



GDPCR Responses  
The Office of Gas and Electricity Markets  
9 Millbank  
London  
SW1P 3GE

**E.ON UK plc**  
Westwood Way  
Westwood Business Park  
Coventry  
West Midlands  
United Kingdom  
CV4 8LG

[www.eon-uk.com](http://www.eon-uk.com)

Thursday, 16<sup>th</sup> January 2008

### **Gas Distribution Price Control Review – Second Licence Drafting Consultation**

Dear Ayesha,

We have restricted our comments to the questions raised in the Consultation regarding the proposed changes to Special Standard Condition Part A and Part D.

Specifically we believe that the proposed changes to SSC A15 are not sufficiently robust to safeguard the interests of industry participants and gas consumers.

Since the sale of the gas distribution networks by National Grid and the creation of xoserve we have always been in favour of exploring the benefit that expanding the potential service offerings could provide to the wider industry and consumers. We are not fundamentally opposed to the notion of transactional based charges for the services that the Gas Transporters (GT) agent offers as this provides the potential for enhanced efficiencies.

We were also interested at the outset of the Gas Distribution Price Control Review (GDPCR) in exploring the potential to fundamentally change the way elements of the current GT agent's activities are paid for and to move to a scenario where shippers have more control over the costs and service delivered.

In our response to the initial GDPCR consultation we expressed our concern that the proposed phased introduction of the "user pays" principle via a number of pre-selected service lines would create undue complexity and cost for the industry and not deliver the desired transfer of additional control of costs and services to shippers.

E.ON UK plc  
Registered in  
England and Wales  
No 2366970  
Registered Office:  
Westwood Way  
Westwood Business Park  
Coventry CV4 8LG

The on-going industry debate that has occurred since this consultation response regarding the implementation of this initiative has only served to deepen our concern.

We appreciate the proposed intention for the changes within SSC A15 were to allow the industry to develop a robust set of arrangements that would potentially need limited regulatory intervention. We agree that this would have been a desirable outcome. However the proposals to date for "user pays" from the Gas Transporters (GT) show that this is unlikely to be achievable.

Consequently we believe that the proposed SSC A15 should be amended in two ways:

#### 1. Consultation with parties regarding the statement

The current wording of SSC A15 would only require the GT to consult with interested parties during the initial setting up of the joint agency charging statement ("the statement"). There is no specific requirement for the GT to consult interested parties regarding any proposed ongoing changes to the statement.

This in practice would require Ofgem to consider whether to consult interested parties on any proposed changes. SSC A15 suggests that Ofgem will only have 28 days to either undertake this consultation activity or to make a decision to do so and therefore delay the proposed change. This would appear both impractical with regards to carrying out a thorough consultation within 28 days and inefficient.

It would also not be clear whether the process would be open and transparent to interested parties unless Ofgem consulted upon every change. It would therefore be preferable to extend the requirement for the GTs to consult interested parties on all proposed changes of the statement.

#### 2. Contractual arrangements for "user pays" services

The current proposal by the GT for "user pays" services defined within the proposed SSC A15 requires the creation of new contractual terms and conditions between their agent xoserve and interested parties (these being limited at the moment to licenced gas shippers and suppliers and industrial and commercial customers).

The proposal is that these terms and conditions will be imposed upon interested parties without the requirement for consultation and agreement. This creates concerns for us considering that the GT's agent is the only party that can realistically provide some these "user pays" services.

Licensed gas suppliers are also currently obliged via the Supply Point Administration Agreement (SPAA) to use some of the services currently being considered as "user pays". Potentially gas suppliers will therefore be obliged to adhere to the terms of this imposed contract with xoserve.

To safeguard the interests of customers provided with services required via the proposed SSC A15 we therefore believe that the licence condition should include an explicit reference to the contractual terms offered by the GTs agent.

There should be a requirement that these be consulted upon out at the outset and during the course of any potential change. Similar to the statement it should allow for Ofgem to disallow their introduction or change should it be felt that they are not in the interests of the wider industry and consumers.

This should ensure that parties are safeguarded and may encourage the GTs to look at more appropriate contractual options for the charging of these 'user pays' services such as existing governance (e.g. SPAA).

Yours sincerely

Alex Travell  
Retail Regulation  
E.ON UK