

Mr Mick Watson
Head of Gas Distribution, Costs & Outputs
Smarter Grids and Governance Distribution
Ofgem
9 Millbank
London
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22 November 2013

Dear Mick

Consultation on Ofgem minded-to position for the determination of an income adjusting event claim associated with Traffic Management Act 2004 and the Transport (Scotland) Act 2005 (T(S)A) under the first gas distribution price control review

Question 1: Do you agree with our assessment and the proposed adjustments associated with TMA for the three GDNs, Scotland, Southern and London?

I agree that this is the correct outcome in that no proposed allowance will be made to Scotland Gas Networks as the proposed efficient costs fell below the price control threshold of 1% of their base revenues. However I am concerned that proposed efficient costs were going to be permitted by Ofgem for certain back-office administration and management costs as many of these would appear to be for compliance with the New Roads and Street Works Act 1991, rather than the T(S)A.

I would also highlight the issue of how fixed penalties notices (FPNs) as part of the review have been considered. I do understand that there is a special condition, as part of the GDN gas transporter licence, that allows for income adjusting events including fixed penalties. The introduction of FPNs as part of the T(S)A was intended to change behaviour to minimise the impact of road works and, as such, the ability to recover costs needs to be reconsidered as the policy objective is undermined. In this regard, I would ask that my comments are taken into consideration for any future re-opener applications associated with the gas distribution price control review process.

Question 2: Do you agree with our assessment of costs associated with lane rental?

This does not apply in Scotland and I therefore have no comment.

Evidence provided by Les Guest Associates

I would like to comment on the evidence provided by Les Guest Associates in connection with the Scotland claim as there are a number of inaccuracies that I feel must be drawn to your attention, including a reference to Les Guest having worked with me. This is not the case.

In Table 1 of his report, reference 8.2, covering the contribution to keeping the Scottish Road Works Register, the actual figure is a 65% contribution from utilities. Under reference 8.5 there seems to be some confusion in relation to ETON 5 which does not apply in Scotland. Reference 8.7.9 refers to a validity period. This is, in fact, a period of restriction and did not result from legislation but arose from a voluntary agreement through RAUC(S). Reference 8.7.6 includes the wording 'authorities have been encouraged to demand more of these orders by the Commissioner' and this is not a scenario I recognise. The Commissioner does not make any demands on the roads authorities or utilities to do anything except to comply with all relevant legislation and good practice.

The duties on roads authorities and undertakers when carrying out road works remained unchanged with the enactment of the T(S)A in that roads authorities have a duty to coordinate and undertakers have a duty to cooperate. My role as Commissioner has not added any additional burden to the undertakers as they should already have been complying with existing legislation.

Yours sincerely



Elspeth King
Scottish Road Works Commissioner