

**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.

It is TfL's firm belief that many of the costs associated with the Traffic Management Act are easily avoidable and should therefore not be passed onto consumers.

Permit Fees

TfL disputes that permits have led to a substantial increase in costs for either SGN or NGG. TfL figures show that for the financial year 2010/11 45% of the number of permits granted to NGG and 73% of permits granted to SGN have been classed by them as being "Immediate" works.

| National Grid Gas             |       |     |          |       |           |       |
|-------------------------------|-------|-----|----------|-------|-----------|-------|
|                               | Major |     | Standard | Minor | Immediate | Total |
| Granted                       | PAA   | PA  | PA       | PA    | PA        |       |
| Permits                       | 121   | 47  | 52       | 37    | 248       | 505   |
| Permit Variations - Durations | 0     | 42  | 9        | 3     | 91        | 145   |
| Permit Variations             | 0     | 35  | 38       | 32    | 0         | 105   |
| Total                         | 121   | 124 | 99       | 72    | 339       | 755   |
| %                             | 16%   | 16% | 13%      | 10%   | 45%       |       |

| Southern Gas Networks         |       |     |          |       |           |       |
|-------------------------------|-------|-----|----------|-------|-----------|-------|
|                               | Major |     | Standard | Minor | Immediate | Total |
| Granted                       | PAA   | PA  | PA       | PA    | PA        |       |
| Permits                       | 59    | 31  | 41       | 54    | 354       | 539   |
| Permit Variations - Durations | 0     | 38  | 7        | 1     | 194       | 240   |
| Permit Variations             | 0     | 23  | 16       | 13    | 0         | 52    |
| Total                         | 59    | 92  | 64       | 68    | 548       | 831   |
| %                             | 8%    | 12% | 8%       | 9%    | 73%       |       |

PAA = Provisional Advance Authorisation PA = Permit Application

It could also be argued that permits have brought greater certainty about the expectations of highway authorities. It has been stated by some works promoters that some permitting authorities are imposing onerous conditions on permits that are adding to costs. It should be noted that the Regulations only allow permit conditions to be added in a reasonable manner and it is TfL's assertion that any permit conditions are applied simply to ensure that works are undertaken in an efficient and safe manner.

Using statistics for the period 1 April 2011 to 11 Nov 2011, TfL has analysed the reasons for refusals for both SGN and NGG. This was introduced by TfL in 2011 as a way of monitoring the reasons for permit refusals. Unfortunately no data exists for the financial year 2010.

During this period, TfL received 775 permit applications from SGN of which they refused 207 applications –27%.

- Not including the standard model conditions on their application (41%)
- Failing to provide or altering existing traffic management plans (16%)

- Not including the time or date of their proposed works (5%)
- Conflict with existing works (5%)
- Excessive duration (4%)

As can be seen many permit refusals could be avoided if the correct information is provided. SGN fail to add the required conditions to their permit applications more often than any works promoter. SGN should be well aware of the conditions that are required on their permits.

For the same period, TfL received 1237 permit applications from National Grid of which they refused 421 applications – 34%.

- Not including the standard model conditions on their application (12%)
- Failing to provide or altering existing Traffic Management (TM) plans (23%)
- Incorrect primary recipient (whereby permits have been sent to TfL incorrectly) (13%)
- Not specifying that works will be limited to footway only (8%)
- TM not received/does not match agreement (23%)

As can be seen many of NGG's permit refusals could be avoided if the correct information had been provided. Many of National Grid's refusals could be avoided if traffic management plans are sent and agreed by TfL in advance of their applications where works require such plans to be provided.

It is clear that many of these refusals would have been granted had the correct information been provided.

#### Fixed Penalties:

Our statistics show that very few fixed penalties have been issued in regards to noticing offences by both SGN and NGG as both companies are very good at ensuring notices are received on time. For the whole of 2010, our figures show that only 3.84% of NGG works and 1.08% of SGN works attracted a Fixed Penalty notice as can be seen from the table below.

| FPN Given | Number | % of Total |
|-----------|--------|------------|
| NGG       | 29     | 3.84%      |
| SGN       | 9      | 1.08%      |

Although the figures are very low, it is very clear that all of these FPNs could have been totally avoided if the notices had been sent in good time. It should be noted that it is not TfL's policy to issue FPNs for minor transgressions – for instance if a notice is received only a few minutes late. Therefore, it is very clear that all such FPNs can be avoided and that consumers should not therefore have to subsidise poor performance by a works promoter.

#### S74 Overstay charges

TfL also strongly believes that all S74 overstay charges are avoidable and again therefore, should not be passed onto consumers. TfL figures show that very few works undertaken by both NGG and SGN incur an overstay charge with only 4.95% of NGG works incurring a charge and 2.97% of SGN works incurring a charge.

| S74 | No of S74 works |       |
|-----|-----------------|-------|
| NGG | 25              | 4.95% |
| SGN | 16              | 2.97% |

The Regulations clearly state that all charges imposed on works promoters must be reasonable. Indeed the relevant regulations are entitled “The Street Works (Charges for Unreasonably prolonged Occupation of the Highway)”. Under these Regulations, works promoters can apply for variations to extend the duration of their works if they have reasonable grounds for doing so. Highway authorities cannot refuse reasonable requests and so there is no reason why overstay charges should be incurred. Indeed, the figures collated by TfL in the table above show that, even once a charge has been incurred, by providing suitable representation, such charges can be, and often are waived as can be seen from the table below:

| S74 Charges invoiced/waived |            |             |          |
|-----------------------------|------------|-------------|----------|
| Incurred                    | Waived     | Invoiced    | % waived |
| £136,000.00                 | £21,000.00 | £115,000.00 | 15%      |
| £44,500.00                  | £16,400.00 | £29,100.00  | 37%      |

It should also be noted that TfL inspection data shows that both SGN and NGG have periods of inactivity at their work sites, which, if addressed, would mean that extensions requests and overstay charges could be avoided.

| Inspection Item       | NGG       | SGN        | Utility Ave |
|-----------------------|-----------|------------|-------------|
| No Operatives on Site | 17% (867) | 25% (1251) | 17% (846)   |

**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

Please see response and evidence provided to question 1 above. TfL do not feel that any charges that are avoidable should be passed onto consumers as they are in effect paying for the shortcomings of the works promoter. TfL’s also notes that Ofgem rigorously apply its own fines on companies who fail to meet the required standard. It is TfL’s strong assertion that any fines imposed by other regulatory bodies such as Highway Authorities should be treated no less lightly and, if these were to be passed onto consumers there is no incentive for behaviour to change.

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

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

