

Andrew Wallace
Senior Manager
Ofgem
9 Millbank
London
SW1P 3GE

Wales & West House
Spooner Close
Celtic Springs
Coedkernew
Newport NP10 8FZ
T. 029 2027 8500
F. 0870 1450076
www.wwutilities.co.uk

Tŷ Wales & West
Spooner Close
Celtic Springs
Coedcernyw
Casnewydd NP10 8FZ

31st January 2011

Dear Andrew,

Ofgem Consultation on Reducing Supplier disincentives to detect and investigate gas theft

Wales & West Utilities Limited (WWU) is a licensed Gas Distribution Network (GDN) providing Gas Transportation services for all major Shippers in the UK. We cover $\frac{1}{6}$ th of the UK land mass and deliver to over 2.4 million supply points. WWU is one of only two Licence Operators that focus solely on Gas Distribution in the UK.

Our response to the questions in the consultation is given below.

Chapter 2 - Current supplier compensation arrangements

1. What factors have led to the limited number of suppliers using the current compensation arrangements

As a GDN, Wales & West Utilities are not best placed to answer this question. However, we would like to make the following comments. During discussions on Modification Proposal 0231V it was clear that some industry participants felt that the Reasonable Endeavours Scheme (RES) was not as well known as other industry procedures and this may contribute to its limited use. Other industry participants commented on the maximum value of each category of the compensation arrangements and how, if these are not sufficient to enable parties to recover costs reasonably incurred by them, it is likely to discourage investigations.

Chapter 4 - Ofgem's minded to view on UNC231V

1. Do you agree that the £1000 cap per allowance (apart from Allowance vii) is reasonable?

Hopefully Ofgem have been provided with sufficient evidence from Shippers/Suppliers as part of the consultation process for Modification Proposal 0231V (or as supplementary submissions) to justify the caps being amended to £1,000. Due to the infrequency of the scheme usage at present, and the use of a standard allowance, it is difficult as a Transporter to know whether this is fully justified. If Modification Proposal 0231V is to be implemented

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

0800 111 999*

*calls will be recorded and may be monitored
caiff galwadau eu recordio a gellir eu monitro

Wales & West Utilities Limited
Registered Office:
Wales & West House, Spooner Close, Coedkernew, Newport NP10 8FZ
Registered in England and Wales: No. 5046791

this may lead to an increase in REAS claims. The supporting information provided for such claims could be used to further adjust (increase/decrease) any of the compensation limits as and when necessary by way of a Modification Proposal. Such a review of the allowances may need to form part of any audit regime that is put in place for RES/REAS (covered in more detail in the question below).

2. Question for suppliers only

3. Views are invited on whether the audit and compliance arrangements for the payments 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 agree with the summary that Ofgem have included in the consultation document regarding the level of audit that will be undertaken by xoserve, on our behalf, for payments under the scheme. xoserve will require that sufficient evidence is provided by Shippers for any REAS claim but will not be in a position to validate whether such costs can be deemed to be 'reasonable'.

The level of compensation under each allowance will vary depending on the circumstances of each case and the cap should be set at such a level that it allows Shippers/Suppliers to carry out full investigations and cost recovery activities and be in a position to recover, in the majority of cases, the costs incurred in doing so. As mentioned above, if claims under the REAS were to increase through the implementation of Modification Proposal 0231V then this would allow for further analysis and comparison of the costs incurred by Shippers. Such analysis could ultimately lead to further Modification Proposals being raised to adjust (increase/decrease) the cap for each allowance.

We believe Ofgem should have a role to play in 'policing' the REAS and compensation payments by requesting evidential information from Shippers for a set sample of their REAS claims each year. Ofgem could utilise their powers to request information to ascertain from Shippers the basis for their 'reasonable' claims and could then issue further guidance / best practice as a result of any findings.

To ensure that Shippers/Suppliers do act appropriately when submitting claims under the REAS scheme it may also be prudent to amend Shipper Standard Licence Condition 9 "*Provision of Information Requested by Relevant Transporter or Relating to Gas Illegally Taken*", and Supplier Standard Licence Condition 17 "*Mandatory exchange of information*", to place a requirement on Shippers/Suppliers to only claim costs that are reasonably incurred and to retain any evidence required to substantiate such a claim. Such licence changes should give the industry a suitable level of protection.

4. Do you agree that an equivalent modification should be raised to the iGT UNC?

As the existing licence condition (SLC7) applies equally to all Transporters it is logical that a consistent approach is taken and the provisions of Modification Proposal 0231V should therefore be reflected in the iGT UNC. We are not a signatory to the iGT UNC and therefore are unable to progress such a Modification Proposal.

5. Views are requested on the compatibility of UNC231V with the proposed NRPS, SETS or any other industry developments (see paragraph 4.36)

The compatibility of the SET Scheme and the potential NRP Scheme has been the subject to much debate through the development of Modification Proposal 0277. There are mixed views within the industry on this, however, we believe that it may be possible for both to exist (please see our consultation response for Modification Proposal 0277 for more information). Below we have commented on our view on whether the REAS is compatible with both SETS and NRPS in isolation of each other.

The SETS scheme has been designed to incentivise Shippers to detect and investigate Theft of Gas by providing a proportional funding scheme that will see Shippers that perform 'well' (over and above their theoretical proportional ToG share) being financially rewarded whereas those that perform poorly being penalised. The scheme is self funding and would be administered by xoserve on behalf of the Transporters. We believe that SETS and the REAS are fully compatible and complimentary of each other. To have artificially low allowances within the REAS arrangements could lead to perverse incentives under the SETS regime to underperform. This could be the case where the cost of ToG detection and investigation is over and above the REAS allowances and, in aggregate, is less than the financial loss of being an underperforming Shipper in the SETS regime.

We note Ofgem's concerns that the NRPS arrangements may take the activity out of the hands of the Shipper/Supplier, however, we still believe that it can be compatible with the REAS. Unless there were alternative funding arrangements in place, the REAS would still be required in order for Shippers to be adequately compensated for theft detection and investigation.

Although the NRPS would remove activities from the Shipper/Supplier it would not remove their obligations or incentives to detect theft in the course of their own operational and administrative activities. We also believe that there may be an element of core and optional services offered by the NRPS and this may also lead to some Shippers detecting and investigating a higher proportion of ToG and such claims should be compensated through the REAS arrangements.

Chapter 5 - Proposed amendments to SLC7, the REAS, and the RES

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

We welcome the draft changes that Ofgem have supplied within the Consultation document and agree that changes to Standard Licence Condition 7 are essential if Modification Proposal 0231V is to be implemented. We appreciate that Ofgem have recognised that the proposals will treat iGTs and GDNs differently and have made efforts to minimise the impact of this. However, as mentioned above, we believe that it would also be beneficial if similar changes were being made to the iGT UNC and for SLC7 to remain consistent in application to all Transporters.

Our comments on the individual proposed changes to SLC7 are as follows:

- ***Supplier Compensation – Proposal to amend SLC7(6)***

We are generally supportive of the proposed amendment that will accommodate both iGTs and GDNs to have allowances designated in different ways. An alternative option would be to move away from the Standard Licence Condition and create separate licences for GDNs and iGTs (as the case is with numerous other licences). However, by retaining SLC7 it will allow for any future changes in iGT arrangements that may allow for a consistent approach across all Transporters.

- ***Reasonable endeavour requirements – Proposal to amend SLC7(8)***

The dual governance issues raised in discussions on Modification Proposal 0231V would be resolved by the proposed changes to SLC7(8) and we are therefore supportive of this change. The current legal text that has been prepared for Modification Proposal 0231V and the draft UNC Reasonable Endeavours Document do not link back to the requirement in SLC7(8). This may not be necessary, however, in light of the proposed amendments to SLC7(8) we would suggest that some further work is carried out to ensure the compatibility of 0231V legal text, the UNC RED and the proposed changes to SLC7. We would suggest that this is carried out once Ofgem have finalised the amendments to SLC7 and could be done by way of a joint meeting with the GDNs to walk through the documents. This should ensure that there are no dual governance issues and that all intended provisions of the modified SLC7 can be accommodated within the UNC without requiring further Modification Proposals.

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

We are supportive of the approach that Ofgem have proposed to the implementation of Modification Proposal 0231V and changes to SLC7. We also support the view that any consequential impact of Ofgem's Impact Assessment of theft arrangements will need to be considered prior to changes taking place.

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

Apart from consistency issues we do not believe there are any detrimental impacts on GDNs.

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

We would accept a notice period of less than 6 months subject to an agreed timetable for change that includes:

- a coordinated approach to the implementation of Modification Proposal 0231V and changes to SLC7; and
- sufficient time to allow for any process changes that are required by xoserve and Shippers/Suppliers.

Chapter 6 - Additional proposed changes to SLC7

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

We welcome the work Ofgem has carried out in responding to concerns raised over certain provisions within SLC7 and the work that has been carried out to address these concerns as part of the consultation.

Our comments on the individual proposed changes to SLC7 are as follows:

- *SLC7(3) – Theft in conveyance*

We are not entirely convinced that provisions to allow GDNs to utilise the claims process in SLC7(3) for theft in relation to conveyance on sub-deduct networks is required.. For theft in conveyance to occur on a sub-deduct network the gas will have already passed through, and been registered through, the primary meter. WWU do not claim ownership of any sub-deduct arrangement and are not the conveying party for gas that has already passed the Emergency Control Valve (ECV) at the primary meter. It would seem logical that theft in conveyance on the sub-deduct network would either be the responsibility of the downstream network owner or the Supplier/Shipper that is registered at the primary meter (as it effectively theft that they will pay for).

As you will be aware, there have been lengthy discussions about Sub-deduct networks between Ofgem and the GDNs. We would suggest that this amendment is considered further by the relevant people prior to any formal licence amendment being proposed, we would happily participate in such discussions. One solution may be to make the claims under SLC7(3) relevant to SLC7(2) only in certain circumstances. This would cover any instances that a GDN does claim ownership of a sub-deduct network (not that we are aware of any) but would not be an outright obligation.

- *SLC7(3) and SLC7(5) – Incorrect reference to a “standard” condition*

We agree that the existing drafting of SLC7 incorrectly refers to any ‘standard condition’ whereas the relevant conditions are in fact contained within Part E of the GDN licence and are ‘special conditions’. The proposed amendment to remove the word ‘standard’ would be a suitable solution to this and would also cater for any future changes to the structure and content of the GDN licence.

- *SLC7(4)(c) – Compensation not available when bill paid*

We agree that the scenario presented where a person ceases to be the owner/occupier but has already paid for the gas consumed should not give rise to a further claim under SLC7. However, the timing of such payment by such a person could well be following detection and investigation has taken place and even following some form of attempted cost recovery. The licence should therefore not preclude all claims being made in this situation as there may be valid costs to be recovered. We would suggest that it should be presumed that any gas already paid for should not be subject to claims under SLC7 and are not convinced that this needs to be explicit within SLC7. Such a scenario could be explained and detailed within the RES itself.

- ***Other potential SLC7 amendments***

In addition to these proposed changes we believe it is also worth considering additional changes that may remove any disincentive for GDNs to proactively detect and investigate ToG. For example, there have been ongoing discussions within the industry on matters such as unregistered and shipperless sites. This is a complex area and unregistered and shipperless sites will not always result in theft of gas, in our view this is a rare outcome, but often will expose a failing in industry process. For example, a customer may be consuming gas but the Shipper/Supplier has failed to correctly register this with the Transporter. Likewise, a Shipper may have mistakenly indicated that a meter has been removed from a property when in fact it was exchanged. In both examples the consumer is paying for their gas but the gas is not being correctly accounted for and allocated. This may indeed be covered by provisions within the Gas Code but is an area that may go undetected.

If GDNs are expected to play a more active role in these situations then it is appropriate to allow for the recovery of GDN costs (administration, investigation) to be included within the provisions of SLC7. In addition there will be other situations, other than unregistered and Shipperless sites, where GDNs should be able to recover costs of investigations where ToG may not have occurred.

We hope that our responses and comments are useful. If you wish to discuss any aspects of this response then please contact either myself or Simon Trivella (simon.trivella@wwutilities.co.uk).

Yours sincerely,



Steve Edwards
Head of Commercial and Regulation
Wales & West Utilities