

Mr. M. Watson
Cost & Outputs
Distribution
Ofgem
9 Millbank
London, SW1P 3GE

24 November 2011

Dear Mr Watson,

Consultation on Ofgem's minded-to position for the determination of re-opener applications in respect of additional income associated with the Traffic Management Act (and Transport for Scotland Act) under the first gas distribution price control review

Further to your organisation's consultation of 31st October, please find our response below.

Question 1: Do you agree with the proposed adjustments to the revenues associated with TMA for the three GDNs, North London, Southern and Scotland?

No.
Hackney believes that the penalties and charges associated with Traffic Management Act are due to non-compliance with the legislative requirements and therefore it is not fair to pass this onto the customers. Such charges could have been easily avoided with better planning, coordination and compliance with the permit requirements.

Permit Fees

Hackney's statistics show that, on average 20.8% of NGG permits were refused (see table below).

Permit Fees	April 2010 – March 2011	April – Sept 2011
NGG Permit Applications	546	217
NGG Refusals	111	46
% of Refusals	20.3%	21.2%

When we analysed the permits that were refused, we found that majority of them were refused due to:

- Insufficient permit model conditions attached
- Location of works unclear and also incorrect plotting
- Previously refused Permits re-raised as Immediate Permits
- Insufficient information provided when works proposed during section 58 restriction
- Traffic Management plans not provided
- Excessive duration
- Insufficient notice periods

- Conflict with existing works

Permitting authorities only add conditions in a reasonable manner that are required to ensure that works are carried out in a safe manner with minimum disruption, complying with the London Permit Scheme requirements. With insufficient information, permitting authorities are unable to assess the impact and coordinate works. The above reasons clearly show that, with better planning and assessment from the Works Promoter, refusals could have been avoided.

Fixed Penalty Notices:

FPNs	April 2010 – March 2011	April– Sept 2011
Late notification of Actual Starts, Work Stops and Reinstatements of NGG	34	32
Total number of Late notifications issued to all Works Promoters	366	185
% of NGG FPNs	9.3%	17.3%

Our last financial year statistics show that (see table above), we issued 9.3% of FPNs to NGG for failure to update permits on-time. Our statistics for this financial year up to the end of quarter 2 show that we issued 17.3% of FPNs to NGG for failure to update permits on-time. NGG could have easily avoided these penalties if they followed the permitting requirements. Comparing last year's performance it seems that NGG have not put in place any measures to improve their performance. Hackney issues FPNs in a reasonable manner and we do give allowance for system issues and for permits that were updated few minutes late. Thus it is not equitable to pass the cost of Works Promoters' poor performance to the consumers.

S74 Overstay charges

Hackney strongly believes that all S74 overstay charges are avoidable and again therefore, should not be passed onto consumers. Works Promoters need to complete the works within the reasonable time-frames and they are well aware of the penalties involved if they do not, as this causes disruption to members of public and all road users.

Question 2: Do you agree with the proposed principles that have been set and that these should be applied to future TMA re-openers and price controls?

No

Hackney believes that charges that are avoidable must not be passed onto the consumers, as they will only be paying for the shortcomings of the works promoters.

Question 3: Do you agree with the timeframe within which it is proposed that additional revenues will be recovered?

Hackney does not feel that the charges should be recovered and so does not agree to any time frame.

If you have any queries or require any clarification, please contact me on the details above.

Yours sincerely,



Robin Thurairajasingham
Team Leader - Highway Maintenance