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BY E-MAIL

18th September 2009

Dear Jon

**Code Governance Review – Role of Code Administrators and Small Participant/
Consumer Initiatives – Next Steps**

Thank you for the opportunity to comment on this matter. I am responding on behalf of Contract Natural Gas Limited (CNG), who is retaining me to deal with this matter. We are happy for this response to be published.

CNG is a small but growing gas supplier and gas shipper and has been operating in the non-domestic segment of the market for over 14 years. Our comments concentrate on the proposals for supporting smaller participants and consumers and are based on our experience of the Uniform Network Code.

We welcome the new proposed definition for small suppliers and shippers and support the proposal that this is consistent with the threshold of supplying more than one million supply points in the SPAA.

We also agree that code administrators should have a new duty to actively engage with small participants and consumer groups to facilitate engagement in code processes that have direct relevance to them. The proposals set out potentially valuable support from code administrators for smaller participants, particularly by:

- Contacting us when a proposal raises issues that may impact on us;
- Ensuring small participant viewpoints are articulated and debated at workgroup and panel meetings and in code modification reports;
- Ensuring that the impacts on small participants are specifically described; and
- Providing ad hoc support for small participants in drafting modifications and providing clarifications about the operation of a part of the code.

We disagree with the relegation of hearing and debating small participant / consumer views to a 'secondary' activity. This should be part of the consideration of all modification proposals and as such be a primary activity. A simple mechanism to deliver this would be to include a specific section on the impact on small participants and on consumers in the template for modification reports.

We are concerned by Ofgem's assessment that the proposed changes in total will only require the addition of one FTE to a code administrator's staff. This implies that the level of support to any individual small participant or consumer body will not be significant. Given the number of small suppliers is over 100, the impact the proposals will actually have with this level of resourcing is questionable.

The major hurdle for smaller participants engaging in the code modification process is having the resource available to investigate proposed modifications and to influence the outcome of the process. For example, we note that only one small participant was involved in the Code Administrators Working Group meetings and that, even though network operator credit cover arrangements have a much greater impact on smaller participants, no small participants have been involved so far in the meetings for Review Group 252.

We acknowledge that for a code administrator to ensure small participant viewpoints are articulated and debated, there needs to be input from the small participants and consequently, the obligation on code administrators should be a reasonable endeavours obligation. This introduces an element of judgement in assessing the performance of code administrators and we would expect the assessment to include consideration of:

- how well a code administrator takes into account the resource constraints of smaller participants;
- the accuracy of its assessments of impacts on smaller participants;
- how it adjusts the service provided between code modification proposals with significant impact on small participants and those with limited impact; and
- how well it represents the diverse views it is likely to encounter.

Finally, no matter how well a code administrator undertakes its responsibilities, it is still only the administrator of the code. The body that will determine the consultation process and make recommendations on the adoption of proposals is the code panel and we remain of the view that in addition to the obligations placed on code administrator, code panels should have an explicit duty to take account of the interests and concerns of small participants. Code panels could demonstrate meeting this duty through including appropriate comments in the reasoning they provide about their recommendations.

We would be happy to discuss these comments further with you. If you have any questions, please contact me on 07814 009762.

Yours sincerely

Arthur Probert

c.c. Jacqui Hall, Managing Director, Contract Natural Gas Limited