

January 2002

Gas Quality Testing and Monitoring Services

Gas Meter Testing Services

Electricity Meter Testing Services

Ofgem Proposals to Modify Legislation

Response to Consultation Paper

Executive Summary

This document responds to all comments received following the publication of 'Gas Quality Testing and Monitoring Services, Gas Meter Testing Services and Electricity Meter Testing Services - Ofgem Proposals to Modify Legislation' – A Consultation Paper', in October 2001.

The purpose of the consultation paper was to consult with industry over proposals to modify legislation in order to maximise the potential to outsource testing operations, currently undertaken by Ofgem staff, and improve some technical aspects of testing.

Ten responses were received. No group wished their response to remain confidential. Many points related to the future arrangements, rather than the fundamental legislative changes.

As a general observation it should be noted that no overriding or fundamental objection to the proposals were received, with general support for investigating outsourcing evident in a number of responses.

Ofgem has concluded that the modifications to legislation should move ahead in line with the original timetable, with enactment of Section A proposals due in early Spring 2002. Prompted by responses to the consultation, Ofgem has considered further the requirements related to Electricity Meter Examiner appointments. Following an extensive consultative legal exercise, Ofgem has modified the approach to Electricity Meter Examiner appointments and now considers that appointments can be made from the private sector as well as from the civil service.

This change of approach now negates the requirement to modify regulations in order to extend the scope of 'paragraph 5' meter examiners. Additionally, the opportunity to outsource the electricity meter determination function is immediately created without the requirement to change the Electricity Act 1989.

Issues raised regarding possible future arrangements will be considered as part of the contract with a new service provider. Ofgem will also ensure that the regulatory model will be unaffected if outsourcing is unsuccessful and Ofgem continues to maintain the services in house.

Additionally, Ofgem will address issues related to in-service regimes, method of certification and the approach to meter disputes, in full consultation with interested parties.

Ofgem will communicate the result of outsourcing, as and when information becomes available. A decision is planned for Spring 2002.

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1. Introduction

Purpose of this document

- 1.1 In October 2001 Ofgem published the consultation document 'Gas Quality Testing and Monitoring Services, Gas Meter Testing Services and Electricity Meter Testing Services - Ofgem Proposals to Modify Legislation - A Consultation Paper'. This document presented proposals to modify legislation to maximise the potential to outsource testing operations, currently undertaken by Ofgem staff at their Leicester laboratories and at various field locations within the UK. Additionally, a number of technical proposals were made to modify the process of electricity meter certification and to reduce the prescriptive nature of regulations related to electricity metering.
- 1.2 This document presents the responses received to the consultation document in a 'Question and Answer' format. In total, ten responses were received from a range of organisations. No group wished their response to remain confidential. A list of respondents is shown in Appendix 1 and the responses themselves can be viewed on the Ofgem website at:
- 1.3 Any queries related to this document should be made in writing, preferably by email, to:

http://www.ofgem.gov.uk/responses2001/responses_quality_2001.htm.

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Background

- 1.4 The gas quality testing and electricity and gas meter statutory functions are described by sections 12, 13, 16 and 17 of the Gas Act and by Schedule 7 of the Electricity Act. Supporting regulations underpin the primary legislation and describe the requirements and mechanisms to which those activities relate.

- 1.5 Ofgem currently operates laboratories in Leicester to deal with the statutory obligations. Following an internal review of the services provided, it has been decided to investigate outsourcing the testing services currently undertaken by Ofgem employees at the laboratories and at various field locations within the UK. The project was described in Ofgem's 2001/2002 Plan and Budget.
- 1.6 The overall objective of the outsourcing project is to determine whether external providers can add greater value and, if so, implement new arrangements.
- 1.7 Specific aims are to establish new arrangements that will:
- ◆ Ensure cost-effectiveness in the provision of statutory testing services;
 - ◆ Facilitate a more comprehensive and responsive service to industry; and
 - ◆ Assist the provision of a wider range of services to Ofgem.

Structure of this Document

- 1.8 In addition to the proposed regulatory impact, many of the responses requested clarification of the outsourcing process and future arrangements following a contract to outsource the testing activities. This document endeavours to address this aspect as well as the formal responses regarding Ofgem's proposals to modify legislation.
- 1.9 The document format will duplicate that of the consultation paper:
- Section A** - contains legislative changes to be made at the earliest opportunity and planned to be made within three months. These are therefore the minimum changes required to enable outsourcing.
- Section B** - contains legislative changes to be made in the medium term, that are anticipated to take between six and twelve months to achieve. The longer timescale recognises the need to notify the European Commission (EC).
- Section C** - contains one change to primary legislation. This change would potentially take the most time to achieve, (at least twelve months).

2. Response to Proposals

- 2.1 The responses related to the proposed legislative changes required to facilitate the outsourcing of services, currently provided by Ofgem's Leicester laboratory, are outlined below. An Ofgem response/answer follows each question.

Section A

Proposal - Electricity Metering - UK Type Approval

- 2.2 Is there a subtle difference between an examiner procuring tests and Ofgem doing so by virtue of 'allowing' (i.e. procuring) a nominated laboratory to undertake them on its behalf?

Ofgem Response - Presently Ofgem meter examiners may procure tests, However, they cannot allow a third party to claim payment on their behalf. Therefore to simplify the financial transactional process, the charges for meter approval tests will be governed by a direct contract between the service provider and manufacturer. Ofgem, in its contract with the service provider, will lay down charging levels that the service provider can apply for the length of the contract. The initial charge will only be raised by inflation on each anniversary of the contract.

- 2.3 It is not clear whether all the detailed design documentation on hardware and software that is submitted for meter approvals and is commercially extremely confidential would be accessible to the Notified Body for specific purposes, or whether it would only be used by Ofgem staff?

Ofgem Response - The outsourced laboratory will have access to all information required to allow all necessary tests to proceed. Confidentiality issues for the service provider and its employees will be addressed in the contractual arrangements. It is envisaged that Ofgem will retain all approval documentation following testing and evaluation.

- 2.4 Does Ofgem currently approve the 'manner of installation' of electricity meters?

Ofgem Response - Ofgem ensures that the appropriate meter connections for test and installation are in place and correctly marked upon electricity meters when submitted for type approval or certification. The onus is upon the meter owner to ensure that the meter is then correctly installed into premises.

Electricity Meter Examiners will check the meter installation as part of an electricity meter determination.

- 2.5 There are currently some (very weak) requirements as to 'manner of installation' The Measuring Instruments Directive (MID) states that an instrument shall be "installed....according to the manufacturer's instruction." [Annex 1, 5]. Is there potential for confusion?

Ofgem Response - *Ofgem cannot, as yet, predict the final version of MID. Currently, approved manner of installation does form part of an electricity meter determination. This will continue to be the case.*

- 2.6 It is not understood why repairers would be seeking electricity meter type approval, unless they were using a repair method that was not 'approved' and thereby invalidated the original approval. This is unlikely given the future scenario of a 'one trip' static meter and changes under discussion regarding setting of certification periods.

Ofgem Response - *Ofgem needs to ensure that any potential future issue is addressed at this stage. As opposed to 'type' approval, manufacturers may wish to modify a meter, undergoing repair, away from the originally approved pattern. An examiner could not legally certify this meter, as the original approval would not be valid.*

- 2.7 There is no mention of approval for modifications to approved meters. Can consideration be given to the level of modification required before re-approval works are required?

Ofgem Response - *Any deviation from the original pattern approval requires Ofgem consideration. As now, the level of input will be dependent upon the modification and its likely impact. Ofgem will remain the approval body until MID. Ofgem does not envisage any change from current procedures on this aspect. Minor modifications, whereby, Electricity Meter Examiners currently recommend limited production modifications, will continue as before, the only change being that an examiner employed by the service provider will advise Ofgem of the details.*

- 2.8 Will approval of meters be recommended by "nominated laboratory" to Ofgem?

Ofgem Response - *A report will be submitted by the service provider to Ofgem. Ofgem will decide whether approval is awarded on appraisal of the test results, documentation and any other related factors. Ofgem will remain the UK*

approval authority until MID enactment. No delegation of this responsibility to a new service provider or its employees can occur.

- 2.9 Approval tests – some concern was raised with regard to approvals granted by European labs and their conformance to related International Electrotechnical Commission (IEC) standards.

***Ofgem Response** - Any EC pattern approval issued by the appropriate member state body can be submitted for verification in the UK. Ofgem assumes that all testing requirements are met. However, we note that many European laboratories report in less detail than Ofgem.*

Proposal - Electricity Meter Certification

- 2.10 Concerned at signals in the paper about increasing costs and would hope that this does not prove to be an exercise to mask a significant increase overall in certification costs.

***Ofgem Response** - Ofgem seeks to provide services to industry as cost effectively as possible. The outsourcing exercise will indicate whether Ofgem will continue to provide the services or whether others can provide an improved service at a more advantageous rate.*

- 2.11 (a) Presumably Schedule 7 paragraph 4 (2) makes current examiners civil servants because they are paid out of money provided by Parliament!

- 2.12 (b) It is probably an anachronism to require Electricity Meter Examiners to be civil servants. Provided the standards which Ofgem Electricity Meter Examiners have to meet are upheld for any other persons appointed, there would seem to be no reason why employees of an outsourced laboratory should not be Electricity Meter Examiners (as opposed to Schedule 5 examiners). In the longer term, the MID expects a Notified Body and its staff to be competent to carry out its duties.

***Ofgem Response** –The initial Ofgem view was that Electricity Meter Examiner appointments must be within the civil service. To date, it has been Ofgem's practice to employ appointed meter examiners. Ofgem's interpretation of the relevant statutory provisions has been analysed and tested through an extensive legal consultative exercise. The consistent output from this course of action indicated that Ofgem's initial standpoint should be modified. Ofgem has subsequently considered and decided to modify the approach to Electricity Meter Examiner appointment. Ofgem now considers that existing legislation*

does not require Electricity Meter Examiner appointees to be employed as civil servants. Future appointments will be made of impartial and competent persons from the service provider or Ofgem. The proposed change in legislation intended to allow the scope of independent paragraph 5 examiners to undertake parallel duties to Ofgem Electricity Meter Examiners is consequently not required.

- 2.13 Who would be responsible for manufacturer testing equipment calibration used for certification/stamping?

Ofgem Response - *The new service provider will continue to offer an equipment calibration service. Initially the onus would either be upon the manufacturer to satisfy requirements by submitting evidence of conformance to Ofgem or contracting the new service provider to undertake the calibration on its behalf. In either case, Ofgem would make its decision based on the information submitted.*

- 2.14 Could authorised manufacturer examiners be permitted to certify EC meters?

Ofgem Response - *Current EC legislation does not permit manufacturer self certification. It is anticipated that MID will resolve this point.*

- 2.15 It is noted that the laboratory may take over Ofgem's role in authorising Meter Test Stations to self-certify repaired meters (the MID will not apply here)

Ofgem Response - *Repaired meters are currently outside the scope of MID, such that an ongoing Ofgem requirement will exist post MID enactment. The laboratory will audit manufacturers and repairers and subsequently report to Ofgem its findings related to all authorisations and consents.*

- 2.16 Will the charges for self certification be based on services provided, services available and/or services required/requested?

Ofgem Response - *In line with the requirements of MID, it is intended that charges will be related to the provision of resource, rather than numbers of meters certified. Ofgem anticipates that the charging structure will be based upon an hourly charge.*

- 2.17 Request that the document be clarified that authorised examiners will not be able to work outside the customs and practices currently followed.

Ofgem Response - *Ofgem seeks a seamless transition from current to new arrangements. Over time different approaches may occur, however, these will be in consideration of technological developments and changes to international standards or legislation.*

- 2.18 Request clarification as to the method of assessment of the competence of authorised examiners?

***Ofgem Response** -: If a contract is awarded to a new service provider, Ofgem envisages that all examiners currently employed by Ofgem will be appointed in the roles they currently undertake but under the employ of a new service provider. New appointments will be made in line with requirements laid down in ISO17025 with regard to personnel undertaking testing duties. Areas such as training, experience and qualifications are all specified areas. Authorised examiners, employed by manufacturers, will also retain their authorisation at transition to new arrangements.*

- 2.19 Suggestion that the word "inadequate", related to the performance of a self-certifying manufacturer/repairer be quantified in some way, to ensure fair treatment.

***Ofgem Response** -: Conditions in either the authorisation, for electricity metering, or consents, for gas metering, lay down the standards that need to be maintained to allow continuation of stamping or certification operations. Where these conditions are not being met describes inadequate performance.*

Proposal - EC Verification

- 2.20 Is it worth amending legislation connected with current EC Directives as these will fall on adoption of the MID?

***Ofgem Response** - Ofgem needs to make these amendments immediately to maximise the scope of outsourcing.*

- 2.21 These provisions apply only to electromechanical meters. No UK manufacturer is likely to make use of them and, besides, the underlying EC Directive 76/891/EEC will fall when the MID is adopted

***Ofgem Response** -: This is currently the case, however, Ofgem needs to ensure that any potential future issue is addressed at this stage.*

Proposal - Gas Examining and Testing

- 2.22 Assurance sought that Ofgem will secure adequate protection in the event that the actions or omissions of a third party Gas Examiner, appointed by Ofgem, result in Transco becoming liable to make compensation payments or suffering other loss.

Ofgem Response – This will be a point for consideration in any contractual arrangements if a new service provider is appointed.

General Concerns and Clarification

- 2.23 Ofgem is to test outsourcing of its testing services whilst retaining the rights and the facilities to carry out testing itself. It is presumed that this is not sustainable into the longer term future, as certain bodies do not believe that the MID permits any party to be both a Member State and Notified Body.

Ofgem Response - In the event that no new service provider is contracted, Ofgem needs to retain rights to facilities to carry out testing and related duties itself. Regulatory provision for fees and charges is required to ensure that, if such an event occurs, Ofgem can continue to claim fees in respect of the duties it undertakes.

Ofgem seeks to provide an outsourcing model compatible with the current draft MID.

- 2.24 In service testing – confirmation sought that there is no intent to impose more onerous testing standards through this exercise.

Ofgem Response - There is no intent to impose more onerous testing standards. However, Ofgem will ensure that statutory responsibilities are maintained in line with all related developments. In – service testing is one such area that Ofgem will be considering in a separate forum to this project.

- 2.25 Potential inefficiencies due to the new link between the nominated laboratory and Ofgem.

Ofgem Response - Ofgem recognises the perceived additional link, under new arrangements, between the laboratory and Ofgem headquarters. In practice this link is currently present whereby, approval testing operations are undertaken by different staff to those who verify data and submit for formal approval. The only obvious difference being that presently, all involved staff are located in Leicester. Ofgem's objective, with effective use of information technology and efficiency gains, is an overall improvement in service response. Ofgem will subsequently publish standards of service for the headquarters part of the operation.

- 2.26 Governance, and disputes - there appears to be no "independent" body foreseen to consider how to deal with the initial set-up and ongoing changes (e.g.. modification or interpretation of guidelines) that may be needed or proposed;

also no independent way of resolving disputes concerning the Notified Body. Satisfactory governance arrangements, including both interested parties and independents, need to be established.

Ofgem Response - *Ofgem intends to implement a complaints procedure as part of the contractual arrangement. It is envisaged that Ofgem will arbitrate and make decisions regarding disputes based on evidence supplied.*

- 2.27 Accreditation – lack of accreditation is an issue – approvals granted without UKAS accreditation are providing great commercial problems.

Ofgem Response - *Accreditation to ISO 17025 will be a contractual requirement on the service provider. It is envisaged that this would be achieved for all testing services within one year of contract commencement.*

- 2.28 Reservations over Ofgem's ability to remain remote from the operation of an independent facility and therefore keep its own costs to a minimum.

Ofgem Response - *Ofgem shares this concern. Every effort is being made to avoid duplication and to minimise costs –value for money is Ofgem's goal. Ofgem seeks to provide a contractual environment where roles and responsibilities are fully understood from the outset. Large increases in customer driven activity, such as meter approval submissions, could cause an increase in resource requirement, within Ofgem, with a consequent fee necessarily being levied.*

- 2.29 Level of services available and their effectiveness needs to be considered to ensure cost efficiency

Ofgem Response - *The tender evaluation and subsequent contractual arrangements will be developed to address this aspect.*

- 2.30 Appropriate contractual mechanisms must be in place to remedy any potential failing by the successful contractor.

Ofgem Response - *Contractual arrangements will be developed to address this aspect.*

- 2.31 Ofgem must retain sufficient expertise to allow it to effectively manage the new arrangements.

Ofgem Response – *Members of Ofgem's technical team in Millbank have appropriate competence and expertise in all areas related to the statutory services. This team will enable Ofgem to discharge its statutory duties.*

2.32 It is essential that Ofgem provides early visibility of any proposals to change meter in-service regimes and that effective consultation arrangements are established that involve suppliers as well as metering businesses.

***Ofgem Response** - A separate forum will consider changes to in – service testing regimes. Ofgem will endeavour to involve and consult with all affected groups.*

2.33 a) The prospect of increased costs and an increase in Ofgem staff numbers is inconsistent with an aim to 'ensure cost effectiveness in the provision of services'. They believe strongly that there should be some form of price control on the costs.

2.34 b) At present the pricing structure for electricity meters is contained in SI1566, is this way of charging likely to change?

***Ofgem Response** - Testing fees and charges have not been reviewed for over three years. Analysis indicates that approval income does not meet costs, and some adjustment is necessary. If the services are outsourced, Ofgem will firstly ensure that the charging rate will be lower than itself would charge, and that those charges would be controlled for the length of the contract, only allowing increases in line with RPI.*

Charging regimes for a new service provider will not be contained in Regulations. Charges for services undertaken by Ofgem meter examiners, if required, will remain within Regulations for electricity metering, whilst gas quality and gas metering charges will be agreed with HM Treasury.

2.35 It is important to bear in mind that such benefits as increasing the value of the testing laboratories have to be balanced against potential increases in costs to the end consumer. Outsourcing of these services to a "nominated" laboratory will lead to increases in bureaucracy and cost for users of the services and cannot envisage how an outside service provider will add greater value

***Ofgem Response** - If successful outsourcing occurs then costs to the end consumer should be lower than the costs of the current operation, through lower charging, whilst providing added value to the testing operations. Failure to provide this will result in the laboratory services being maintained within Ofgem. As stated in the consultation document, current charges are not in line with costs, and some rebalancing is necessary.*

- 2.36 Comments are made against the background of the imminent enactment of a Measuring Instruments Directive (MID), expected to be ratified and transposed into UK law by July 2002.
- Ofgem Response - MID implementation will not occur with this timescale. It is difficult to predict the enactment date, however, many issues still await resolution. Consequently further adjustment of MID timescales is likely.*
- 2.37 Will the new regulations be made available for comment?
- Ofgem Response – Following full consultation on the principles for legislative changes to be incorporated into the new regulations, further consultation on the draft regulations is not considered necessary.*
- 2.38 Does the proposal allow for the appointment of either non Civil Servants or Civil Servants?
- Ofgem Response - Yes*
- 2.39 In the event of no contract award will the 'other' proposed legislative/regulatory changes still apply?
- Ofgem Response - Ofgem will continue to undertake the services as now if no contract is awarded. The changes will allow further outsourcing initiatives to be explored, as necessary, in the future.*
- 2.40 Assurance sought that selection criteria used to appoint a new service provider and examiners would ensure that competent persons are engaged and that those persons would at all times act in an impartial manner in carrying out their duties.
- Ofgem Response - Ofgem, by statute, is the only body that appoints competent and impartial persons to undertake the role of meter examiner and Gas Examiner. Appropriate qualifications will be required ahead of any appointment. Ofgem will also continue to authorise persons entitled to certify (self certification), and will issue gas metering consents and manufacturer authorisations to certify. The service provider will undertake assessments of manufacturers. Reports will be submitted to Ofgem from which the suitability of applicants will be assessed and subsequent decisions made.*
- The new service provider will have to provide, to Ofgem's satisfaction, systems, procedures and plans with regard to addressing potential conflicts of interest and impartiality issues.*
- 2.41 Concerns that metering companies who win the tender will ratchet up the technical specifications, thus increasing costs without any recognition of customers willingness to pay, and hence urge that the framework addresses this

concern. Furthermore it is important that there are sufficient safeguards put in place for new entrants, to ensure their impartiality as an external service provider

Ofgem Response - *Ofgem will maintain technical specifications. All modifications will be made in parallel with international standards and in consultation with industry. Impartiality and conflict of interest provisions will be contractual requirements.*

- 2.42 It is not clear that potential new players will come forward to take up the provision of these services when the commitment to the test project is uncertain. Further uncertainty is created by the potential impact of the EC Measuring Instruments Directive, which has not been fully explored in the paper. Where there is significant uncertainty, given the size of investment needed to meet the requirements of the service provision, potential new entrants may be deterred from bidding.

Ofgem Response - *Achieving best value , whether the service is out or in sourced is a key requirement. Private bids will be compared against the current operation, with the most economically advantageous bid gaining the contract. Potential service providers will be aware of the opportunities and threats emanating out of MID.*

- 2.43 The MID provides that it is the manufacturer who chooses the Nominated Body to which he demonstrates compliance. Is Ofgem proposing that their market test would involve more than one service provider, i.e. to have more than one party provide its outsourced functions? If not and in the longer term, manufacturers may decide to exercise their choice by demonstrating conformity to a non-UK Nominated Body.

Ofgem Response - *One service provider will be appointed to take on all of the testing services currently provided at the Leicester laboratory. All testing services will be transferred to the new provider and maintained for the period of the contract. Peripheral activities not currently undertaken by the laboratory may continue to be provided, under the authority of Ofgem, by other laboratories. Meter manufacturers will retain the choice, where products are covered by EC standards, to seek approval at alternative European nominated laboratories. MID will result in the competitive provision of metrology services. Other organisations may seek nominated status.*

- 2.44 MID provides that the manufacturer chooses their route to conformity, which may impact upon the level of input required by an outsourced laboratory.
Ofgem Response - MID will fundamentally change the approach to legal metrology. The current draft remains fluid in many respects and obvious difficulty exists when attempting to anticipate the impact of the final version.
- 2.45 MID requires Member States to perform market surveillance to ensure that only compliant products are placed on the market and put into use [Article 14].
Would Ofgem take on this role as a 'competent authority'?
Ofgem Response - The decision has yet to be made.
- 2.46 'Statutory testing services' do not just involve Ofgem – Other parties do statutory tests.
Ofgem Response - The document relates to functions that are the responsibility of Ofgem.
- 2.47 What are the 'wider range of services' to be provided?
Ofgem Response – The new service provider should be able to offer an increased range of services, although conflict of interest provisions will be a contractual consideration in any future arrangement. Statutory constraints prevent Ofgem offering such services.
- 2.48 To propose 'a more comprehensive and responsive service to industry' suggests that there are shortcomings with the present service!
Ofgem Response – Statutory constraints prevent the improvements that could be envisaged under the management of a more commercially aware service provider.
- 2.49 Presumably the Schedule 7 Paragraph 2 (1) Electricity Act 1989 clause stating that 'no meter shall be used to ascertain a quantity of electricity supplied unless it is of an approved pattern or construction and installed in an approved manner' will eventually need to say something like "unless it complies with [the relevant provisions of the MID as transcribed into UK law]."
Ofgem Response - UK Regulations will need to be transcribed into UK primary legislation, to allow MID implementation.
- 2.50 Whilst the word 'contract' is understood in the immediate context of a laboratory doing work on behalf of Ofgem, it is worrying when that laboratory becomes a Notified Body (especially in view of the eventual right of a manufacturer to choose which Notified Body he submits his product to). What

will be the financial relationship (if any) between Ofgem and the Nominated Body?

Ofgem Response - *Ofgem does not envisage any financial relationship with a service provider for MID related activities. The contract will cover other statutory testing activities that are presently outside the scope of MID.*

- 2.51 There are strict rules in the MID for nominated bodies about funding [Article 3]. The body must be free from all financial inducements (Clause 2) and its remuneration must not depend on the number of inspections carried out (Clause 6). Has consideration been given to how Notified Bodies will meet these requirements?

Ofgem Response - *Ofgem has considered this aspect in the terms and conditions of any future contract with a new service provider.*

- 2.52 Clarification on the framework that the nominated laboratory will use to determine frequency of visits.

Ofgem Response - *Frequency of visit will be based upon such factors as the quality and rates of production. Ofgem are aware of the possibility of over testing or auditing in order to increase income. Contractual arrangements will be put in place to prevent any potential abuse.*

- 2.53 Future legislation needs to address the test and continued production aspects of both gas and electricity meters in a tight but fair manner.

Ofgem Response – *This point is unarguable. Ofgem will continue to fulfil its statutory responsibilities to ensure a fair and impartial approach is maintained.*

- 2.54 The provision of accurate measuring instruments, which continues to provide the same, can only be assessed by in-house or by periodic audits of manufacturers own facilities, and, not by simply accepting UKAS accreditation as a way of facility compliance.

Ofgem Response - *Ofgem believes that ISO 17025 accreditation is only one aspect of the total service that we expect to be in place in order to provide service compliance. Ofgem, via the new service provider, will continue to ensure compliance through regular audits at the sites of all manufacturers submitting meters for stamp/certification. Ofgem will reserve the right to conduct their own audits of either manufacturers or of the service provider.*

Section B

Electricity Meter Certification – Modification to Certification Process

- 2.55 Medium term proposals (section B) need more consideration of how traceability of certification will be maintained, and what certification (and approval) will mean when the MID is transcribed into UK law.

Ofgem Response - Changes to the certification process will be made in consultation with all relevant bodies.

Electricity Meter Approvals/ Certification – Guidelines

- 2.56 Presumably any testing guidelines will eventually need to reflect Annex B of the MID?

Ofgem Response - Guidelines will be developed in parallel to all MID requirements.

- 2.57 Guidelines offered to manufacturers are treated as such. Past experience has shown that guidelines are not necessarily adhered to or are interpreted in such a way as to be of benefit to the manufacturer.

Ofgem Response - Ofgem intends to dispense with some of the prescriptive format of both electricity approval and certification regulations and replace with guidelines. These will apply to both new and repaired submissions. This will provide greater flexibility when confronted with technological and regulatory changes.

Guidelines are not mandatory and a degree of subjectivity may exist. Ofgem will ensure that the overall standard is maintained with guidelines providing the route to achieving this end.

- 2.58 The MID has no requirements in processes (Annexes F and D) equivalent to UK Certification for 'stamping' meter seals. These actually require 'technical documentation' and a 'declaration of conformity' (which is akin to a certificate) to be kept for 10 years! They are also about affixing the CE mark, supplementary metrology marks and the identification number of the Notified Body which approved it. Far from "dispensing with the prescriptive format of current regulations", some care will be needed in the interpretation of the MID to ensure that things do not go backwards.

Ofgem Response - Once again, Ofgem will endeavour to develop a modified certification process in consideration of future MID requirements.

Section C

Electricity Meter Determinations

- 2.59 The initial proposal was made to modify primary legislation in order to allow the potential outsource of electricity meter determination work. As stated earlier in this document, Ofgem now considers that Electricity Meter Examiner appointments can be made from the private sector as well as from the civil service, thus allowing immediately the potential to pursue outsourcing. As such the requirement for a change in the Electricity Act 1989 does now not exist, however, it is appropriate to comment on the output from the consultation process. Points raised are found below.
- 2.60 Electricity meter determination proposals may need to take account that this function has powers which may not be appropriate to outsource.
Ofgem Response - Ofgem does not propose to water down any aspect of statutory responsibility.
- 2.61 It will be critical to ensure that impartiality is seen to be maintained and that any company carrying out this task should have no relationship with parties to the dispute. It should also be clarified as to whether this will still be a determination by the Authority even though the actual work is carried out by a non-civil servant
Ofgem Response - Ofgem, by statute, can only appoint competent and impartial persons to undertake the role of Gas and Electricity Meter Examiners and Gas Examiners with evidence required prior to appointment. Additionally, as part of the contract, any new service provider will have to provide, to Ofgem's satisfaction, systems, procedures and plans with regard to addressing potential conflicts of interest and impartiality issues.
The Determination will be provided by the examiner, irrespective of whom he/she is employed by.
- 2.62 One aspect the proposed changes of legislation has not addressed is the difference in the legislation concerning paying for the costs of a meter accuracy dispute for a gas or electricity meter. Within the Electricity regime, Ofgem may with the agreement of the DTI may make regulations as to who pays for the meter test. So far no regulations have been made. Therefore electricity meter examinations are free. With the onset of market testing of these meter testing

services, and with the general aim to harmonise electricity and gas regulation this difference has not been addressed in the consultation paper.

***Ofgem Response** - Parliament decided that Regulations to allow charges for electricity meter determinations should not be made. In contrast, gas meter disputes have a subsidised examination fee that is levied on the meter owner, in the case where accuracy is found to be erroneous, or on the disputant where the meter is found to be accurate.*

The two processes bear little resemblance in practice, mainly due to current electricity metering legislation developing totally independently to that for gas. The differences between the two types of measuring instrument and the energy type measured also necessitate different approaches to the disputed examination.

Ofgem recognises the disparity of approach and will seek to address this issue in a separate forum.

Appendix 1 – List of Respondents

Responses to the October 2001 'Gas Quality Testing and Monitoring Services, Gas Meter Testing Services and Electricity Meter Testing Services - Ofgem Proposals to Modify Legislation' – A Consultation Paper'

1	Transco
2	EA Metering Forum
3	GPU
4	Innogy
5	Invensys
6	Schlumberger
7	Siemens
8	TUV
9	Utilise
10	BEMCA