

UNC Workgroup 0410A

Responsibility for gas off-taken at Unregistered Sites following New Network Connections

Action 0011: 0410A

- a) Provide/publish the relevant section of the draft SPAA CoP; and
- b) Read the SPAA Theft of Gas Code of Practice document before the next meeting and assess whether a sufficient degree of assurance in respect of disconnections exists

Update: National Grid Distribution (NGD) have provided the relevant extracts set out below.

It will be observed that, consistent with NGD's view there is no absolute obligation for SPAA parties to cut off gas supply. It will be for each party to make this decision, mindful of the guidance set out in the CoP.

NGD fully concur with the advisory approach reflected within the CoP.

With respect to the relevant business rule for UNC Mod 0410A under consideration, NGD have chosen to seek to revise this as follows:

Existing:

Business rule 12

Where a consumer fails to obtain a supply contract and the Transporter believes it is not appropriate, for reasons such as consumer vulnerability to take steps to curtail the offtake of gas, in accordance with (11) the Transporter will act in accordance with the SPAA Theft of Gas Codes of Practice, section 4.8.

Replacement

Where a consumer fails to obtain a supply contract the Transporter will in normal circumstances seek to disconnect the supply of gas to the consumer. This will be subject to consideration being given to any applicable legislation, regulation or code of practice that requires the Transporter to do otherwise.

Regards,

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5. Conduct of Investigations

BEST PRACTICE

The key principles are that Parties' and their Agents should:

- have sufficient evidence to prove (on the balance of probabilities) that a Relevant Offence has been committed before exercising any statutory powers to Cut-Off or Disconnect;
- have sufficient evidence to prove (on the balance of probabilities) that the Consumer committed a Relevant Offence intentionally or by culpable negligence. Further guidance can be found in Appendix 2, section 8.8.
- have evidence which satisfies each of the elements of the Relevant Offence in question;
- exercise their discretion and avoid Cutting-Off or Disconnecting a premises where there is insufficient evidence to suggest that the Relevant Offence was committed by the current occupier (or owner). The commission of a Relevant Offence by the current owner/occupier of the premises is currently an explicit pre-condition for the exercise of powers to Disconnect and Cut-Off under the relevant provisions of the Gas Act 1986
- ensure that their terms and conditions (and all other documentation) properly reflect the statutory powers and do not (implicitly or expressly) provide for wider powers;
- ensure that they do not mislead Consumers about the scope of statutory powers to Disconnect and Cut-Off (e.g. Suppliers should not imply that they have the power to Cut-Off a premises on safety grounds where these powers do not exist; rather it should be made clear that such powers may be exercised by Transporters); and
- inform Consumers following a Cut-Off or Disconnection of who to contact in order to find out how to get the supply reinstated.

8. Treatment of Vulnerable Customers

OBLIGATION

Parties must undertake reasonable endeavours to safeguard the personal welfare of Vulnerable Customers in respect of the activities set out in the CoP.

Where theft is identified, Parties must make all reasonable efforts to retain supply for a Vulnerable Customer

It may not be reasonable to retain supply where there is a Serious Safety Concern and/or the customer is a repeat offender and all reasonable efforts to prevent continued offending have been undertaken.

When on site, Parties and their agents must take steps to ascertain whether any person in the household is a Vulnerable Customer. Where Vulnerability has been identified and Theft of Gas is confirmed, Parties must ensure that appropriate measures are taken, including consideration of whether to Cut-Off or Disconnect supply and recover charges.

BEST PRACTICE

Where there are repeated confirmed Theft of Gas incidents, Consumers should be Cut-Off or Disconnected for their own safety and that of their near neighbours.

A Transporter should seek to obtain information from any relevant Supplier on the Vulnerability status of any Consumer subject to an investigation.

For clarity, when Parties are assessing the financial insecurity of a Consumer to determine whether they are Vulnerable, they may include in their assessment the reasonable access of that Consumer to funds, including from other members of the Consumer's household.

If a Consumer account is flagged as being on the Priority Services Register (PSR), or where Vulnerability has been previously identified, this should be notified, taking into consideration data protection requirements, to the Party and its agents, so that appropriate actions are taken to meet the reasonable requirements of Vulnerable Customers.

REFERENCE

Under the ERA Safety Net, some Suppliers have pledged to:

- Make attempts to contact all customers following a Cut-Off, with the aim to agree a re-payment plan with the customer;
- Re-establish any Consumer who is subsequently found to be a Vulnerable Customer after Cut-Off as a priority, and usually within 24 hours after confirming that the Consumer is a Vulnerable Customer.
- Work, where appropriate, with advice agencies, support services and charities to offer Vulnerable Customers the most suitable support to help with their energy consumption and debt management.

1. Parties' licence conditions oblige them to have regard to the interests of individuals who are disabled, chronically sick, of pensionable age or on low incomes. This includes establishing and maintaining a Priority Services Register, free of charge in order to fulfil these obligations. In addition to this, most Suppliers record information on Vulnerability on Consumer accounts.

In particular, see:

- Gas Transporter Licence SLC17 (Provision of services for specific domestic customer groups);
- Gas Transporter Licence DN Standard Special Licence Condition D13 (Provision of services for specific domestic customer groups); and
- Gas Supply Licence SLC26 (Services for specific Domestic Customers)

Other than where the matter has been remedied, there are regulatory requirements that need to be taken into account before a decision on whether or not to Cut-Off or Disconnect a Vulnerable Customer is taken.

In particular, see:

- Gas Supply Licence SLC27 (Payments, Security Deposits and Disconnections).

Suppliers will need to work in accordance with the provisions of standard condition 27 of the Supply Licence. In particular, a supplier must not Cut-Off a domestic customer where that customer has not paid charges for gas supplied unless it has first offered to recover those charges via the range of payment methods specified in that standard licence condition. A supplier must not Cut-Off a domestic customer during the winter months that has not paid charges for the supply of gas where the customer is of pensionable age and lives alone or only with others who are of pensionable age or below the age of 18. In addition, a supplier must take all reasonable steps not to Cut-Off a domestic customer during the winter months that has not paid charges for the supply of gas where that customer is of pensionable age, disabled or chronically sick.

2. Theft of Gas confirmed

Obligation

Where Theft of Gas is confirmed, Parties must seek to identify the perpetrator, and any beneficiary, of the offence. For the avoidance of doubt, this may or may not be the same individual or body.

Where Theft of Gas is confirmed, appropriate steps must be undertaken to stop the Theft of Gas continuing.

BEST PRACTICE

Where Theft of Gas has been confirmed, appropriate steps undertaken to remedy the situation may include:

- Cut-Off or Disconnection;
- Exchange of meter;
- Assessment of unrecorded units;
- Assess the ability of Consumers to pay;
- Apply charges to be billed as appropriate;
- Prosecution; and
- Request a security deposit against future supply when a prepayment meter has not been fitted.

Where the meter installation has been physically tampered with and rectification work is necessary, this should be undertaken as soon as reasonable practicable. It may be necessary to temporarily Cut-Off supply pending the completion of remedial works.

5.6 Cut-Off or Disconnection of Supply for reasons of Theft of Gas

BEST PRACTICE

Parties and their agents should not Cut-Off or Disconnect a premises where to do so would Cut-Off or Disconnect other premises that are not associated with the Theft of Gas incident unless there is a serious safety concern.

Where Parties Cut-Off or Disconnect, they should be clear and record on what authority they are exercising their powers.

REFERENCE

Parties have powers to Cut-off or Disconnect Consumers that are likely to be relevant in circumstances where Theft of Gas is confirmed. In some instances, Parties' powers to Cut-Off or Disconnect arise when a specific offence has been committed. In other instances, no specific offence is required.

For the avoidance of doubt, this CoP does not seek to grant additional rights to signatories. In certain circumstances, it may seek to restrict or clarify Parties' rights.

For the avoidance of doubt, Parties may have additional statutory powers to Disconnect or Cut-Off that are not set out in Appendix 2, for example in relation to unpaid charges for gas supply.

Whilst the statutory powers set out in Appendix 2 may be available to Parties in circumstances where safety issues arise (i.e. when there is sufficient evidence to satisfy the relevant conditions for exercising one or more specific powers for example, prevented the gas meter from duly registering the quantity of gas supplied), unlike Transporters, Suppliers do not have broad statutory powers to Cut-Off a premises on the basis of general safety concerns.

In particular, Suppliers do not have any statutory powers to Cut-Off or Disconnect on safety grounds under the provisions of the Gas Safety (Rights of Entry) Regulations 1996.

Ultimately it will be a matter for a Party to decide what action may legally be taken in the event of safety concerns. Where a Party Disconnects or Cuts-Off a premises it must ensure that it has a clear legal basis for do so (and therefore must satisfy all the relevant conditions which apply to the use of powers to Disconnect or Cut-Off the supply).

10. Re-visits

BEST PRACTICE

There are a number of different reasons why a re-visit may be undertaken. These include:

- High risk Consumer e.g. where there has been previous history of suspected or confirmed Theft of Gas, or where a Consumer has not made contact or responded to attempts to make contact within a reasonable period of time. This will be at Parties' discretion, as information may be held which indicates that a re-visit is not needed. Where the supply at a property has been Cut-Off or Disconnected and not Re-established or Reconnected during the same visit or subsequently, Parties may conduct a return visit to establish if the premises has been illegally Re-connected and Re-established.
- Where a premises has been Cut-Off or Disconnected and a potential Vulnerable Customer is subsequently identified. In this case, the re-visit should take place within 24 hours of the identification to assess whether under section 4.8 the Consumer should remain Cut-Off or Disconnected. Where access cannot be obtained then follow-up action should take place e.g. contact by phone, written information left at the premises or a further visit at a different time of day. Where Vulnerability has subsequently been identified, appropriate care agencies or social services contact details should be provided to the Consumer.