

Cesar Coelho, Economist
Retail and Market Processes
Ofgem
9 Millbank
London
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31 January 2011

Dear Cesar

Reducing supplier disincentives to detect and investigate gas theft – Uniform Network Code Proposal 0231V and other changes

EDF Energy is one of the UK's largest energy companies. We provide 50% of the UK's low carbon generation. Our interests include nuclear, coal and gas-fired electricity generation, renewables, combined heat and power plants, and energy supply to end users. We have over 5 million electricity and gas customer accounts in the UK, including both residential and business users.

We welcome the opportunity to respond to this consultation and comment on Ofgem's proposed amendment to the Transporters Licence Conditions. This letter and its attachment may be placed on Ofgem's website.

We support implementation of modification proposal 0231V as a temporary measure, but do not believe that it would be appropriate to maintain this scheme alongside a Supplier Energy Theft Scheme (SETS). Further were this proposal to be implemented then additional changes to the auditing regime would be appropriate to reflect the higher values associated with this proposal.

The Reasonable Endeavours Allowance Scheme (REAS) that is currently in place was set in 1997. Since this time the Retail Price Index (RPI) has increased from 157.5 to 223.6¹, representing an inflation level of roughly 42% during this period. It is clear that the values contained within the REAS at least need to be updated so that their monetary value remains at least on par with when they were set in 1997. At the same time we also believe it is appropriate that the payment mechanisms are amended so that suppliers are only compensated for their actual costs, up to a cap, and do not receive fixed payouts. This will ensure that Shippers are held neutral to the activities that they have undertaken and not suffer financial hardship, or benefit, as a result of the fixed payments not being aligned with their costs.

¹ Available from the Office of National Statistics (ONS) website at: <http://www.statistics.gov.uk/cci/nscl.asp?id=6016>

We also share Ofgem's concerns that by changing these payments so that they are "flexible" and based on actual costs, then this may also warrant an increased level of auditing and validation to ensure that the value of the claims is appropriate. We believe that this would be best addressed by a third party being employed to audit a random sample of the claims submitted and to ensure that they were valid, with a recovery mechanism being present if it becomes apparent that Suppliers have over claimed from this scheme. We note that if the current trend of only a single supplier using the REAS, then this would be a relatively straight forward process. We believe that this issue should be resolved and arrangements developed prior to the implementation of the proposal to ensure that this receives the appropriate attention.

Finally we note that Ofgem intends to conduct an impact assessment into the other energy theft related proposals in Q1 2011, and do not propose implementation of 0231V until the outcomes of this IA is known and understood. We believe that this is a pragmatic approach as implementation of the REAS arrangements alongside the SETS scheme could create significant cross subsidies. In particular we note that analysis has shown that British Gas is likely to make significant windfall gains under the SETS scheme, which should more than cover their costs of providing a revenue protection service. As the only Supplier to make claims under the REAS arrangements, the risk is that some of their revenue protection services are funded twice – by both REAS and SETS. This would create a cross subsidy which would not be in customers' interests.

I hope you find these comments useful, however please contact my colleague Stefan Leedham (Stefan.leedham@edfenergy.com, 020 3126 2312) if you wish to discuss this response further.

Yours sincerely

A handwritten signature in blue ink that reads "Paul Delamare".

Paul Delamare
Head of Regulation

Appendix 1

Responses to Consultation Questions

CHAPTER: TWO

Question 1: What factors have led to the limited number of suppliers using the current compensation arrangements?

The current compensation arrangements are not particularly transparent, to the extent that a significant period of time was spent attempting to identify the current version of the compensation scheme when proposal 0231V was being developed. We believe that this would have limited uptake of these arrangements as Suppliers may not have been aware that they existed, or which was the applicable version.

In addition anecdotal evidence presented to the Distribution Workstream suggests that the costs of Suppliers claiming under the compensation scheme were frequently greater than the monies that could be claimed, due to the manually intensive nature of the claims process. If this is the case then it appears that there is limited value in pursuing a claim for compensation when the cost of pursuing the claim is less than the compensation that will be paid. We therefore believe that only one supplier has used this process as they are the only ones who benefit from sufficient economies of scale to make the compensation arrangements economic.

CHAPTER: Four

Question 1: Do you agree that the £1,000 cap per allowance (apart from Allowance (vii)) is reasonable? Please provide supporting arguments.

As previously noted it appears appropriate to increase the allowance to take account of the inflation that has occurred since 1997. Based on figures from the ONS this would suggest that as a minimum compensation should be increased to £175 (from £125) and to £355 (from £250).

We do not have any evidence as to whether the proposed cap is appropriate or not. We note that it appears reasonable to suggest that economies of scale exists in this area, and so a cap of £1,000 may be arbitrary but will ensure that smaller suppliers' costs are also covered – if reasonably and efficiently incurred.

Question 2: (For suppliers only) Do you have further supporting information on your actual costs associated with each of the activities set out in Table 1? Information on average costs and the range and distribution of costs would be particularly helpful.

We have already provided this information to Ofgem in confidence during development of modification proposal 0231V; however, we would be happy to re-submit this information if required.

Question 3: Views are invited on whether the audit and compliance arrangements for the payment of allowances to suppliers are appropriate. In particular, are they sufficient to meet the implied requirement under SLC7 of the gas transporters licence to only make payments when the relevant criteria are met?

We do not believe that the current audit arrangements are appropriate. In particular we note that 4 of the 7 allowances pay out a fixed cost, however under 0231V this will move to actual costs capped to £1,000. We believe that this change will require auditing to ensure that the costs being claimed are reasonable and reflect the costs incurred.

Question 4: Do you agree that an equivalent modification should be raised to the IGT UNC?

From a Supplier perspective having different processes and regimes between iGTs and GDNs creates complexity and costs that could be avoided. We therefore believe that if implemented it would be appropriate to replicate changes in the iGT UNC.

Question 5: Views are requested on the compatibility of UNC231V with the proposed NRPS, SETS or any other industry developments.

We do not believe that 0231V is compatible with SETS. In particular we note that under SETS some Shippers will be rewarded and others penalised depending on their theft detection levels. Maintaining 0231V alongside SETS for those Shippers receiving a potentially significant financial benefit would be excessive. We therefore believe that were Ofgem to implement a SETS scheme then the REAS arrangements should be amended so that they are only payable to Shippers who are net contributors to the scheme and not net beneficiaries.

CHAPTER: Five

Question 1: Views are requested on our proposals to amend SLC7 and each large gas transporter REAS and RES.

The proposed amendments appear appropriate.

Question 2: Views are requested on our proposed timetable to amend SLC7 and each large gas transporter REAS and RES.

This appears reasonable.

Question 3: Do any of the proposed changes have potential detrimental consequences for the arrangements on IGT networks?

None identified.

Question 4: (For gas transporters only) Would you accept a notice period of less than six months for the proposed changes to the RES and REAS?

We are not a Gas Transporter, but note that Ofgem's suggestion appears reasonable.

CHAPTER: Six

Question 1: Do you agree with our further proposals to improve the drafting of SLC7?

These changes appear reasonable.

EDF Energy
January 2011