs to apply for (nor for the Authority to issue) consents for these activities**. For detailed reasoning on this interpretation please refer to Annex 1 to this letter. At this stage, we consider that the drafting of the licence, together with the proposed guidelines, is clear in this regard but we would appreciate any views on whether the licence drafting should be clarified. For the avoidance of doubt, including PEMS within the definition of "permitted purpose" does not in any way prevent any third party from offering PEMS.

- Given the benefits of PEMS to customers, and the limited prospects for effective competition in this area, **there may be a policy case for introducing licence obligations on DNs to offer PEMS**. However, given that suppliers are currently broadly satisfied with the service they are getting from DNs, we do not intend to pursue this option at this stage. Instead, in view of concerns raised by several suppliers regarding future service availability and consistency of pricing across DNs, we have drafted **a set of industry guidelines on PEMS** (attached as Annex 2 to this letter), which we intend to publish on our website once they are finalised following receipt of any industry views. We will continue to monitor the situation and have not ruled out imposing licence obligations in future if it appears that suppliers are having difficulty procuring an adequate PEMS service and this is having a detrimental impact on consumers.
- Emergency metering services in electricity (often referred to as urgent metering services or UMETS) raise many of the same policy issues as do PEMS in gas. Indeed, Ofgem previously issued some guidance to the industry on UMETS in 2002. We understand however that a proposal has recently been put forward to include UMETS within the Distribution Connection and Use of System Agreement (DCUSA). In light of this, we do not intend to issue updated guidance on UMETS at this time, but if the DCUSA proposal does not progress we will consider issuing new UMETS guidelines similar to the proposed PEMS guidelines.

We would welcome any feedback on our conclusions set out above, and also on the draft industry guidelines attached to this letter. In view of the small amount of material submitted with this letter we request that **comments be sent to us by 2 November 2007**. Please send your comments to: Duncan Mills, Regulatory Economist, GB Markets, Ofgem (duncan.mills@ofgem.gov.uk).

Yours sincerely



Rachel Fletcher
Head of GB Markets

ANNEX 1

REASONS WHY WE CONSIDER THAT PEMS FALL WITHIN THE DEFINITION OF PERMITTED PURPOSE AND DO NOT REQUIRE A CONSENT

Restrictions on activities which can be carried out by the licensee

Standard Special Condition (SSC) A36(1)¹ (Restriction on Activity and Financial Ring Fencing) states that: *“save as provided by paragraphs 3 and 4, the licensee shall not conduct any business or carry on any activity other than any business carried on by the licensee for a purpose within sub-paragraphs (a), (b) and (c) of the definition of “permitted purpose” in Standard Special Condition A32 (Definition of Permitted Purpose).”*

Paragraph 3(d) of SSC A36 (amongst other things which we do not consider to be relevant for this assessment) permits the licensee to carry on any business or conduct any activity to which the Authority has given its consent in writing, and paragraph 4 permits the licensee (or an affiliate or related undertaking) to conduct de minimis business in accordance with the provisions of that paragraph.

Paragraphs (a), (b) and (c) of SSC A32 define permitted purpose as:

“(a) the transportation business; (b) the metering business; (c) the meter reading business;...”

SSC A36 therefore restricts the licensee to carrying out activities which are de minimis, transportation/metering/meter reading business or activities which have been consented to by the Authority.

PEMS fall within definition of metering business

“Metering business” is defined in SSC A3 as *“...the activities of the licensee in connection with the provision of metering services;”*

“Metering services” are defined in SSC A3 as *“...the provision, installation, commissioning, inspection, repairing, alteration, repositioning, removal, renewal and maintenance of metering equipment;”*

The precise terms of PEMS contracts will differ across DN owners. The main purpose of a PEMS contract, however, is to maintain or restore the flow of gas to the outlet of the meter following an emergency call out. The services go above and beyond preventing a gas escape and typically involve the replacement of a defective meter that is leaking natural gas and all associated activities e.g. replacement of hoses, governors or washers, testing the internal supply for soundness and purging and relighting gas appliances downstream of the meter installation.

It is our view that PEMS are activities of the licensee in connection with the provision of metering services since they involve (at least) the inspection, repair and renewal of metering equipment.² In any event, PEMS contracts are activities of the licensee in connection with the provision of the full range of metering services provided by MAMs.

¹ Standard Special Conditions applicable to both NTS and DN licensees: Part A

² Metering equipment means the whole or part of the Supply Meter Installation as defined in Section M, paragraph 1.2 of Transco plc's Network Code as at 1 April 2007 as defined within Amended Standard Condition 9 (Network Code) of Transco plc's gas transporter licence on that date. A Supply Meter Installation is the meter and associated equipment and installations installed or to be installed at a consumer's premises, including associated pipework, regulator {other than in the case of an NTS Supply Meter Point} filters, valves, seals housings and mountings

PEMS are a permitted purpose

Since we consider PEMS to be metering business, we consider that they are a permitted purpose for the purpose of SLC A36(1) and accordingly it is not necessary for us to issue consents (in accordance with SLC A36(3)(d)) in order for DN owners to carry on this activity.

PEMS do not fall within definition of de minimis business

Pursuant to SLC A36(4)(a)(i) de minimis business does not include *“the business or activities falling within sub-paragraph (a), (b) or (c) of the definition of “permitted purpose” contained in Standard Special Condition A32 (Definition of Permitted Purpose);”*

Since we consider PEMS to be metering business, we do not consider that they are de minimis business.



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Gas Post-Emergency Metering Services (PEMS) - Proposed Industry Guidelines

[DRAFT]

Purpose

1.1. These guidelines summarise Ofgem's views regarding best practice in industry arrangements for gas PEMS. In particular, they outline the features of a PEMS service that we would expect to see offered by the owners of gas distribution networks (DNs) to suppliers in a well-functioning market. These guidelines aim to provide confidence to suppliers that PEMS are fair and non-discriminatory and will continue to be made available on an ongoing basis.

1.2. While these guidelines do not impose any formal obligations on the industry, we will be monitoring PEMS arrangements on an ongoing basis and would not rule out imposing licence obligations in future if it appears that suppliers are having difficulty procuring an adequate PEMS service and this is having a detrimental impact on consumers. We also note that we have concurrent powers with the Office of Fair Trading to enforce competition law.

1.3. These guidelines may be updated from time to time. Ofgem will consult with interested parties on any future significant changes.

Background

1.4. PEMS are provided following an emergency call-out on a gas distribution network and involve maintaining or restoring the flow of gas to the outlet of a meter. Under the PEMS contracts which DN's currently have in place with suppliers, the network engineer undertakes any necessary meter work, and if a new meter or installation kit is required this is sold on to the relevant supplier who then transfers it to their Meter Asset Manager (MAM).

1.5. While PEMS are relatively infrequent events³, Ofgem considers that maintaining a comprehensive and efficient PEMS service is important for both suppliers and customers. We also believe that DN's are in a strong position to offer this service at low cost. This is because DN's already have licence obligations⁴ to respond to network emergencies (eg, suspected gas escapes) on their networks. With an engineer already on the premises, the additional cost involved in undertaking meter repair or replacement work is low relative to

³ Information from National Grid Gas suggests that around 10% of emergency call-outs on its networks result in PEMS activity.

⁴ Condition A8 of the Standard Special Conditions applicable to both NTS and DN licensees

the costs that would be incurred if a second visit was needed from a MAM. Carrying out meter work in conjunction with the emergency service also minimises any inconvenience to customers and ensures that customers are not left off-supply unnecessarily. We therefore consider that it should be possible for suppliers and DNs to arrive at a mutually beneficial commercial agreement for the ongoing provision of PEMS, which also meets the needs of consumers.

1.6. It should be noted that Ofgem remains strongly committed to metering competition, and we fully support any third-party MAM who believes they can offer competitive PEMS to the market. However, for the reasons outlined above, we think it may be difficult for commercial meter operators to provide PEMS on equivalent terms to the DNs⁵. Until such time as competition does develop suppliers will likely find it difficult to obtain PEMS from alternative providers, and this needs to be taken account of by DNs when negotiating PEMS contracts.

Expectations Regarding PEMS Service

Service Availability and Geographic Coverage

1.7. We would expect to see all DNs continuing to offer PEMS for premises with domestic-sized meters, to all suppliers and independent gas transporters (IGTs) who require it within their distribution area. DNs should also consider offering terms for PEMS to cover non-domestic premises, if requested to do so and if operationally practicable. The geographic coverage of a DN's PEMS service should be in line with the geographic coverage of its emergency service provision.

Meter Replacement

1.8. The PEMS service offered by DNs should provide meter replacement on a like-for-like basis for basic domestic-sized gas meters (i.e., credit meters for credit meters and prepayment meters for prepayment meters). The replacement of other meter types such as smart meters that may become widespread in the future should be a matter for agreement between DNs and suppliers when negotiating PEMS contracts. We would encourage the industry to work together to develop appropriate PEMS arrangements for smart meters as technology advances.

Pricing and Non-discrimination

1.9. We would expect DNs to offer PEMS to suppliers and IGTs at cost-reflective rates. We would also expect DNs not to differentiate between suppliers/IGTs in the terms and conditions that are offered for PEMS, except where this can be justified as a result of differences which affect the cost of providing PEMS.

Transfer and Return of Metering Assets

1.10. In line with our understanding of current practices, we consider that the ownership of any new meter and installation kit that is installed under PEMS arrangements should continue to be transferred to the relevant supplier, who may then transfer it to the MAM they have appointed for that meter point. This ensures that PEMS arrangements can co-exist with the competitive metering market.

⁵ This could of course change in future as technology advances, for example with the roll-out of smart meters.

1.11. Where requested by a supplier, we believe it is reasonable to expect the DN to arrange for the return of faulty metering equipment (including for example flexes and governors) that has been installed by commercial meter operators. This is so that commercial meter operators are able to verify the reasons for the meter failure. Any additional costs arising from this may legitimately be reflected in the terms offered to the supplier for PEMS.

1.12. It is also important that DNs notify suppliers of any PEMS meter work in a timely and accurate manner to ensure that the supplier has the correct meter records on which to bill the customer.

1.13. Any meter removed by a DN whilst undertaking PEMS should be handled and retained in accordance with the relevant provision of the MAM Code of Practice.

Adherence to Relevant Licence Provisions

1.14. For the avoidance of doubt, and in accordance with our interpretation of the standard special conditions applicable to both NTS and DN licensees that PEMS do form part of the "permitted purpose" within the licence since they are part of the "metering business", DNs must comply with all relevant provisions of the licence that apply to the licensee's metering business.