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Cc. Andrew Wallace
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30th April 2012

Dear Harpal,

Ref: Tackling gas theft: the way forward

Due: 30th April 2012

Gazprom Marketing & Trading Retail Limited, trading as “**Gazprom Energy**” welcomes the opportunity to respond to your consultation “Tackling gas theft: the way forward” dated 26th March 2012 (the “**Consultation**”). We are happy for our comments to be shared with interested parties.

Gazprom Energy operates in the UK non-domestic market as a gas supplier, gas shipper and a power supplier.

Approach taken by Ofgem

In our response to Ofgem’s previous consultation “Tackling Gas Theft” dated 26th October 2011 (a copy of which is attached) (the “**October Response**”) we set out our views in the context of proposals being developed through the industry modification process.



Although we share Ofgem's concerns over the effectiveness of existing arrangements in relation to theft of gas, we would like to express our concern over the approach taken by Ofgem in setting aside the industry modification process. Ofgem's decision to reject the industry modification proposals and instead to seek to implement new licence obligations, which is a materially different proposal, causes significant concern over the lack of engagement and detailed consultation with the industry on this important matter.

At the same time we would also note that Ofgem have recently referred another set of modification proposals relating to industry Settlement periods, modifications 0395 & 0398, back to the industry for further development by the industry.

The Consultation provides only a very short window for review, particularly bearing in mind the scale of change being proposed and the detailed licence changes. Further, at the time that the Consultation was released the industry was already dealing with information requests relating to Back Billing and Disconnections, as well as having a significant workload arising from major industry programs including: -

- Smart Metering Implementation
- The Green Deal, Project Nexus
- Review of Xoserve
- Retail Market Review (RMR)
- Security of Supply SCR
- Backbilling CoP
- AUGE review
- Government consultation on licence breach redress scheme
- Consultation on helping to mitigate network charging volatility
- Development of the new Price Control (RIIO) proposals

We are concerned that Ofgem has not allowed a greater period for consideration of the Consultation, given the scope of change proposed.

As previously noted, the industry and Ofgem has already expended considerable time, effort & expense in creating the proposals for the National Revenue Protection Scheme ("**NRPS**") and the Supplier Energy Theft Scheme ("**SETs**") and in raising formal modifications in relation to these.



Ofgem had actively participated in the development of these schemes, and sat on various workgroups to aid their development, including the Gas Forum. It is questionable why Ofgem has now decided to adopt a different approach to this matter, apparently ignoring the significant resource already deployed.

We noted in our October Response that we supported the introduction of NRPS. We understood that the detail of the NRPS would be incorporated within the Industry Code, and that “hook” would be placed in the licence to require suppliers to participate and support the NRPS in carrying out its obligations. Our October Response was framed in this context and this approach remains our preferred position.

Proposed licence amendments

As we have explained, we are concerned that Ofgem has proposed very detailed licence amendments without full consultation with the industry, and without allowing sufficient time for suppliers to consider the amendments in detail. As such, we have not set out in this response a detailed review of the drafting of the licence conditions.

However, as a general point, we would note that the proposed licence conditions impose very onerous obligations on suppliers in relation to the prevention and detect of gas theft. Some of the wording of the proposed conditions would not be sufficiently clear for suppliers to apply in practice. For example, “*balance of probabilities*” and “*culpable negligence*” are standards which are normally applied by the Courts, which have far more experience of applying these complex tests. We believe suppliers would require more detailed guidance from Ofgem on the meaning and application of such terms, before they could be incorporated into the licence and observed by suppliers.

We reserve the right to provide more detailed comments on the specific drafting of the proposed licence conditions, once Ofgem has clarified these important principles.



Incentive Scheme

While we agree that the Theft Risk Assessment Service (“**TRAS**”) should develop targets, and that these targets should then be used to develop appropriate incentives, we do not support the introduction of an interim incentive scheme. As we noted in our October Response we believe that any incentives should be developed by a central body following its implementation and in light of its experience of the market.

As we noted in our comments on SETs, a poorly developed scheme could create a bounty which may lead to inappropriate behavior. It should also be recognised that in the non-domestic market, considerable effort is expended in the pre-contractual checks carried out on potential customers to minimise the risk on businesses. In Gazprom Energy’s experience, maintaining a robust approach in respect of such checks leads to a high quality portfolio in which gas theft is rare. In our practical experience of investigating alleged theft using an independent Chartered Engineer, we have yet to find an authentic case of theft. As such, we have had to absorb the costs of carrying out investigations despite never having uncovered a genuine case. Should the incentive scheme be implemented, we are concerned that we would also be required to pay in to a fund from which we would be unlikely to receive any benefit.

Costs & Benefits

As the proposals and implementation vehicle have materially changed since the approach set out previously, we have concerns over the potential for costs to escalate.

In particular, the potential IT costs associated with providing data to the TRAS could be significant. This is particularly the case if the TRAS does not consider the impact of proposals on supplier systems. By way of illustration, as part of the NRPS development it was proposed that the NRPS would receive data from suppliers in different formats and would then standardize the information within its systems, in a similar way to the model utilized in the insurance market. In our view, this was an appropriate way to manage the collation of data. We would hope that a similar approach is adopted by the TRAS, in order to ensure that significant IT costs are not incurred by suppliers.



Project Management

It is unclear how the development of the TRAS will proceed and to what extent the development will now be led by Ofgem. As you are aware the Gas Forum was developing the NRPS proposals. Gazprom Energy believes that significant resource will be required to deliver the TRAS and would note that this project is one of many major projects currently in development. As such we believe that full time project management will be necessary to ensure the timely delivery of the TRAS.

SPAA

Whilst we welcome proposals to revise the voting arrangements within the Supply Point Administration Agreement ("**SPAA**") neither ourselves nor, as far as we are aware, any of the other ICOS members have been involved in the development of such proposals. As we have previously noted elsewhere, without a fair and proportionate voting regime, formal participation in the SPAA is not currently viable. It is imperative that the industry is given an opportunity to be involved in the development of the proposals around the voting arrangements.

If you have any queries or would like to meet to discuss our submission please don't hesitate to contact me directly.

Yours sincerely

Steve Mulinganie
Regulation & Compliance Manager