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Dear Sir

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

This consultation has only recently been brought to my attention. Whilst the closing date for responses has closed I consider it is important that I respond as follows:

Under SGN Scotland analysis you state ***“In Scotland there is not a requirement to purchase a permit to carry out streetworks and the effect on productivity is far less. However, there is a greater administrative burden associated with entering notices on the Scottish Roadworks Register (SRWR).”*** You do not state on what basis you consider entering information on SRWR to be a greater administrative burden than either applying for a permit or entering required information via an ETON system. I would suggest that given the advanced functionality of the SRWR that it could be argued that the administrative burden is less.

You go on to state ***“We recognise that there are increased costs relating to the establishment of the Scottish Road Works Commissioner (SRWR) but we are currently not convinced that these associated costs are in excess of one per cent of Scotland’s base revenue of £2.3m.”*** Although you state “Commissioner” in the text, I assume that you mean “Register”. The cost to SGN in relation to the provision of SRWR is set out in regulations published annually. In 2011-12 the cost to SGN was £103,112. SRWR provides a national managed system and I would suggest provides very good value for money in comparison to having to purchase and manage an ETON compliant system in England. Although the cost of SRWR became a statutory levy under the T(S)A, it had been subject to a voluntary contribution by SGN for many years to assist them to meet their obligations under the NRSWA.

In Appendix 2 you talk about the implementation of ***traffic management schemes***. I assume what you really mean are road works authority schemes to issue fixed penalty notices for offences under NRSWA. These fixed penalty notices (FPNs) allow the discharge of such offences under NRSWA. They were introduced under

the T(S)A [and are also used in England under TMA] to improve the standard of the information being input into SRWR and thereby improve the management and co-ordination of works. The cost to SGN of FPNs in 2010-11 would be in the region of £27,440 based on the 343 FPNs issued. I would be very concerned if such fixed penalty charges could be offset by increases in revenues. This would seriously undermine the policy objective behind the legislation. The same issue would arise should SGN seek to offset Scottish Road Works Commissioner Penalties at some future date.

Although lane rental and overstay charges are not currently in place in Scotland, I would point out that these have been introduced in England to change behaviours to minimise the impacts of road works and as such, the ability of GDNs to recover such costs needs to be carefully considered as with FPNs as the policy objectives behind these legislative charges would be undermined.

Given that this consultation was only brought to my attention very late in the day and by a very circuitous route, I should be pleased if you would note the contact details in this letter and include my office on the circulation list for any similar future consultations.

Yours faithfully

John Gooday
Scottish Road Works Commissioner