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Dear Chris,

Open letter on Ofgem's proposals to implement revised standards of performance arrangements for gas transporters

I am writing further to the above open letter and attach our detailed response. We only provide comments on the areas that we believe require further consideration. If you require any further clarification please contact Chris Talbot, General Counsel on 02920 278542 or chris.talbot@wwutilities.co.uk.

Yours sincerely,



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24 hour gas escape number
Rhif 24 awr os bydd nwy yn gollwng

0800 111 999*

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caiff galwadau eu recordio a gellir eu monitro

Wales & West Utilities Limited
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Wales & West Utilities response to Open letter on Ofgem's proposals to implement revised standards of performance arrangements for gas transporters

Supply Restoration Standard (Regulation 7) and SC20 drafting

1. We are pleased to see that the drafting of regulation 7 now incorporates (where a GT is notifying another that an interruption has affected their customers) the requirement to include the breakdown of domestic and non domestic customers as well as the total number of customers affected by the interruption ((Para 3 (e)(ii)).

2. We agree with Ofgem that there needs to be a contractual mechanism between the transporters dealing with failures upstream that cause supply interruption downstream in the circumstance where the downstream transporter causes or contributes to the supply interruption being longer than needed.

We agree with the principle of the proposed solution but suggest that Ofgem's drafting is wider than needed. As drafted it would, we believe, require EVERY connection or use of system agreement between transporters to contain such a clause. That does not seem to be necessary.

It seems to us that only one agreement between each Gas Transporter is needed and can be applicable for so long as there is at least one connecting pipeline between the GTs. We do not see that there is any reason why this agreement should not be a standalone agreement, so not needing the GTs to interfere with other agreements as such. To avoid issues over lack of consideration the agreement should be executed as a deed. Transporters who outsource their emergency service work could still back to back this with their emergency service provider if they wished. In terms of the standard of duty owed we would suggest that it should be in principle that of a reasonable prudent operator.

For NGG/DNs we consider the provisions could/should go into the OAD.

In terms of Ofgem's drafting of the Condition, we would suggest that it might start;

" 2. With effect from 1 April 2008 the licensee shall not enter into or allow to continue any agreement, either for connection to or use of the licensee's pipeline system, with any gas transporter unless it has in place an agreement that provides:".....

Notice of Planned Interruptions (Regulation 10A)

1. Regulation 10A does not give any exemption under Reg 13(2) and (3) - these are in effect situations where the customer agrees with our actions.

Under Regs 13(2) and (3) the exemptions can apply where the action is taken "before the contravention time" . In the case of Reg 10A the contravention time is the point of interruption. At that point one looks back to see if notice was given.

It is therefore quite possible for us to have identified that we need to interrupt someone late, talk to them and agree a time earlier than the strict notice period that suits them. At that point those two exemptions should apply. Otherwise we are left in the position that the customer agrees, we interrupt and then the customer within the next three months finds out he could claim despite having been happy with what had been done.

Therefore the drafting of Regulation 10A (3) also needs to include exemptions under Reg 13(2) and (3).

Payments (Regulation 12)

1. We are concerned that Ofgem's intention of enabling us to satisfy the requirement to make a payment to the customer or other GT by making a payment to the relevant shipper does not work under the current drafting of SC20 and Regulation 12 of the SI.

The consumer is entitled to payment under the SI. Unless section 33A Gas Act 1986 as amended allows the licence to override (which it does not in our view) the SI, the provisions must appear in the SI itself.

Therefore although paragraph 1 of the Draft SC20 allows for payments via a shipper to satisfy the requirement, this also needs to be drafted directly into Para 6 of Regulation 12 in the SI. We do not consider that The Gas Act gives jurisdiction to allow the licence to amend or derogate from the SI.

2. We also consider that there should be an amendment to correct a flaw in the current drafting.

Regulation 7 requires the relevant transporter to make payment to the customer. In cases of customers of other networks the intention seems generally to be that the relevant transporter pays the other transporter. At present there is only the provision along those lines in Regulation 12 (3A)

However the payment to a transporter under 12(3A) merely exempts the relevant transporter from making the default payment. It does not actually say that payment to the transporter is itself a valid discharge of the principal payment under Reg 7(2). That needs to be found elsewhere.

We consider even more therefore that the provision currently in Draft SC 20(1) needs to be in Reg 12(6) of the SI (less the words "this licence or") for the reasons set out above so that there is a provision that for the purpose of Reg 7 payment to the other transporter is a valid discharge of the duty to pay the customer.

3. Further since Reg 12(6)(c) sets out the exclusive methods of payment the SI needs to say that a transporter crediting the shipper is valid payment.

4. We consider that there is a small error in Reg 12(6)(ii) - we think it should say " of the supply **of gas**" (see the definition of "pay" in Reg 3(1)