

Tim Davies  
Joint Office

By email to [enquiries@gasgovernance.co.uk](mailto:enquiries@gasgovernance.co.uk)

6<sup>th</sup> January 2011

Dear Tim

**SUBJECT: Total Gas & Power Ltd consultation response to  
Modifications 0277 & 0346**

Total Gas & Power Ltd does not support the implementation of modifications 0277 and does not support the implementation of modification 0346.

**1. *The Modification Proposal***

Total Gas & Power Ltd agrees with Ofgem's desire to reduce the current level of gas theft that occurs across the network and believes that increasing the amount of resource placed in theft detection by the industry will benefit all consumers. These modifications do not achieve that aim however.

In part it is because they rely on faulty assumptions. Firstly both modifications make the statement that the costs of gas theft are borne by all domestic consumers; it is not. In fact the costs are borne by Small Supply Point customers. It is therefore incorrect to characterise this issue as one where the non-domestic sector is loading costs onto domestic customers.

More importantly, it makes the bold and unfounded assumption that theft is evenly distributed across shipper portfolios and all types of customers. This has not been substantiated by any publically available analysis and it intuitively goes against our expectations. Customers that are stealing gas will not participate in the market and will not change shipper. Therefore organisations that have been active in the market a shorter time than others will not pick up such customers and so will have a lower rate of theft in their portfolio than those organisations active since privatisation.

We would, in any event, expect a significant difference between the domestic and I&C markets. The commercial environment in which the non-domestic sector operates means that shippers can refuse to supply a customer (irrespective of the history of the site) if it believes they are a credit risk (for example if the customer has a criminal record). Domestic suppliers do not have the same ability to refuse to supply, and so bear a much greater risk of taking on a customer who will begin to steal. In addition, we would expect the likelihood of detection to differ between markets as frequency of visits to non-domestic customers is much greater than to domestic customers.

These incorrect assumptions mean that the basic premise of both modifications (that suppliers should contribute equally towards a common incentive fund as they have an equal ability to recover these costs) is invalid. Under these proposals, the value of the SETS incentive each shipper can achieve from the same level of resource committed to theft detection will vary.

Equally, these modifications, create an incentive to maximise the number (Modification 0277) or the volume (Modification 0346) of thefts reported. This has negative effects. For example, it incentivises shippers to treat any site (and the customer resident) which is not registering gas use correctly as theft. This means many customers may be unfairly alleged to be stealing gas. In many cases, as we have discovered through our own investigations, what may initially look like gas theft, has in fact been caused unintentionally and so should not be treated as dishonest practice. It is imperative that customers are treated as stealing gas on the basis of a substantial body of evidence; any allegation of dishonesty can have serious implications for a customer's credit history and their ease of switching supplier. We therefore have serious concerns that the Transporter's agent is not required to verify the shipper's assertion that the customer is stealing gas.

## **2. User Pays**

### ***a) Classification of the Proposal as User Pays or not and justification for classification***

We agree that these modifications are Users Pays.

### ***b) Identification of Users, proposed split of the recovery between Gas Transporters and Users for User Pays costs and justification***

In line with our comments above, we do not believe it is appropriate that costs should be apportioned by throughput and should be based on meter points.

### ***c) Proposed charge(s) for application of Users Pays charges to Shippers***

We have not seen the appropriate charges and so cannot comment.

### ***d) Proposed charge for inclusion in ACS – to be completed upon receipt of cost estimate from xoserve***

We have not seen the appropriate charges and so cannot comment.

## **3. Extent to which implementation of the proposed modification would better facilitate the relevant objectives**

### ***Standard Special Condition A 11.1 (a): the efficient and economic operation of the pipe-line system to which this licence relates;***

We do not believe that implementation of these proposals will better facilitate this relevant objective.

### ***Standard Special Condition A 11.1 (b): so far as is consistent with sub-paragraph (a), the coordinated, efficient and economic operation of (i) the combined pipe-line system, and/ or (ii) the pipe-line system of one or more other relevant gas transporters;***

We do not believe that implementation of these proposals will better facilitate this relevant objective.

### ***Standard Special Condition A 11.1 (c): so far as is consistent with sub-paragraphs (a) and (b), the efficient discharge of the licensee's obligations under this licence;***

We disagree with the proposer that either Modification 0277 or Modification 0346 will further this objective. The proposals mean that shippers are rewarded for the number/volume of gas thefts and so they will concentrate their efforts on boosting the number of downstream thefts reported to the Transporters. Any increase in upstream theft detections will be marginal, and in light of the potential costs that will be incurred by the industry, it is not an efficient mechanism to discharge the licensee's objectives.

***Standard Special Condition A 11.1 (d): so far as is consistent with sub-paragraphs (a) to (c) the securing of effective competition: (i) between relevant shippers; (ii) between relevant suppliers; and/or (iii) between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers;***

We disagree with the proposer that either Modification 0277 or Modification 0346 will further this objective. Both modifications work on the incorrect assumption that the rate of theft is equal across all market sectors and all shipper portfolios, and so the same level of resource committed by any one shipper will yield the same return under the SET scheme. The SET scheme will therefore create a cross-subsidy between those shippers who have high rates of theft in their portfolio to those who have low rates, which will distort competition and so be detrimental to this objective.

***Special Condition A11.1 (e): so far as is consistent with sub-paragraphs (a) to (d), the provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards... are satisfied as respects the availability of gas to their domestic customers;***

This modification will not improve the industry's view of theft across the network, only increase the number of alleged thefts reported, so contrary to the proposer's assertion, this modification will not further this relevant objective.

***Standard Special Condition A11. 1 (f): so far as is consistent with sub-paragraphs (a) to (e), the promotion of efficiency in the implementation and administration of the network code and/or the uniform network code;***

We disagree with the proposer that this modification will facilitate the activities of the AUGÉ, as the modification is unlikely to increase the amount of information regarding the scale of theft, it may only result in the increase in the amount of alleged thefts reported. The AUGÉ will still be required to estimate the total theft attributable to the LSP sector and this modification will not create more reliable information for it to use.

#### ***4. The implications of implementing the Modification Proposal on security of supply, operation of the Total System and industry fragmentation***

No implications on security of supply, operation of the Total System or industry fragmentation have been identified.

#### ***5. The implications for Transporters and each Transporter of implementing the Modification Proposal, including:***

##### ***a) Implications for operation of the system***

We do not believe that implementation of these Proposals will present such implications.

***b) Development and capital cost and operating cost implications***

We agree that there will be a significant cost if either of these modifications are implemented.

***c) Extent to which it is appropriate to recover the costs, and proposal for the most appropriate way to recover the costs***

We agree that the costs should be recovered via the User Pays process.

***d) Analysis of the consequences (if any) this proposal would have on price regulation***

No consequence for price regulations exist.

***6. The consequence of implementing the Modification Proposal on the level of contractual risk of each Transporter under the Code as modified by the Modification Proposals.***

No consequences exist.

***7. The development implications and other implications for the UK Link System of the Transporter, related computer systems of each Transporter and related computer systems of Users***

We agree that there will be a need to change UK link systems.

***8. The implications of implementing the Modification Proposal for Users, including administrative and operational costs and level of contractual risk:***

***a) Administrative and operational implications***

Shippers are currently obliged under their licence to investigate any sites where theft is suspected. In itself therefore, this modification will not create any additional administrative or operational implications. Though shippers may decide to increase their activities in this area to attempt to recover their SETs costs, in many cases shippers will be unable to justify such costs as it is unlikely they will increase the number of thefts they detect.

***b) Development and capital cost and operating cost implications***

In most cases shippers will incur a net increase in costs as they will be unable to recover the additional costs they have paid into the scheme even if they increase their theft detection activities. Conversely some shippers will have their costs reduced as they benefit from the cross-subsidy.

***c) Consequence for the level of contractual risk***

No such consequence is anticipated.

***9. The implications of implementing the Modification Proposal for Terminal Operators, Consumers, Connected System Operators, Suppliers, producers and, any Non Code Party***

As shippers will be incentivised to maximise the number of theft incidents, consumers are more likely to be accused of stealing gas, if they have damaged or faulty equipment, or unconventional pipe-work. This will increase the number of disputes between consumers and suppliers, and potentially damage the reputation of the industry.

***10. Consequences on the legislative and regulatory obligations and contractual relationships of each Transporter and each User and Non Code Party of implementing the Modification Proposal***

No implications identified.

***11. Analysis of any advantages or disadvantages of implementation of the Modification Proposal***

***a) Advantages***

None identified.

***b) Disadvantages***

- Creates a cross-subsidy between those shippers with a low rate of theft in their portfolio and those with a high rate of theft.
- Increase the number of premature theft allegations.
- Make switching more difficult for those consumers accused of theft, without it being proven.
- Potentially damages the reputation of the industry by making theft detection a profitable activity.

***13 The extent to which the implementation is required to enable each Transporter to facilitate compliance with safety or other legislation***

This modification is not expected to facilitate this objective.

***14 The extent to which the implementation is required having regard to any proposed change in the methodology established under paragraph 5 of Condition A4 or the statement furnished by each Transporter under paragraph 1 of Condition 4 of the Transporter's Licence***

This modification is not expected to facilitate this objective.

***15 Programme for works required as a consequence of implementing the Modification Proposal***

System development will be required.

***16 Proposed implementation timetable (including timetable for any necessary information systems changes and detailing any potentially retrospective impacts)***

Both modifications work on the supposition that suppliers should be incentivised to put in place active theft detection measures that go above their licence obligations and their own

commercial needs. In many cases this will require time to be taken into account and any implementation timeframe must take this into account.

***17 Implications of implementing this Modification Proposal upon existing Code Standards of Service***

No implications of implementing this Modification Proposal upon existing Code Standards of Service have been identified.

Yours sincerely

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