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Dear Chiara

Tackling electricity theft – Consultation

I am pleased to attach Energy UK's response to Ofgem's consultation on tackling electricity theft. It is not confidential.

If you have any questions, please do not hesitate to contact me on 020 7747 2965 or daniel.alchin@energy-uk.org.uk

Yours sincerely

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Ofgem Consultation on Tackling Electricity Theft

Energy UK response

28 August 2013

Introduction

Energy UK is the trade association for the energy industry. Energy UK has over 80 companies as members that together cover the broad range of energy providers and suppliers and include companies of all sizes working in all forms of gas and electricity supply and energy networks. Energy UK members generate more than 90% of UK electricity, provide light and heat to some 26 million homes and last year invested £10billion in the British economy.

Energy UK strongly believes in promoting competitive energy markets that produce good outcomes for consumers. In this context, we are committed to working with Government, regulators, consumer groups and our members to develop reforms which enhance consumer trust and effective engagement. At the same time, Energy UK believes in a stable and predictable regulatory regime that fosters innovation, market entry and growth, bringing benefits to consumers and helping provide the certainty that is needed to encourage investment and enhance the competitiveness of the UK economy.

These high-level principles underpin Energy UK's response to Ofgem's consultation on tackling electricity theft. This is a high-level industry view; Energy UK's members may hold different views on particular issues. We would be happy to discuss any of the points made in further detail with Ofgem or any other interested party if this is considered to be beneficial.

Executive Summary

The costs associated with electricity theft, including lost revenues, detection and prevention, are ultimately borne by honest customers. As noted in the consultation document, electricity theft poses serious health and safety risks for those who commit the crime as well as others in close proximity. Furthermore, where electricity is stolen, it is often used inefficiently, thus negatively impacting on the wider aim to reduce carbon emissions. For these reasons, broadly speaking, Energy UK welcomes the fact that Ofgem is taking action in this area.

However, it is important Ofgem recognise that while energy suppliers have a role to play in reducing the theft of electricity, energy theft is a crime and as such also a matter for law enforcement agencies, especially where linked with cannabis cultivation and serious organised crime. Energy suppliers are not typically minded to report domestic customers who tamper with their meter to avoid payment to the relevant authorities. However, where related criminal activity is suspected suppliers will look to work with the relevant authorities as deemed appropriate.

Energy UK has a number of comments on the draft amendments to the electricity licence and the proposed timescales for implementing the resulting Theft Arrangements. We have no comment on the proposed policy measures to improve prevention, investigation and detection of electricity theft.

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

Broadly speaking, Energy UK welcomes Ofgem's proposals to introduce new electricity supply licence obligations in relation to theft.

Following the introduction of the new gas theft supply licence conditions earlier this year, we welcome the decision to try and ensure parity for electricity suppliers with the theft licence conditions already in operation for gas suppliers. If we are to avoid unintended consequences and ensure the best customer experience it is vital that the two licences are consistent wherever possible. A coherent framework and approach for customers and suppliers across both electricity and gas supply must be created.

One member has raised concerns that greater clarity and consideration is, however, required around the potential impact of the proposals on the half hourly and non-domestic market. It is noted that the consultation document's concentration on issues including cannabis cultivation and consumer vulnerability suggest a significant domestic focus and our response is based on the assumption that this is the intended target customer group.

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

Ofgem's draft proposals to amend the electricity supply licence broadly reflect the policy intent set out in Chapter Three of the consultation document.

However, we would urge Ofgem to review how it has attempted to define consumers in vulnerable situations. We are concerned that the proposal that licensees take all reasonable steps to identify whether:

*"... the Domestic Customer and/or the occupants of those premises which are Domestic Premises are in a vulnerable situation, such as – but not limited to – of Pensionable Age, disabled or chronically sick"*¹

... may unintentionally prove extremely difficult in practice. Energy UK recognises Ofgem's desire to reflect its new Consumer Vulnerability Strategy² in the drafting of XX.1 (b) (ii) and XX.11 (a) (i). However, to ensure the best outcome for consumers, suppliers must be able to effectively and efficiently tackle electricity theft. The use of phrase "*but not limited to*" adds a high degree of subjectivity to the concept of vulnerability and additional complexity in determining whether someone living in a premises is vulnerable. This creates uncertainty and, in turn, risk for suppliers conducting theft investigations when seeking to comply with their proposed licence conditions. Additional complexity involved in identifying vulnerability is likely to result in additional costs, which will have an impact on the energy bills of all consumers, including the vulnerable consumers we are seeking to help.

Ofgem must consider the impact of this approach on suppliers' ability to support those most in need where theft is discovered. Uncertainty around identifying vulnerability is likely to result in suppliers treating increasingly large numbers of consumers as vulnerable to ensure they comply with their licence conditions. When taken into consideration with XX.11(c) (the requirement to offer 'vulnerable' customers guilty of theft a pre-payment meter (PPM) as an alternative to disconnection), XX.11 (a) (ii) may force suppliers to keep increasing numbers of "vulnerable" customers who have stolen electricity on supply. While repayment through a PPM may be the correct option in many instances, this will not always be the case. To ensure repayment and customer safety, suppliers must retain the ability to agree appropriate repayment plans for the customer and case in question, this includes the right of disconnection (see answer to Question 3). Large increases in the number of customers considered to be "vulnerable", therefore, risks circumscribing suppliers' ability to recoup charges through the most

¹ Ofgem, 'Tackling electricity theft – consultation', REF: 100/13, 3 July 2013, p53 & 55

² Ofgem, 'Consumer Vulnerability Strategy', REF: 102/13, 4th July 2013

appropriate means for the customer and to keep the costs associated with electricity theft down, undermining suppliers' ability to prevent theft and deliver support to those in genuine need.

Furthermore, as currently drafted XX.1 (b) (ii) and XX.11 (a) (i) do not align with the equivalent protections in the gas licence or the debt and disconnection prohibitions (for unpaid charges) set out in SLC27. Differences in the respective approaches to vulnerability could result in the same "vulnerable" customer's electricity and gas supplies being handled differently when theft is identified. As noted above, if Ofgem is to avoid unintended consequences and deliver an effective Theft Arrangement it is vital that the two licences' theft provisions replicate each other wherever possible and deliver a coherent regime for customers and suppliers across both electricity and gas. Disparity between the two sets of SLCs, will not offer the best customer experience and risks causing significant confusion and concern for customers, particularly those customers in vulnerable situations.

Where theft is identified, additional protections for customers should be targeted at those for whom a potential restriction of their physical supply of electricity would place them in a vulnerable situation. We would, therefore, urge Ofgem to align the drafting of XX.1 (b) (ii) and XX.11 (a) (i) with the equivalent protections already in place for gas theft and SLC27. As identified by the consultation document, the gas licence and SLC 27 already offer robust protections for those groups of consumers (pensionable age disabled and chronically sick) for whom the consequences of disconnections can be most "severe and potentially life threatening".³

It is also worth noting that the successful operation of XX.1 (b) (ii) and XX.11 (a) (i) as drafted, would largely depend on consumers' willingness to engage and share detailed information relating to their personal circumstances with their energy supplier, potentially after theft has been discovered. We know from experience delivering obligations like Warm Home Discount that consumers are reluctant to approach their energy supplier and share personal information even when free, direct financial support is available. Given that the customers in question will have been using an illegal supply they are even less likely to fully engage with suppliers and, where they do, suppliers will have good reason to doubt the quality and accuracy of any information provided.

Ofgem should also bear in mind that energy companies have a responsibility to all of their customers, including those who may be vulnerable but still able to pay for the electricity they consume. While principally the responsibility of DNOs, suppliers must also remember the Health and Safety aspects of theft and the risks it raises for neighbours etc, who may also be vulnerable.

Q3. Do you consider that electricity suppliers should be required to offer vulnerable customers and customers that have genuine difficulty paying, different methods for the repayment of charges associated with electricity theft as an alternative to disconnection?

This question is phrased as if disconnection is a normal response to electricity theft; it is not.

Suppliers take their responsibility for vulnerable customers extremely seriously, as illustrated by Energy UK's Safety Net for Vulnerable Customers⁴. Disconnection is a last resort; provided a connection is safe, a large number of steps will be taken to recover outstanding charges before the measure is used. Suppliers will always try to recoup the outstanding charges in a number of ways and agree an appropriate payment plan before resorting to disconnection, which terminates the relationship with the customer and limits the options for repayment. In addition, where reasonable efforts have been made by the supplier and disconnection of a vulnerable customer is the only option remaining to avoid ongoing theft and related health and safety concerns, suppliers would endeavor to inform the relevant local authority and/or social services.

It is, however, vital that disconnection remains an option where the crime is repeated (for example bypassing a pre-payment meter). If there have been previous cases of theft conducted by the same household then disconnection should be considered to prevent ongoing theft (and for safety reasons). Though, where a customer may be in a vulnerable situation and has resorted to desperate measures to stay on supply, suppliers should offer support that helps to customer avoid repeat offence.

³ Ofgem, 'Tackling electricity theft – consultation', REF: 100/13, 3 July 2013, p22

⁴ <http://www.energy-uk.org.uk/publication/finish/30-disconnection/308-era-safety-net.html>

Regarding the proposed requirement, the key question is, therefore, the duration of its applicability. For example, would a supplier have to offer a customer a range of payment methods for theft once or on multiple occasions (despite the fact that the crime has been repeated)? It would not seem reasonable to have to offer a range of repayment methods if the customer reoffends; the licence conditions would then perversely be facilitating theft (e.g. by mandating continued access to a PPM that can be bypassed).

As noted above, energy suppliers are not typically minded to report domestic customers who tamper with their meter to avoid payment to the relevant authorities. However, if they were to identify criminal activities taking place then they would review what appropriate steps may be required.

Q4. Do you agree that our proposed new electricity supply licence conditions should be introduced as soon as reasonably practical?

Assuming the concerns highlighted above can be adequately addressed, Energy UK would support the introduction of the new electricity supply licence conditions as soon as reasonably practical following completion of the current consultation process.

However, we would ask Ofgem to give further consideration to the wider implementation timescale as set out in the consultation document, in particular the establishment of a Theft Risk Assessment Service (TRAS) by Q1 2015. We would urge Ofgem to await the establishment of the gas TRAS before pushing ahead and setting deadlines for the establishment of an electricity service. Given the intentional similarities between the two services it would be unwise and irresponsible of both Ofgem and industry to commit substantial resources, paid for by customers, developing an electricity TRAS without first analysing the key learnings from the establishment and early operation of the gas TRAS.

Ofgem may also want to give further consideration to creation of a single TRAS for both gas and electricity. Industry would be happy to work with Ofgem to explore how the structure and remit of the gas TRAS currently in development could be modified to also deliver the Theft Arrangements for the electricity sector. Given the similarities in their eventual roles and responsibilities, both services will have similar data requirements and operational activities. It is likely that the two services will also be required to work in close co-operation to uncover patterns of theft to aid in identification, detection and prevention. The creation of two distinct services may, therefore, result in unnecessary duplication of efforts at an unnecessary cost to the industry and ultimately deliver a poorer service in preventing and detecting theft as a result.

Q5. Do you agree with our proposed approach to conducting the draft IA, the assumptions that we have made and the outcome of our analysis in the accompanying IA?

AND

Q6. Have we correctly assessed the main impacts in the accompanying draft IA? Are there additional impacts that we should consider?

Energy UK has no comment on Ofgem's draft Impact Assessment. We expect Energy UK members will chose to respond individually to this question.

Q7. Which, if any, of the proposed policy measures (or package of policy measures) to support theft investigation, detection and prevention should be implemented and why?

AND

Q8. Do you consider that there are alternative proposals, or variations of the combinations of the proposed policy measures that should be considered?

Energy UK has no comment on the proposed policy measures to support theft investigation, detection and prevention. We do, however, expect Energy UK members to respond individually with their view and preferences on proposed policy measures/packages of policy measures.

Q9. Do you agree with our view that DNOs, for the time being, should not be included in an incentive scheme?

Energy UK has no comment. Energy UK members may choose to respond individually to this question.

Q10. Do you agree with our view that DNOs should have licence obligations to tackle theft in conveyance?

Energy UK has no comment. Energy UK members may choose to respond individually to this question.

Q11. Are you aware of any alternative proposals to support DNOs in tackling theft in conveyance that should be considered? If so, please provide further details.

Energy UK has no comment. Energy UK members may choose to respond individually to this question.