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Dear Cesar,

Reducing supplier disincentives to detect and investigate gas theft – uniform network code proposal UNC231V and other changes

SSE, SGN and SSE Pipelines welcome the opportunity to provide comment on the above consultation. We have provided comments on the individual consultation questions in the attached annex. Overall, we are supportive of the focus industry are currently giving theft of gas and believe there to be a number of issues that still need to be given further consideration.

Under the current framework, shippers/suppliers are only able to claim the actual investigation costs associated with confirmed cases of theft this does not necessarily provide a sufficient incentive to act upon suspected cases. Suppliers will still be unable to recover the costs of unsuccessful investigations and be exposed to other costs and the proposed arrangements do not cover this issue. By allowing for a mechanism where suppliers can reasonably recover the costs of unsuccessful investigations this would provide a greater incentive and help reduce the effect of theft on the industry as a whole and help prevent theft in the future.

In order to ensure more shippers/suppliers are incentivised to take advantage of these new arrangements a more streamlined process should be introduced to allow for an increased number of successful claims. We would note that only 12% of claims in 2009 and 16% in 2010, according to the consultation document, were accepted by Gas Transporters. Under new governance arrangements we believe the Reasonable Endeavours Scheme (RES) will benefit from improved transparency, efficiency and robustness.

Please call me if you have any questions.

Yours sincerely

A handwritten signature in black ink, appearing to read 'S Findlay', written over a white background.

Steven Findlay
Regulation

Annex

CHAPTER: Two

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

Suppliers / shippers are only able to claim for the costs of successful investigations, subject to meeting the appropriate actions, however, regardless of the amount claimable under the RES this does not cover the cost of unsuccessful investigations where suppliers / shippers have been unable to establish that theft has occurred and yet have still incurred costs associated with the investigation. As a result, the high amount of unsuccessful investigations will prove to be a higher disincentive than being able to claim the actual costs of successful investigations under the RES.

The increased use of data analytics will help detect more potential fraud cases but it will also produce more unconfirmed cases at the customer's property compared to more conventional methods (i.e. physically visiting the property to inspect the meter).

Also, one of the key factors limiting suppliers from taking advantage of the current arrangements is due to the high cost of processing claims into the required format. As a high percentage of claims are rejected during the claims process this negates any cost benefit.

CHAPTER: Four

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

The proposed arrangements fail to take account of suspected cases of theft

We agree that the proposed £1,000 cap per allowance would cover the cost of most detected scenarios of theft. As we have referred to in chapter two, question one, consideration should be given to the actual cost of unsuccessful investigations. In order for this to be achieved code parties would need to introduce new measures in order to recognise and compensate for investigations where they were unsuccessful in confirming theft.

Based on our modelling of all suppliers achieving a performance of equal to or above the current most efficient supplier we estimate that between £6m to £8.4m of total claims could be made under the proposed scheme. We do not, however, expect this to incentivise all suppliers to investigate each case of suspected theft. As suppliers are only able to claim for the actual costs of the theft investigation coupled together with the assumption that only 12% -16% of claims are successful this will not prove to incentivise suppliers to investigate suspected cases of theft.

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 are currently unable to provide robust data.

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 consider the current audit and compliance arrangements to be fit for purpose. We are not aware of any particular problems or issues being raised. We can, however, appreciate Ofgem's concern that if the modification is implemented suppliers / shippers will be able to claim for the actual cost of investigating instances of theft and the auditing arrangements should include an extra level of scrutiny. It is worth noting that any additional level reporting introduced will come with an added complexity and therefore cost and may deter suppliers further from making claims to recover costs.

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

We appreciate that Ofgem have noted that IGTs are subject to different price control arrangement to the GTs. Currently, IGTs do not have an allowance or mechanism within their price control in order to reasonably recover these costs. We do not believe it is necessary or appropriate to consider raising an equivalent modification against the IGT UNC at this time. Instead, we believe it would be more appropriate to consider making this change as part of the forthcoming IGT price control review.

If it is decided that an equivalent modification to IGT UNC should be raised, then provisions for a cost recovery mechanism should be introduced to cover the time between the price control and the modification being accepted.

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

We cannot identify any reasons as to why the SETS and UNC231V should not be compatible.

We do have some concerns with regard to the compatibility of the NRPS and UNC231V. Under current RES arrangements a supplier must undertake seven actions in order to make a claim under the RES arrangements. If the proposed NRPS is to own some of these actions on behalf of suppliers we consider it necessary that the modification should detail how suppliers demonstrate that they have undertaken each of the required actions in order to process a claim. The NRPS cost model would also have to consider whether it is the supplier or the NRPS that receives the financial benefit.

It is also worthwhile noting that the Security Technical Expert Group (STEG), has been set up to consider security in relation to smart metering including criminal activity such as theft. STEG will be reporting in March and Ofgem should consider any conclusions from this group in its wider policy intentions with regard to theft.

CHAPTER: Five

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

We agree with the proposal to amend SLC7 in order to allow governance of the RES and REAS to be brought under the UNC for GDNs. This provides a more transparent and accessible regime, allowing transporters and shippers to raise changes to the scheme whilst retaining approval by the Authority.

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

We are concerned that the proposed changes to SLC7 should not be made in Quarter 1, prior to the outcome of the Impact Assessment which is due to be published in Q1 2011 and used to inform Ofgem's decision on the Modification Proposal in Q2. We are concerned that issues may be identified in the impact assessment which could impact on this modification proposal and the approach to implementation. Timescales should be set to take account of this. We would therefore suggest that Ofgem have further stakeholder engagement prior to making a final decision.

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

As we have stated in chapter 4, question 4 above, IGT's do not currently have an allowance or mechanism to recover costs associated with the investigation of theft. This modification is designed to remove some of the disincentives for suppliers and in doing so it is likely that IGTs will be exposed to increased costs. This should be addressed, for example by agreeing a mechanism for recovering these costs through the next price control review or by agreeing an adjustment to charges in the current licence drafting.

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 concerned that there are a number of developments and initiatives being considered in this area including Ofgem's wider impact assessment, the NRPS and the SETS scheme. We believe the timescales for these should be aligned to avoid any duplication of effort and to ensure there are no inconsistencies or changes made that subsequently need to be unwound.

CHAPTER: Six

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

We have some comments on the proposed drafting detailed in Appendix 3 of the consultation below.

Under paragraph 1.4, Ofgem propose to replace paragraph 5 of the SLC with the drafting detailed in the consultation. The following section of the proposed drafting is unclear and needs to be amended:

"the licensee shall treat the amount of gas to which so much of the supplier's charges as have not been, and cannot reasonably be expected to be recovered, relate as not having been taken out of its pipe-line system by the relevant shipper for the purposes of calculating and claiming charges to be paid to it by that shipper in pursuance of the arrangements between them and shall further reduce those charges by an amount equal to that of the allowance mentioned in paragraph 6; and, accordingly, only the charges so calculated and paid shall be taken into account for the purposes of any condition of this licence which limits the charges which may be made in pursuance of transportation arrangements or the revenue derived there from."

Under paragraph 1.7 (a) we believe the words "a document described" should be deleted leaving reference to "a scheme" only as we believe this element is intended for IGTs where there will be no provision in the UNC or UNC Related Document.