

OFGEM DECISION LETTER No. 0664

"Provision of the identity of the incoming supplier to incumbent Meter Asset Managers and Meter Operators"
Version 1.0

Our Ref: Net/Cod/Mod/664
Direct Dial: 020 7901
Email: modifications@ofgem.gov.uk

20 September 2004

NGT, Shippers and other parties.

Dear Colleague,

Modification Proposal 664: 'Provision of the identity of the incoming supplier to incumbent Meter Asset Managers and Meter Operators'.

Ofgem has carefully considered the issues raised by this modification proposal and has decided to direct Transco to implement the proposal as we believe that it will better facilitate the relevant objectives of Transco's Network Code. In this letter we explain the background to this proposal give reasons for our decision.

Background to the proposal

Under the existing regulatory framework, suppliers and consumers can choose their meter service provider. Suppliers are obliged under Standard Condition 34 (SC34) of their licence to arrange for the provision of a gas meter to any of their domestic customers. This licence condition describes four ways in which this can be achieved:

- Where the relevant Gas Transporter (GT) owns the meter in place, the supplier can arrange for it to remain so;
- Arranging with the owner of the meter (in this context the outgoing supplier) for the meter to remain in place;
- Where there is no meter in place, or if it is not appropriate or cannot be acquired on reasonable terms, the supplier may arrange for the installation of a meter; or
- Such other arrangements as may be agreed with the consumer.

Historically this obligation has generally been discharged by requesting the GT (via the shipper) to provide meters to domestic customers, in accordance with the GTs' licence. Although neither I&C suppliers nor the GT have licence obligations to provide a meter to I&C consumers, they generally do so, in much the same manner as for domestic consumers. However, the gas metering market is becoming increasingly competitive and non-GT provided meters are becoming more prevalent. Effective communication between the incoming and outgoing suppliers (and/or their agents) is therefore necessary if the meter is to remain in situ, avoiding unnecessary and unwanted meter exchanges.

The Modification Proposal

Transco states that it has raised this modification proposal after being contacted by several Meter Asset Managers (MAMs) requesting the identity of the incoming supplier at the meter point where the MAM owns and maintains the meter. It goes on to say that this information is required by the MAM because in a change of supplier process the outgoing supplier does not always inform the MAM of the identity of the incoming supplier, raising concerns that they will be unable to contact and establish a contract for meter related services with the new supplier.

Transco records the supplier identity as part of its obligations under Standard Condition 31 of its GT licence, which requires it to establish and maintain a Supply Point Information Service. Paragraph (2)(d) of that condition requires Transco to provide, in a timely manner, such relevant information as may be reasonably required by the following applicants:

- i. Any relevant gas shipper or agent thereof;
- ii. Any person identified in the Network Code as an appropriate person for the receipt of data for balancing and change of supplier purposes; and
- iii. Any customer (other than a domestic customer) of a gas supplier or person acting on his behalf entitled to such data for the purpose of facilitating changes of supplier in respect of that customer's premises.

Transco states that currently, where the MAM is a registered agent of the User (i.e. a user agency agreement is in place), then that MAM is permitted on request to receive the supplier identity for supply points registered to that user. Transco adds that it has a password scheme in place to ensure that information is only issued to bona fide applicants. However, Transco considers that these provisions do not address the issue raised above,

Transco contends that it is not permitted to provide the identity of an incoming gas supplier to the incumbent MAM, as:

- Section 105 of the Utilities Act explains that where such information is obtained by Transco by virtue of Section 1 of the Gas Act and relates to the affairs of an individual, Transco must not disclose it except with the consent of that individual, and;
- The supplier identity is classified as Protected Information as defined by Network Code Principal Document Section V5. Where the supplier identity has been provided by a User it becomes the Protected Information of that User.

Transco goes on to state that the Network Code and Section 105 prohibitions do not apply where the disclosure is made in compliance with its licence. Standard Licence Condition 31 of the GT licence already provides for such disclosure under specific conditions, as set out above.

The purpose of this modification proposal is therefore to amend Transco's Network Code such that each User would recognise a request made by any registered MAM as being an authorised request by a Users agent. This would obviate the need for individual authorisation by a User in each case.

Respondents' views

Transco received eight responses to this modification proposal. Five respondents indicated support for the modification, with some suggesting that it would provide a backstop measure against the failure of the usual Review of Gas Metering Arrangements (RGMA) processes,

thereby lessening the risk of assets being stranded, or utilized without any contractual arrangement being in place.

One respondent suggested that if the MAM always has the means to identify the supplier to a site it should reduce the number of instances where the MAM is unable to identify the new supplier and therefore has to send Connection and Disconnection The Gas Meters (Information of Connection and Disconnection) Regulations 1996 notifications direct to Transco. The respondent considered that this would allow the MAM to send the information via the supplier using standard RGMA file formats, which will help maintain industry data quality.

The two respondents who offered qualified support for this proposal were both concerned that the information may be inappropriately released or otherwise misused. They emphasised the need for practical safeguards against the disclosure of supplier information to inappropriate parties and protection against misuse of the system. These concerns were also echoed by some of the respondents who supported the proposal.

One respondent, offering qualified support, considered it imperative that the required information is available to the incoming suppliers MAM, rather than the outgoing suppliers MAM, as set out in the proposal.

One respondent was opposed to the proposal. They took the view that Network Code modification 487¹ already provides, on change of supplier, for the outgoing supplier to be provided with details of the incoming supplier, which will allow them to pass on this information onto their MAM. They also considered that the RGMA business processes and dataflows should be sufficiently robust to ensure that such information is only provided to the appropriate industry participant.

Transco's view

Transco proposed this modification and supports its implementation.

In response to the concerns about inappropriate access to, or use of, information Transco has confirmed that the release of information would be via its Request for Information (RFI) bureau, which will operate a registration scheme for MAMs and the issuance of passwords. Transco states that it will have the ability to monitor the information requests and could revoke access where it suspected that the information was being used inappropriately.

Whilst this proposal seeks to resolve problems faced by the outgoing suppliers MAM, Transco considers that the proposal, as drafted, would permit disclosure of supplier information to both the incumbent and any new MAM.

In relation to the point raised on modification 487, Transco's response was that the process had not yet been implemented and that a key driver for the proposal was the pre-RGMA metering separation problems that were being encountered.

Ofgem's view

RGMA was initiated in August 2000 in order to address the remaining non-price barriers that were considered to be inhibiting the development of competition in gas metering services. Key amongst these was the integrated nature of Transco's monopoly transportation and metering businesses. Business processes and data flows were developed under the RGMA (as specified

in the RGMA Baseline) in order to underpin competition in metering and the separation of Transco's transportation and metering business arms.

This modification proposal, which was raised prior to the implementation of RGMA, seeks to address the situation where an incumbent MAM is not informed of the incoming supplier ID by the outgoing supplier. As noted by one respondent, modification 487, which was implemented concurrent with RGMA, now provides for the outgoing supplier to be provided with details of the incoming supplier upon transfer of the customer. Ofgem considers that the onward transmission of this data to the outgoing supplier's MAM is, if required, more appropriately a matter for the contract between them, rather than the Network Code to which neither is a party.

Ofgem agrees with the respondent who stated that information disclosure should be with respect to agent of the incoming supplier, rather than of the outgoing supplier. This accords with certain principles which were established as part of the Improving Customer Transfers (ICT)² project; in particular, that the incoming supplier should have control over managing the transfer process. Moreover, as set out above, in the case of a domestic consumer the incoming supplier is obligated by its licence (SC34) to make arrangements for the provision of a meter. Whilst this modification may facilitate an alternative means of initial contact being made, it does not in itself ensure that the incoming supplier carries out appropriate arrangements for the ongoing provision of the meter, for instance by entering into a contract with the MAM. For avoidance of doubt, Ofgem would not consider the SC34 obligation to be discharged simply by a supplier freeloading use of an in situ meter with no arrangements having been made with the incumbent MAM for its continued use, or transfer.

Ofgem recognises that this modification proposal may, if implemented, have certain benefits insofar as it would provide a back-up means of identifying the incoming supplier if existing channels, such as those already provided by network code modification 487, have failed. Given that the SC34 obligations mentioned above do not apply to the I&C market, it is also recognised that greater emphasis must be placed on commercial incentives for a meter to remain in situ, and these incentives are particularly acute to the provider of that meter.

To the extent that a supplier (or its agent) may fail to contact the incumbent MAM, this should be the exception, rather than an acceptable alternative to the standard procedures. As such Ofgem welcomes Transco's statement that it will undertake monitoring and reporting of the use of this facility. Ofgem can also be expected to take an interest in these reports. Ofgem therefore considers that whilst this facility will (hopefully) be applied in a minimal number of instances, it can be expected to facilitate the orderly transfer of, and therefore be of benefit to, consumers who may otherwise be greatly inconvenienced.

Ofgem's decision

For the reasons outlined above, Ofgem has decided to direct the implementation of this modification, as we believe that it will better facilitate the achievement of the relevant objectives of Transco's Network Code, as outlined under Amended Standard Condition 9 of its GT licence. In particular, the facility outlined above may facilitate the securing of effective competition between suppliers.

If you have any queries in relation to the issues raised in this letter, please contact Jenny Boothe on 020 7901 7122 (jenny.boothe@ofgem.gov.uk).

Yours sincerely

Iain Osborne
Director, Consumer Markets

¹ Modification proposal 487 approved by Ofgem on 13 June 2002, but associated systems changes were not implemented until 12 July 2004, concurrent with RGMA.

² Improving Customer Transfers, The Way Forward, Ofgem, June 2001