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Dear Harpal,

Ofgem Consultation – Tackling Gas Theft: The way forward – Response by Gemserv

Gemserv welcomes the opportunity to respond to your consultation. We are closely involved with a number of organisations, such as UKRPA, MOCOPA and the Gas Forum, where the issue of theft of gas and electricity has been a key topic and recognise that the Ofgem proposals need to both build on and complement existing arrangements across the breadth of the industry. The issue of gas theft has been looked at for a number of years with some attempts made to improve the performance of the industry. However, we fully support that a new approach needs to be taken to ensure that gas theft is reduced not only because of the impact this has on consumer costs but also because of the particular safety concerns created by the theft of gas.

The proposals within the consultation put forward a significant shift in how energy markets, specifically gas, deal with revenue protection within the context of theft. We understand that unless this is handled sensitively and carefully, risks and issues will arise damaging the industry's reputation. These risks and issues can be managed, provided there is a good management structure and governance framework in place, developed from an excellent understanding of the issues and challenges together with the legal and regulatory context associated with the development of the required services.

Gemserv also believes that whilst the current proposals are focused on gas, they must be designed such that they are readily extendable to cover electricity in the future. Whilst there

are significant infrastructure differences between the two sectors, the industry generally believes there is a correlation between instances of gas and electricity theft. In that regard we recommend that the Theft Risk Assessment Service (TRAS) be a fully outsourced independent service such that its operations can apply to both. Procurement, governance, audit and assessment functions should also be kept fully separate from the TRAS and delivered by one or more specialist providers. Whilst the consultation suggests that appropriate industry governance mechanisms, for example under the SPAA, should be used to implement TRAS, we are also aware that not all suppliers are currently SPAA signatories. SPAA may be suitable, particularly as an established vehicle, to carry out the procurement. However, if the intention is to move towards a harmonised process covering both gas and electricity, it may not be best placed to support the longer term management of the agreement with TRAS and the governance of the Code of Practice. It would also not be a suitable vehicle for the additional services such as audit and assurance of suppliers, transporters and the TRAS or for the tip-off hotline. Alternative delivery models have previously been suggested by the industry, such as the Corporate Vehicle put forward in the Gas Forum NRPS Workgroup Report to Ofgem¹, which still merit further consideration.

Our specific responses to the individual questions posed are contained in Appendix 1.

Yours sincerely

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¹ <http://www.gasforum.co.uk/admin/documents/GF%20NRPS%20Final%20Report%20v1.0.pdf>

Appendix 1 – Specific responses to the individual questions posed by Ofgem in the consultation document

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
- (b) Requirements to detect, prevent and investigate theft of gas?
- (c) The Theft Arrangement?
- (d) Standards for theft of gas investigations?
- (e) Introducing a new relevant objective for the Supply Point Administration

- a) The objective for tackling theft of gas?

We agree with the direction to make the Objective as being more broad scope than overly prescriptive. We believe that the market itself will be best placed to determine the optimum way to deliver the objective.

As stated, theft not only increases costs for the vast majority of consumers who do not steal gas, it can also present significant safety risks to both the person/property engaged in theft and to neighbouring properties.

Theft is not straightforward to detect. Smart meters will help especially if robust anti-tampering devices can be fitted. However meters can still be bypassed and smart meters could only provide early evidence of a potentially lower than expected offtake profile, which is not in itself conclusive evidence of theft. If regular physical meter inspections are to be reduced this could also increase the potential for theft to take place as well as the extension of the period before the theft is discovered. Some form of mandatory meter inspection is therefore still likely to be required with the need to enforce this where access is prevented.

We also support the provision of a service whereby members of the public can report instances of suspected theft, together with the creation and maintenance of a stolen meters register. There will be conflicting views expressed on whether this would be most effective

as a telephone or on-line service. Our experience as a company that operates both is that an on-line service may be more cost effective and also may help in the reporting of possible theft because of the apparent anonymity that the internet provides.

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

We would make an observation that the industry may need to record the outcome of an investigation. For example the industry's reputation may be damaged if customers who had already been investigated and cleared of theft were again investigated, for example by an incoming supplier following a change of supply.

c) The Theft Arrangement?

We agree that it is best to include the date of implementation within the terms of the Direction rather than the licence.

d) Standards for theft of gas investigations?

We agree that the practice of disconnecting for theft reasons when the affected household may contain vulnerable individuals needs to be closely considered, particularly where that particular individual has not committed the theft. Presumably once a theft has been discovered, the financial element moves more to one of debt recovery and, in this aspect, is little different to the situation for a household containing vulnerable consumers where debt levels have built up to a point where the supplier feels action needs to be taken.

Clearly, debt repayment measures have to be appropriately set to avoid the potential for the consumer to re-offend. Eliminating any incentive to re-offend is even more important for gas particularly because of the safety issues associated with gas theft. Where re-offending seems possible then disconnection may be the only realistic alternative, irrespective of whether there are vulnerable individuals in the household. Particularly for gas, vulnerability should not be placed over and above safety considerations, taking into account the potential for harm to neighbouring properties from a gas explosion as well as to the property where the theft is taking place. Consequently, the decision between vulnerability, safety, criminal activity and disconnection is not always straightforward. It is therefore important to ensure that decisions can be made on the ground without fear of regulatory challenge.

The Gas Theft Code of Practice supported by appropriate levels of assurance would seem to be the best place to address these issues rather than the licence.

Where assurance and audit is carried out this should be performed by an independent body to monitor compliance with the Code of Practice. An independent audit would be conducted on suppliers as a matter of course during the first two years. After this initial period suppliers would be subject to compliance audits and assurance audits in response to specific issues or concerns, raised by the TRAS or other suppliers. Where a supplier is subject to an audit and problems are identified, it should be required to bear the cost of the audit.

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

We note the intention that the Gas Theft Code of Practice will be developed under SPAA governance on the expectation that all suppliers will be required to become members of SPAA. We also note that there is a current change proposal to amend the SPAA constitution to change the voting within the Change Board and SPAA Forum. The expectation of this change is that it will give sufficient protection to the interests of I&C suppliers, such that they would be comfortable in being mandated by licence to be SPAA members and hence part of the Gas Theft Code of Practice through a SPAA Schedule.

It is not yet clear whether the compromise change to the voting will be acceptable to current SPAA parties and/or I&C companies. Therefore we wonder why it has been decided to determine SPAA as the appropriate governance structure at this time. Whilst the consultation is primarily focused on the theft of gas, there will be a number of areas where the experience developed under TRAS and its associated processes across the industry could be used in the electricity sector. Clearly there is a general industry trend to converge towards more harmonised processes and practices across gas and electricity wherever possible. With this in mind, we wonder whether an alternative arrangement should be considered to administer the Supplier Licence Theft of Gas condition for domestic and I&C suppliers, to develop the Gas Theft Code of Practice, and to appoint the TRAS.

Question 2: Do you agree with our proposals to direct the implementation of the Theft Risk Assessment Service?

The concept of a wider picture of gas usage for both individual meters and, through comparison, to usage by meters in similar properties and locations, should help in identifying potential theft. Individual suppliers are limited in their ability to analyse the information they get, particularly for customers who frequently change supplier and for those that were already engaged in theft before a supplier took responsibility for supply. Further a supplier has many other responsibilities that may mean their ability to focus on the potential for theft is diluted.

Having an agency whose sole focus is to monitor information, identify patterns, compare with similar consumers and develop its expertise should help in improving the ability to detect theft and report this to suppliers. Even then consumer behaviour will mean that theft may still not be obvious in that changing/reducing offtake patterns may be due to a number of reasons other than theft, such as:

- i. Households previously having been kept warmer due to young children, elderly or housebound residents;
- ii. Households no longer occupied during the day;
- iii. Change of usage for the property – e.g. reduced occupancy; or
- iv. Increased focus on consumption to manage expenditure including the potential for self disconnection.

For these reasons it will still be essential for supplier follow up to thoroughly investigate any potential theft when reported. This can be expensive not only in terms of the investigation but also in taking the necessary action to recover any lost revenues, including addressing apportionment where theft straddles a period of supply covered by multiple suppliers. Further it is unlikely that the full debt would be recovered. Thus strong but equitable incentives are needed to ensure that suppliers take the necessary action when the agency makes them aware of potential theft.

Whilst the introduction of an overarching objective via a licence condition is necessary, it is the design of the TRAS and the incentive scheme that will, in practice, ensure that all suppliers carry out their responsibilities effectively.

Question 3: Do you agree with our proposed requirements for the Theft Risk Assessment Service and the related drafting of the proposed Direction on:

- (a) The services provided by the Theft Risk Assessment Service?
- (b) The Theft Target?
- (c) The Governance of the Theft Risk Assessment Service?
- (d) The Appointment and operation arrangements for the Theft Risk Assessment Service?
- (e) The reporting requirements for the Theft Risk Assessment Service?

a) The services provided by the Theft Risk Assessment Service?

We agree that it is sensible to have one company providing data analytics services rather than for each and every supplier to invest in similar analytical tools. It may also be more efficient to have the theft reporting service (either telephone/on-line or both) provided by the TRAS, both from a tendering aspect and because this will be a source of potential theft leads, which can be quickly investigated by TRAS before escalating to the supplier for action. We also agree that, as more theft cases are investigated, this should trigger a market for the competitive provision of ancillary services, such as onsite theft investigation and debt management and hence, suppliers should be free to contract for these services outside of the TRAS.

b) The Theft Target?

Clearly, to date, the industry has not been able to agree a figure for the amount of gas theft that exists in the GB market. Thus the Theft Target must be capable of regular review without distorting the incentives on suppliers to carry out full and proper investigation. There may be a problem if the TRAS sets this target in that it may also influence the performance of the TRAS in identifying potential theft. For this reason there will need to be some form of assurance carried out, not only on the performance of the suppliers in fully investigating potential theft leads when identified, but also in the work of the TRAS in identifying such leads. We support your proposal that such assurance work should be carried out by an independent body.

c) The governance of the Theft Risk Assessment Service?

Best practice recommends that the governance and assurance activities should be managed separately from the general delivery of the TRAS deliverables and should be an independently procured service that may be capable of extension to support electricity.

- d) The appointment and operation arrangements of the Theft Risk Assessment Service?

We agree that the TRAS should be appointed through a robust competitive tender process and retendered on a regular basis in order to ensure that the industry is getting the best value.

- e) The reporting requirements for the Theft Risk Assessment Service?

The exact requirements for the type and frequency of reporting to be provided by the TRAS will need to be developed as part of the tender process. These will need to cover both operational reporting to suppliers and transporters to provide the required leads for investigation, as well as performance reports to allow the industry to assess how well the TRAS is meeting its objectives.

Question 4: Do you agree that we should require the Theft Risk Assessment Service to be implemented by 31 December 2013?

Taking into account the extent of the work that has already been completed by the industry on assessing alternative schemes to provide enhanced investigation into gas theft, we agree that an implementation date of 31 December 2013 is realistic.