



Scotia Gas Networks Limited

Response to Consultation on Ofgem's minded to position for the determination of re-opener applications in respect of additional income associated with the Traffic Management Act (and Transport Scotland Act) under the first Gas Distribution Price Control Review

25th November 2013



Scotia Gas Networks (SGN) response to Ofgem's minded to position for the determination of re-opener applications in respect of additional income associated with the Traffic Management Act (TMA) and Transport for Scotland Act (T(S)A) under the first gas distribution price control review

We appreciate the opportunity to comment on Ofgem's approach for assessing our re-opener applications in respect of additional income associated with the Traffic Management Act (TMA) and Transport for Scotland Act (T(S)A) under the first gas distribution price control review.

Our response is structured to highlight the key issues we consider need to be resolved prior to Ofgem making any formal decision on the recovery of these costs. We firstly summarise these issues in an Executive Summary, and follow this with more detailed comments on the specific issues relating to our Scotland network application (under the T(S)A) and Southern network application (under the TMA).

Executive Summary

Ofgem has set out the reasons for allowance / disallowance of SGN's TMA/T(S)A claims in Scotland and Southern Gas Networks in their minded to position. There is clear acknowledgement both from Ofgem and their independent consultant that significant incremental costs have been incurred in the majority of claim areas. However, Ofgem believe there is a lack of supporting evidence to allow robust quantification all of the costs submitted by SGN.

We have set out in this response the evidence we have provided to Ofgem and have further quantified this where possible. We consider this response supports our claim and also clarifies where we have had to apply a level of judgement in reaching our conclusions. In the latter case, where Ofgem has felt our judgement is insufficient to allow them to quantify the T(S)A impact (particularly in the case of contractor premiums [REDACTED]), in the interests of moving the claim forward we have decided not to dispute this further.

We have also decided not to challenge the mandatory cost of the Scottish Road Works Register of £0.5m which we were paying on a voluntary basis prior to T(S)A, or the cost to deliver clear benefits in streetworks (Core and Vac - £0.7m in Scotland and £0.7m in Southern) which Ofgem believe have wider business benefits outside this claim.

However, we do wish to challenge the legislative driver for the acknowledged increase in costs for reinstatement (£0.2m) which we consider can be attributed to the T(S)A rather than the New Roads and Street Works Act.

We consider the clarification of evidence already provided, together with additional evidence included with this response, will provide the justification and assistance required for Ofgem to revise their minded to position to a level all parties consider to be reasonable.

The specific areas we focus on in Scotland regarding the level of evidence provided for £2.7m of our claim are:

- Traffic Management Schemes £1.7m
- Temporary Traffic Orders £0.1m
- Timing and Duration Conditions £0.7m and
- IT running costs £0.2m.

We welcome the appointment of Les Guest Associates to provide an independent view of the impact of the T(S)A. As set-out in the table below, we consider in key areas the level of evidence presented by SGN is robust. We also consider Les Guest Associates estimates of likely impact should be applied by Ofgem, and this would lead to a further £2.5m being allowed.

When including the £1.2m already provisionally awarded by Ofgem, this would result in an overall settlement for Scotland in the region of £3.7m and is demonstrated in the table below:

Scotland Claim

Claim Area (3m 10/11 prices)	Submitted By SGN	Ofgem Minded to	Updated SGN Position	Comments
FPNs		0.1	0.1	Acknowledge Ofgem Comments
Back Office Management & Training		1.2	1.3	Acknowledge Ofgem Comments (with exception of IT costs)
Traffic Management Schemes		0.0	1.5	Likely impact (IGA) if evidence supports
Scottish Road Works Register (SRWR)		0.0	0.0	Acknowledge Ofgem Comments
Timing & Duration Conditions		0.0	0.6	Likely impact (IGA) if evidence supports
Parking Bay Suspensions		0.0	0.0	SGN not to dispute
Temporary Traffic Restriction Orders		0.0	0.1	Likely impact (IGA) if evidence supports
Additional Reinstatement Cost		0.0	0.2	SGN believe these costs are in scope (T(S)A driven not NRSWA)
Traffic Separators		0.0	0.0	SGN not to dispute
Public Advance Noticing		0.0	0.0	SGN not to dispute
Contractors		0.0	0.0	SGN not to dispute
Core & Vac		0.0	0.0	SGN not to dispute
	9.8	1.2	3.7	

For our Southern submission, we consider there should be full settlement of the lane rental charges of £380k. We consider we have demonstrated these costs have been efficiently incurred in our claim and our subsequent responses to the supplementary questions raised by Ofgem. We consider we have demonstrated the efficient process we follow in order to determine the optimal course of action in respect of lane rental charges. We have highlighted the process that we have in place for the three distinct categories of work carried out in the highway. In addition, we have also stated in our supplementary questions that the lane rental charges incurred in our claim were as a result of unplanned work and that we have not incurred any charges on planned work.

A recent Transport for London (TfL) Scheme Monitoring Report confirms that planned works carried out has indeed reduced, but unplanned work remains unchanged. Therefore, as set out below, we consider this should lead to a further £380k being awarded in addition to the £350k already allowed, giving a total settlement of £730k and is demonstrated in the table below:

Southern Claim

Claim Area (3m 10/11 prices)	Submitted By SGN	Ofgem Minded to	Updated SGN Position	Comments
TMA Permits	0.0	0.0	0.0	Acknowledge Ofgem Comments
FPNs	0.0	0.0	0.0	Acknowledge Ofgem Comments
Ongoing Admin	0.2	0.2	0.2	Acknowledge Ofgem Comments
Lane Rental	0.8	0.0	0.4	Estimate impact based on supporting evidence
Overstay Charges	0.2	0.2	0.2	Acknowledge Ofgem Comments
Avoidance costs - Core & Vac	0.7	0.0	0.0	SGN not to dispute
	1.9	0.4	0.7	

We welcome further dialogue with Ofgem to ensure that a reasonable level of costs we have efficiently incurred in relation to both the TMA and T(S)A can be recovered. Our specific detailed comments relating to both our Scotland and Southern networks reopen applications are detailed in the remainder of this response.

Scotland Network

This section outlines four key areas where we consider the evidence presented to Ofgem supports our claim. We would like to work with Ofgem to ensure this evidence is appropriately considered and provide further clarification where required. We also have included extracts from Les Guest Associates report to highlight the likely impact these areas have had on our Scotland Network.

IT Costs

In respect of IT costs, we note our original application was for £172k but that Ofgem is minded to award us zero.

The Les Guest Associates report concluded:

“It is not clear how much expenditure is due to changes required to interface with the SRWR and how much was driven by changes required for the T(S)A I am also not sure how relevant ETON5 is to Scotland. There will be some changes necessary for noticing / amendments / extension requests. However, SGN have not been able to substantiate these costs despite supplementary questions. Whilst I have the opinion that there should be an allowance, probably around 50% of the claim, I understand this needs to be demonstrated clearly to Ofgem with robust evidence.”

We consider questions in relation to IT running costs were sufficiently answered during Ofgem’s visit to SGN in July 2013, and via a subsequent supplementary question response (please refer to our response to T(S)A 13 – 2 August 2013). We have confirmed these costs relate to ongoing FTE time and have outlined the roles carried out (support staff costs who maintain the new IT systems and enhanced infrastructure). Therefore, there are no set-up costs included within this claim and for which Ofgem appears to be citing as the main driver for disallowing these costs.

Ofgem has queried reference to Eton5 which is a Southern system. This was only mentioned in our submission for reference, as our IT costs are captured at a corporate level and then allocated appropriately. Scotland do not receive any charges in respect of Eton5. This was also discussed and noted during Ofgem’s visit to us in July 2013.

Traffic Management Schemes (TMS)

In respect of TMS costs, we note our original application was for £1.68m, but that Ofgem is minded to award us zero.

On the matter of TMS, Les Guest Associates concluded:

“There will have been a small element of Traffic Management before the T(S)A was introduced, but this has become much more widespread as a result of T(S)A and pressure exerted by the Commissioner and Road Authorities. Experience across utilities in England have shown that this is an ever increasing cost of project management. The cost of external TM designs was on average around £400 for a small scheme / single street. From my experience, I would suggest 90% - 95% of the claim would have been appropriate, however I do acknowledge that SGN have not managed to substantiate this effectively, even by supplementary questions.”

We consider the lack of evidence centres around the processes in place to illustrate the costs claimed and the evidence of increased FTE's. We can confirm these costs have been collected through templates (examples were included in our original application, and with further examples provided in Appendix A of this response) and represent incremental costs only.

As Ofgem have stated, we have been unable to show costs pre T(S)A as the same level of disaggregation was not required at this time. However, because the templates we have collected relate to incremental costs incurred since the regulations were passed in October 2008, we consider these to be sufficiently robust (the templates are subject to both Finance and Operational audit within SGN). Additional templates are available if required by Ofgem but, due to the volume of templates, we have not attached all of these to this response.

We have also provided summarised workload and costs in this area from the templates in our supplementary questions, and these are split between internal and external resource (please refer to our response to supplementary questions T(S)A 16 – 2 August 2013, T(S)A 22 – 9 August 2013 and Further Actions 3.1 – 16 August 2013). Additionally, detailed drawings were provided that demonstrated the level of TMS required pre and post T(S)A. We will copies of these drawings will be sent to Ofgem separate from this response

Therefore, we consider accurate and sufficiently robust evidence has been provided to support the extent of the increase in volume and complexity of TMS charges we have incurred.

Timing & Duration Conditions

In respect of Timing and Duration Conditions, we note our original application was for £707k, but that Ofgem is minded to award us zero.

Both Ofgem and Les Guest Associates acknowledge in the open minded to consultation that costs associated with timing and duration conditions are fundamental to the principles of the T(S)A. Through the process of supplementary questions,, Ofgem explored whether SGN had demonstrated that unproductive time had been optimised (please refer to our response to supplementary questions T(S)A15, 17 & 26 2 August 2013).

We have previously explained this unproductive time largely occurs at the start and end of working days which is not conducive to 'filler' work. While we seek to ensure some of this time is used setting up traffic management on the pathway, a large proportion cannot be easily mitigated. Attached within Appendix B of this response is a summary of these costs from our templates, which demonstrates the process we have established to accurately record this activity.

Temporary Traffic Road Orders (TTROs)

In respect of TTROs, we note our original application was for £136k, but that Ofgem is minded to award us zero.

On the matter of TTROs, Les Guest Associates concluded:

"TTROs were introduced in the 1980's and could, and have, been required before the T(S)A. It is acknowledged that the number has increased in the past 5 years due to pressures put on authorities by the Commissioner. In my opinion, I believe that between 50% and 100% of these costs should be allowed."

We agree and support the view of Les Guests Associates and would encourage Ofgem to reconsider their minded to position in respect of TTRO costs. We are happy to provide invoice volumes by road authority if required by Ofgem.

Additional Reinstatement Costs

In respect of Additional Reinstatement Costs, we note our original application was for £158k, but that Ofgem is minded to award us zero.

Ofgem state within their minded to consultation that the change from a one year to a three year embargo in March 2008 will have caused this increase in cost, although it is not brought about by T(S)A. While technically there was no direct legal requirement under the T(S)A, due to an error in the wording of the T(S)A, this extension was not properly embedded within the T(S)A, and could not therefore be enforced.

A Road Authorities & Utilities Committee (Scotland) (RAUC(S)) working group was set up after the enactment of T(S)A to consider changes introduced. As a result of this, the Code of Practice for the Co-ordination of Road Works and Works for Road Purposes and Related Matters were re-written. When re-writing these, it was recognised by RAUC(S), and with the agreement of all constituent utilities, that the original intentions of the T(S)A (which was now enforceable), should be incorporated into the Code and thereby achieving the original intent of revised legislation. This included the change from one year to three years. Our streetwork manager was closely involved in re-writing these codes.

We therefore suggest request Ofgem should reconsider their minded to position on this aspect of our claim.

Contractors and other related costs

In respect of contractor and other related costs, we note our original application [REDACTED], but that Ofgem is minded to award us zero.

[REDACTED]

We can also confirm there was no duplication of contractor costs as part of our original re-opener application to Ofgem, and we apologise if this was not previously made clear.

Southern Network

Lane Rental Charges

In respect of Lane Rental costs, we note our original application was for £780k, but that Ofgem is minded to award us zero.

We have incurred £0.38m of Transport for London (TfL) rental charges during the financial year 2012/13. The main concern expressed by Ofgem is how we have demonstrated we have minimised the financial effect, primarily on planned work where we have most flexibility.

We have previously provided our embedded structural changes and processes that have been implemented at relevant depots. These include:

- Carrying out work outside core lane rental hours;
- Using new technology to increase production;
- Hiring of specialist kit and operators for work in the highway;
- Improving management controls to monitor on site activities; and
- Working 24/7 until work is complete.

We provided this information to Ofgem in response to supplementary question 4 on 16 August 2013.

We would like to re-iterate that, since the introduction of the TfL rental, our average emergency duration (i.e. the time we spend excavating and reinstating a site) has reduced by 2.5 days. This has, however, come at a cost of £0.36m due to a need to restructure our teams to focus on lane rental activity.

Ofgem has disallowed all lane rental costs incurred of £0.38m. We can confirm that all of these charges have been incurred on unplanned work (i.e. repairs/emergency activities), and which, unlike planned work, is very difficult to delay or alter. On planned work, we have incurred no lane rental charges during the claim period.

This has been acknowledged by TfL within their recent Scheme Monitoring Report published on 18 June 2013 (a copy of this report is attached as an Appendix.C). This report states that planned works carried out by utilities have fallen by 36% since the introduction of the lane rental scheme, suggesting that these works have been moved to take place outside traffic sensitive times. Unplanned work has remained at the same level as in previous years, highlighting that emergencies have to be attended and repaired as soon as possible and very often cannot be deferred due to public safety.

We would request Ofgem reconsider the evidence we have provided and with a view to allowing the lane rental charges of £380k which have been efficiently incurred by SGN.

We appreciate the opportunity to comment on Ofgem's approach for assessing our re-opener application. We trust our response will be useful in allowing Ofgem to reconsider their minded to position in respect of our application for additional costs incurred as a result of the T(S)A and TMA.

Should you have any further questions on this response please contact either myself paul.mitchell@sgn.co.uk or Mary Rodgers mary.rodgers@sgn.co.uk

Yours sincerely

Paul Mitchell
Regulation Manager

Further Template Examples

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Local A
change

[illegible]

Appendix B

Further Analysis of Timing & Duration Conditions

Appendix. B redacted as commercially confidential.

Appendix C

Transport for London Scheme Monitor Report attached separately with this submission.