

October 26th, 2011

Margaret Coaster
Smarter Markets
9 Millbank
London
SW1P 3GE

Dear Ms Coaster,

Tackling Gas Theft

Please find First Utility's response below.

Q1. Do you agree with our proposals to introduce new gas supply licence obligations in relation to theft?

We agree that the incentives for theft detection have not previously been as robust as could have been the case. Therefore, it may be appropriate for Ofgem to introduce new licence obligations in relation to this.

Q2. Do you agree that our drafting proposals set out in Appendix 3 meet the policy intent described in this chapter?

These seem appropriate.

Q3. Do you consider that our proposal for gas suppliers to make reasonable efforts not to disconnect vulnerable customers should apply throughout the year or be restricted to the Winter months?

We believe that this should be restricted to the Winter months as gas theft is a serious danger not only to those committing it but also to their immediate neighbours. Therefore, we do not believe that prohibiting disconnection for theft throughout the year for vulnerable customers will provide a sufficient incentive for customers not to commit theft.

Q4. Do you consider that gas suppliers should be required to offer vulnerable customers and customers that would have genuine difficulty paying, a wide range of methods for the repayment of charges associated with gas theft as an alternative to disconnection?

We agree that vulnerable customers who are found to have committed theft should be given a range of options for the repayment of charges for stolen gas as an alternative to being disconnected.

Q5. Do you consider that Ofgem should include a licence requirement on all suppliers to establish a code of practice on, among other things, theft investigations and the detailed arrangements for compliance with our proposed consumer protection measures?

We believe that a code of practice should be established in order to ensure that all suppliers will carry out their licence obligations in relation to gas theft in line with a common set of rules. This will ensure that consumers are not subject to different treatment by different suppliers.

Q6. Do you agree that our proposed new gas supply licence should be introduced as soon as reasonably possible?

Yes, as gas theft is a serious issue from both a safety and financial point of view.

Q7. Have we correctly assessed the main impacts in the accompanying IA? Are there additional, material impacts that we should also consider?

These seem comprehensive.

Q8. Do you agree with the assumption that we have made and the outcome of our analysis in Appendix 2 of the accompanying IA?

We do not agree that either SETS or Enhanced SETS will achieve the outcomes described in Ofgem's analysis as these two proposals are based on flawed assumptions.

Q9. Which, if any, of the three proposals to increase theft detection should be implemented and why?

First Utility supports the implementation of the NRPS proposal as this provides a national framework for theft detection to which all suppliers can contribute. The SETS and Enhanced SETS are, in our opinion, based on flawed assumptions by British Gas that other suppliers' revenue protection spend should be proportional to theirs. However it seems likely that, as the former monopoly supplier with a significant proportion of the gas market, British Gas may experience disproportionately higher levels of theft than other suppliers.

Q10. Do you consider that there are any alternative proposals, or variations on existing proposals to improve theft detection that should be considered?

We believe that the current suite of proposals under consider provide an appropriate level of focus on this issue.

IA Q1. What do you consider to be the scale of theft in the GB gas market? Do you consider that there is a material difference in the prevalence of gas theft between suppliers' customer portfolios? What factors drive any considered difference in theft distribution?

The scale of theft is unknown, although hopefully the current AUGE process will shed some light on this. As in our answer to Question 9 of the main consultation, it seems reasonable to assume that British Gas, as the former monopoly supplier, may be likely to have a higher incidence of theft than other suppliers as people who were committing theft and remaining undetected would be unlikely to exercise their right to switch.

IA Q2. Where theft has been detected, how long on average would you expect future revenues from a customer to fully reflect their consumption, i.e. what is the expected reoffending rate over time? Do you expect there to be a material difference under each of the three proposals?

It seems likely that gas theft is confined only to a small proportion of the overall population and reoffending by those who have already been proven to have done this must be quite rare. We would not expect any of the proposals to differently affect reoffending rates as those who are

prepared to misappropriate gas on multiple occasions are likely to do this anyway irrespective of the arrangements in place.

IA Q3. For each industry proposal, are the proposed compliance measures sufficient to ensure suppliers conduct investigations to satisfactory standards and thereby protect consumer interests? Are there any further measures that should be introduced to help address any perceived weakness?

We believe these are appropriate.

IA Q4. Are there any material differences between suppliers' ability to compete for incentive payments between UNC 277 and UNC 346? Would Enhanced SETS address any potential concerns raised about suppliers' ability to compete?

We believe that both modifications are predicated on a false assumption as discussed previously. In addition, UNC 346, being predicated on throughput, would penalise large I&C suppliers (who have the biggest throughput volumes) for not having theft detection rates commensurate with those of British Gas in the domestic sector despite the body of evidence suggesting that theft is much rarer in the non domestic sector.

IA Q5. Do you consider that the current NRPS proposal is likely to establish and realise targets for theft detection that are proportional to the potential customer benefits? If not, what additional measures do you think are needed to meet this aim?

We believe that this is the most appropriate of the available options as it will provide an independent third party view of theft levels derived from on the ground investigations. In addition, this third party will have no incentive to misreport theft detection for financial gain as would potentially be the case under the SETS and Enhanced SETS proposals.

IA Q6. Would the NRPS prevent some suppliers from realising additional commercial benefits from theft detection that may be available to them, e.g. by going further than the NRPS mandated investigation requirements? Would the focus of the NRPS proposals on data analysis reduce the overall efficiency of the market in theft detection by excluding investment in other sources of detection?

We believe that NRPS would result in an appropriate and proportional allocation of detection resources based on real data and without the perverse incentives that SETS and Enhanced SETS may create.

IA Q7. For each of the three industry proposals, is a scheme necessary to compensate a supplier when it is not able to recover its costs from theft?

There will be instances where a supplier is unable to recover its costs deriving from theft despite its best efforts. We therefore agree that it would be appropriate to create a scheme providing for compensation in these cases. However, we would suggest that the amount recoverable be capped and that suppliers be required to provide evidence that they have gone as far as they possibly can in attempting to recover these outstanding costs.

IA Q8. Do you consider that cost and availability of services to support theft detection and investigation is a material issue for small suppliers?

This may be the case for certain small suppliers. In the case of First Utility however, given that a significant proportion of our customer base has smart meters fitted, it would be more quickly apparent to us than to the majority of suppliers who are still using dumb meters whether or not theft was being committed. Nonetheless, a third party service like NRPS would be attractive from this point of view as it creates the possibility of outsourcing this role to an independent third party.

IA Q9. What percentage reduction in consumption would you expect customers to make when an illegal gas supply is detected? To what extent do you consider that this would result from a response to increased costs and/or an increased propensity to invest in energy efficiency measures?

This is a very difficult question to answer as it assumes a knowledge of amount stolen vs amount paid for. However, we feel that any consumption reduction would result in a response to increased costs rather than an increased propensity to invest in energy efficiency measures.

IA Q10. Do you have any further information on safety accidents where harm has directly resulted from theft of gas?

We have not experienced any incidents of this kind within our portfolio which is probably a reflection of its size. Hopefully the larger suppliers will be able to provide Ofgem with examples of the type which it requires.

IA Q11. Do you consider that any proposals are likely to reduce the health and safety of any particular individuals?

It is possible that SETS and Enhanced SETS will create a strong incentive to disconnect greater numbers of domestic customers which could have a negative impact on certain domestic customer groups and in particular vulnerable customers.

IA Q12. What proposal do you consider will have the greatest overall benefit on health and safety?

We believe that the proposed NRPS service will provide a robust level of third party oversight without the already described perverse incentives potentially created by SETS and Enhanced SETS.

IA Q13. Do you consider that the proposed implementation timescales for each proposal are realistic and achievable? If not, what do you consider to be a realistic timeframe? What additional measures, if any, do you consider should be undertaken to secure implementation within a reasonable timeframe?

The industry has already had a considerable length of time to debate and prepare for arrangements being put in place in relation to this issue. We therefore feel that the proposed implementation timescales are achievable.

IA Q14. Do you consider that gas transporters should be required to adhere to a code of practice on the conduct of theft investigations?

Yes, as there is no doubt that an unquantified but potentially significant amount of gas theft takes place upstream of the emergency control valve.

IA Q15. What impact will either of the three industry proposals have on the annual number of investigations of theft in conveyance that gas transporters undertake and the total cost of undertaking these?

It is difficult to say as gas transporters are not included in the scope of any of the proposed modifications beyond appointing an agent to administer the scheme in the case of SETS and Enhanced SETS. However, it may be that an increase in theft detection as a whole may also result in an increased level of discovery of theft upstream of the emergency control valve which it will then be the relevant transporter's responsibility to investigate.

IA Q16. What, if any, changes to the regulatory arrangements need to be made to enable gas transporters to adhere fully to their requirements to conduct theft investigations?

We believe that a code of practice as outlined in IA Question 14 should be sufficient.

Please do not hesitate to contact me if you have any questions or would like any further information.

Best regards,

Chris Hill

Chris Hill

Regulation Manager

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