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This matter is being dealt with by:

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Date: **22 November 2011**

Dear Sir/Madam

Your Ref: SG&G/Cost & Outputs

142/11 – Consultation on minded-to position for the determination of re-opener applications in respect of additional income associated with the Traffic Management Act under the first gas distribution price control review

I write in response to the consultation on your minded-to position with regard to the applications to adjust Gas Distribution Network (GDN) operators' revenues in order to accommodate costs associated with the Traffic Management Act 2004.

Westminster City Council disagree with the proposed adjustments on the grounds that majority of the costs associated with the Traffic Management Act 2004 can be avoided by more efficient planning of works and activities on the public highway in compliance with the regulatory requirements. Please find below a response by Westminster City Council as an interested party in answer to the three questions.

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. We believe the majority of the costs associated with the Traffic Management Act 2004 are caused as a result of inefficient planning of activities on the public highway and/or failures by the GDNs to comply with the regulatory requirements. Therefore, we disagree with the proposed adjustments to the revenues for the GDNs.

Permit Fees:

The Traffic Management Act 2004 and the Permit Scheme Regulations 2007 were introduced in order to promote better planning of activities on the public highway and minimise the congestion and disruption caused by those activities.

However, Westminster City Council statistics for the period 01/01/2011 – 30/06/2011 clearly show that National Grid Gas voluntarily cancelled over 10% of the applications even though the applications were already granted. This resulted in the relevant



works being rescheduled, duplicating the costs to National Grid Gas, which could have been avoided if the works were efficiently planned in the first place.

National Grid Gas - No of Applications Granted				No of Apps Cancelled (after permit approval)
Work Category	PAA Application	Permit Application	Permit Variation	
Immediate - Emergency	0	190	175	0
Immediate - Urgent	0	23	17	2
Major	89	76	72	15
Minor	0	37	8	11
Standard	0	152	43	66
Permanent Reinstatement	0	7	0	0
Remedial Works	0	42	4	2
TOTAL	89	527	319	96

The statistics show that 5% of the National Grid Gas permits were in relation to remedial works (i.e. activities to rectify defective reinstatements), which could have also been avoided if the reinstatements were initially completed as per the Specification for the Reinstatement of Openings in Highways Code of Practice.

It must be noted that 46% of the permits were issued for urgent/emergency works by National Grid Gas, and over 50% of all granted applications were in relation to Permit Variations. Also, 95% of the permit applications for major works had to be varied by National Grid Gas due to incorrect or inaccurate information, and this resulted in additional costs to National Grid Gas, which could have been avoided if the original applications were efficiently planned with accurate and realistic proposals.

For the same period, Westminster City Council refused 228 PAA/Permit/Variation applications by National Grid Gas (18.4% of all applications) mainly due to reasons such as incorrect/insufficient data or failure to include relevant model conditions on the original permit applications. Most of the permit refusals could be avoided if accurate information is provided in the permit applications, which would reduce the administration costs associated with the Permit Scheme.

Fixed Penalty Notices (FPNs):

Westminster City Council statistics for the period 01/01/2011 – 30/06/2011 show that 97 FPNs were issued to National Grid Gas for noticing and permitting offences. This represents 18.4% of the 527 permit applications and only 2.4% of 3989 street works notices that were issued by National Grid Gas for the same period.



FPNs are issued due to offences under the New Roads and Street Works Act and the Permit Scheme Regulations 2007. We believe, the failure by National Grid Gas to comply with the regulatory requirements is due to inefficient planning of works by their promoters, and the associated costs should not be passed onto consumers. National Grid Gas can easily avoid these FPNs by improving efficiency in planning of works and making sure that their activities are compliant with the regulatory requirements.

S74 Overstay Charges:

Westminster City Council statistics for the period 01/01/2011 – 30/06/2011 show that only 11 works were overrun by National Grid Gas, which represents 2% of the 527 permit applications and 2.4% of the 449 works that were completed by National Grid Gas for the same period.

The provisions under the New Roads and Street Works Act 1991 and the Permit Scheme Regulations 2007 allow statutory undertakers to extend the duration of their works in unforeseen circumstances that may delay the completion of works within the original timeframe. Therefore, we believe that the overrun charges under section 74 can be avoided by National Grid Gas by making sure that 'Duration Variation Applications' are issued when unforeseen circumstances delay the completion of works. Potential overrun charges as a result of failures by National Grid Gas to plan works efficiently and fail to extend the duration of their works in unforeseen circumstances should not be passed onto consumers.

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 in answer to the question 1 above. We believe that potential costs as a result of inefficient planning of works by the statutory undertakers should not be passed onto consumers. The majority of the costs associated with the Traffic Management Act and the Permit Scheme can easily be avoided if work promoters improve efficiency in the planning of their works and comply with the regulatory requirements. One of the main reasons for the introduction of the Traffic Management Act and the Permit Scheme is to improve efficiency in the planning of works by statutory undertakers and minimise disruption to road users. If the work promoters were allowed to pass potential costs onto consumers, there would be no incentive for undertakers to plan their works more efficiently and comply with the regulatory requirements.



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

We do not agree with the proposals to pass potential costs onto consumers, and therefore does not agree with the time frame.

Yours sincerely

Jonathan Rowing
Acting Head of Road Management