

Andrew Wallace  
Senior Manager  
Smarter Markets  
Ofgem  
9 Millbank  
London  
SW1P 3GE

Ecotricity Group Limited  
Unicorn House  
Russell Street  
Stroud  
Gloucestershire  
GL5 3AX

30<sup>th</sup> April 2012  
Ecotricity Reference No.: 289  
[emma.cook@ecotricity.co.uk](mailto:emma.cook@ecotricity.co.uk)  
01453 769301

**The Renewable Energy Company (Ecotricity)**  
**Consultation Response to Tackling Gas Theft: The Way Forward**

Dear Andrew Wallace,

Ecotricity is an independent renewable energy generator and supplier. We have been supplying gas since January 2009, and have over 15,000 gas customer accounts. In the future we aim to supply our own green gas from biomethane.

Ecotricity welcomes the opportunity to respond to Ofgem's consultation on tackling gas theft. As a new independent gas supplier, gas theft and the current proposal will have a significant effect on our business.

As per the announced extension in the open letter dated 26<sup>th</sup> April, this response only focuses on the proposed changes to the standard conditions of the Gas Supply Licence. Our comments on the draft direction will follow later this month.

Ecotricity's response is divided into two parts:

- A) Answers to the questions outlined in the consultation and
- B) Our conclusion/summary views on the proposals outlined in the consultation.

**A) Answers to questions outlined in the consultation paper**

***Question 1: Do you agree with our final policy proposals and the related drafting of our licence condition on:***

- a) The Objective for tackling theft of gas?*

We recognise the problem that gas theft presents to the industry as a whole and accept the need for this issue to be tackled collectively. However, we are concerned that placing this obligation on suppliers has the potential to be very harmful for our relationship with our customers.

We believe that the role of gas theft detection, investigation and prevention would be better performed by a single central body, than by individual suppliers. Not only would this ensure greater expertise, but also avoid the potential problems that may occur when suppliers investigate their own customers.

*a) Requirements to detect, prevent and investigate theft of gas?*

The proposed Licence Condition 12B. 2 states that licensees must take all reasonable steps to "(a) secure the achievement of the Objective (to detect, investigate and prevent gas theft) and; (b) to avoid doing anything which jeopardises its ability to achieve the Objective." We believe that this is too open and will impose an unknown financial burden on suppliers. Paragraphs 12B.5 and 12B.6 repeat this requirement to take "reasonable steps", in respect of detection, prevention and investigation. We are concerned that there is no definition of "reasonable steps" in this context and that suppliers could have a potentially unlimited obligation in this area.

We support the inclusion of 12.B7, which exempts suppliers where a gas theft investigation is already required by a transporter. This is a sensible inclusion, which should reduce duplication of work.

We need more detail to ensure that we, or any third party acting on our behalf, can be certain of the extent of our obligation and are able to show that we are complying.

However, we do understand that more detail on exactly what will be required will be set out in the Theft Arrangement.

*b) The Theft Arrangement?*

We understand the rationale for requiring suppliers to work together, however it is difficult to comment on the requirement to become party to the Theft Arrangement without more detail of what it will contain.

SLC 12B.9 is a reasonable and clear direction with regard to the requirement for suppliers to collectively set up the Theft Arrangement.

We are concerned that in the process of drawing up the Theft Arrangement, independent suppliers' views may be sidelined. Unlike the Big Six, we do not have the resources to ensure that our respective representatives are present at every meeting. This will be a particular problem because the relative cost of complying with the Theft Arrangement will be substantially higher for small suppliers.

SLC12B.10, which requires licensees to implement the Theft Arrangement and change their systems accordingly, is clear; but whether it is reasonable will depend on the content of the Theft Arrangement.

*c) Standards for theft of gas investigations?*

We agree that suppliers should have specific standards to comply with when investigating gas theft, particularly in relation to vulnerable customers.

The requirements with regard to vulnerable customers, those unable to pay, prepayment meters and disconnection outlined in SLC 12B12 (a) to (d) are consistent with other requirements such as those related to debt. We believe that there needs to be assistance for suppliers in how to do this in relation to gas theft.

SLC12B(f) requires that the licensee or its representative must have "*sufficient evidence to establish (on the balance of probabilities) that Theft of Gas has occurred as a result of that Customer's intentional act or by culpable negligence before requiring payment of all or part of the Charges for the Supply of Gas relating to that Theft of Gas.*" We agree that this is the correct standard of proof to use. However, we would like to see more guidance on what sort of evidence would enable us to establish this proof and how such evidence could be attained without breaching the requirements of 12B.5 (a) to (d).

In general we are very concerned about the difficulty of reconciling the obligation to investigate gas theft with the specific standards outlined in this consultation; existing regulations and; limitations on our power in relation to our customers.

*d) Introducing a new relevant objective for the Supply Point Administration Agreement on tackling gas theft?*

We accept that relevant changes in the Licence Conditions will need to be reflected in a new objective under the Supply Point Administration Agreement.

## **B) Our conclusion**

Ecotricity accepts the need for gas theft to be tackled and for this process to involve a pooling of information. We are therefore in general support of SLC 12B. We are, however, concerned that the primary responsibility for investigating, detecting and preventing gas theft should lie with suppliers. This will be harmful to our relationship with our customers and commits us to unknown costs, which have the potential to be very high. If suppliers must accept primary responsibility for dealing with gas theft, then they need assurances as to the limit of their responsibility. We believe that the current drafting, particularly of 12B1 (a) to (d) leaves too much open and is not sufficiently specific in establishing the limits to this requirement.

Ecotricity welcomes the opportunity to respond and hope you take our comments on board. We also welcome any further contact in response to this letter. Please contact Emma Cook on 01453 769301 or [emma.cook@ecotricity.co.uk](mailto:emma.cook@ecotricity.co.uk).

Yours sincerely



Emma Cook  
Head of Regulation, Compliance & Projects