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Dear Margaret,

National Grid Gas response to Ofgem's Consultation and Draft Impact Assessment 'Tackling Gas Theft' (Reference number: 112/11)

Thank you for the opportunity to respond to the above Consultation and Draft Impact Assessment.

National Grid Gas (Distribution) (NGG) has fully engaged in industry discussions and developments pertaining to illegal taking of gas and is committed to facilitating and supporting improvements to the current regulatory and contractual regime. We have previously responded to requests for information from Ofgem including completion of its 'Theft of Gas Questionnaire' in January of this year. We have also been involved in all relevant Uniform Network Code (UNC) Workgroups including Review Group 0245 and have contributed to the development of the Modification Proposals identified in Ofgem's document.

We note that Ofgem's Consultation document focuses largely on proposed changes to the Supplier Licence requiring a much more proactive approach to be taken in detecting, preventing and investigating theft incidents and taking appropriate action. We are strongly supportive of this principle.

In terms of theft detection, Ofgem identifies three proposed 'schemes' on which it is inviting comment all of which are specific to Suppliers, being the National Revenue Protection Scheme (NRPS), Supplier Energy Theft Scheme (SETs) and an enhanced version of SETs. Ofgem also sets out its view on standards of customer treatment when a suspected gas theft is identified.

No specific obligations upon Transporters are identified. However, we note that the document contains the following statement within its conclusions:

"We expect that the measures proposed in this document will increase the amount of suspected theft identified upstream of the ECV. Gas transporters have licence obligations to investigate such incidents and will need to ensure that they have sufficient resource and appropriate processes and procedures to respond to these requirements. In particular we would welcome the expansion of the proposed gas theft code of practice to cover the actions of gas transporters when conducting theft investigations".

Within the associated Draft Impact Assessment Ofgem further states:

"We are requesting views, in particular from gas transporters, on whether gas transporters should be required to adhere to a code of practice on the conduct of their investigations. Some gas transporters have expressed concern over their ability to recover costs associated with theft detection and investigating unregistered sites, particularly where an investigation concludes that there has been no

theft. We would like to understand the anticipated impact that the three proposals to increase theft detection would have on the number of investigations (and the associated costs) gas transporters undertake on annual basis. Further, we welcome views whether this impact is sufficient to require changes to the current regulatory arrangements for gas transporters.”

Within the Draft Impact Assessment - Chapter 7 Ofgem raises the following questions pertinent to Gas Transporters for which we would like to provide the following responses:

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

NGG is supportive of the proposal to introduce a Theft of Gas Codes of Practice (CoP) which includes appropriate obligations on Transporters. We note that Ofgem makes reference to the incorporation of the CoP within the Supply Point Administration Agreement (SPAA). We are sympathetic to this approach and note that Ofgem highlights its aspiration to seek relevant Supplier Licence changes to mandate all licenced Supplier participation in SPAA thereby ensuring that a requirement to comply with the CoP applies to all relevant parties.

NGG is represented and participating fully in the SPAA Expert Group where the draft CoP is being developed. This is expected to take at least 3 - 4 months and we understand there is a desire that a SPAA Change Request may be raised in December 2011.

We are generally satisfied with the contents of the draft document although we have raised challenges with regard to the extent to which Transporters should be contacted and required to undertake investigative visits in the event that a suspected theft incident is identified by a Supplier. NGG believes there is a clear need for the industry to determine the circumstances upon which suspected theft is treated as an emergency and how such incidents are prioritised. The draft CoP while principally aimed at Suppliers currently seek to impose obligations on Transporters to attend premises within set timescales where there is a safety issue. Our view is that a greater level of clarity is necessary so that parties have a clear guidance on what constitutes a safety related event.

NGG also has a concern with regard to the extent to which measures which prevent or discourage theft are incorporated.

We have already raised the above topics within the Expert Group for discussion.

- 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?

NGG is sympathetic to measures which incentivise Supplier activity in terms of identification, detection and prevention of gas theft. We anticipate that in particular the establishment of a National Revenue Protection Scheme (NRPS) may well offer benefits. This is in terms of providing a further source for 'leads' to Transporters where theft 'in conveyance' is suspected. NGG would expect to communicate regularly with the NRPS and in turn pass on relevant information to the NRPS where theft is identified/suspected downstream of the Transporters network. It is unclear what effect these activities would have on total costs incurred by Transporters.

- 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?

NGG's opinion is that the wording of the Reasonable Endeavours Scheme as required by Licence Condition 7(3) allows Transporters to account for and recover the costs of investigations (in respect of 'gas taken in the course of conveyance').

However, the specific Licence Condition 7(3) appears to limit the circumstances where the 'reasonable endeavours' compensation arrangements for Transporters apply. Presently this refers to where a

Transporter has recovered or attempted to recover the value of gas taken. The relevant provisions do not appear to cover instances where an investigation has been made and a gas theft has not been identified or where such theft has been identified and there has been no attempt to recover charges.

We also note that the price control licence condition applicable to reasonable endeavours being Standard Special Condition E3 (2) refers to 'pass through' of these costs for Shipper payments but does not appear to refer to 'pass through' of Transporter payments.

In view of the above limitations and ambiguity we believe that the relevant Licence provisions should be extended to permit Transporters to recover reasonable costs in respect of where an investigation did not reveal that there was a gas theft and consequently a need to recover the costs of gas taken was not applicable or a gas theft was identified but that it was inappropriate to attempt to recover such costs. NGGs opinion is that Transporters should be appropriately funded for such investigations regardless of the outcome and for any reasonable costs incurred to be recoverable. We also believe that such a measure would also encourage Transporters to act other than passively in respect of theft of gas situations.

NGGs view is that the measures described above are likely to be sufficient and that the alternative of a separate discussion under RIIO is not warranted based on limited materiality of costs.

We hope the above information is helpful. If you require any further information please do not hesitate to contact me.

Yours sincerely

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