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To: MRA Parties
MRASCo (c/o Gemserv)

Our Ref: LEG/INF/ELE/184a
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11 September 2003

Dear Sir/Madam,

Notice of BGT and npower Appeals against MRA Forum decision regarding DTC CP 3204, MRA CP 0125 and MAP CP 0011

On 14 August 2003 the Director of Supply and the Head of Market Infrastructure received an appeal from npower and British Gas Trading respectively, in accordance with Clause 7.26 of the Master Registration Agreement (MRA). Their appeals were in respect of a decision taken at the MRA Forum on 17 July 2003 that DTC CP 3204 (Creation of 3 new DTC flows to support MAP 15 and to automate return of mis-directed PPM payments), MRA CP 125 (Provide MRA Clauses in support of proposed MAP for PPM) and MAP CP 0011 (Creation Of New MRA Agreed Procedure 15 for handling of mis-directed prepayment meter payments) could proceed.

Clause 7.26 of the MRA provides for any MRA party to appeal a MRA Forum decision, within 10 working days of receiving the minutes of the relevant MRA Forum meeting. The MRA party may raise an appeal where the party reasonably believes that a resolution passed by the MRA Forum will or is likely to unfairly prejudice the interests of that party, or will cause the party to be in breach of the MRA, its licence or the Electricity Act.

Npower and British Gas Trading lodged their appeals within the period specified in Clause 7.26 and copies are attached for information, see Attachments 1 and 2.

This letter is to inform you of the procedure that Ofgem will generally follow in appeals against MRA Forum decisions.

Procedure for Determining a Dispute

The procedure Ofgem, on behalf of the Authority, will adopt in determining the appeals is based on 'Ofgem's Procedures for Determining Disputes Affecting Customers', is attached for information, see Attachment 3. Iain Osborne, Director of Supply, is the appointed decision-maker. I am acting as case-officer. In summary, the procedure will be:

- 1) Any addressee of this notice who wishes to make a written representation in relation to the appeals may do so.
- 2) All such representations must be sent to me, as the case officer, **no later than 2 October 2003**. If any party wishes to give confidential information, it should provide notice before doing so and explain why it is confidential. The non-confidential representations will be published on the Ofgem website and they can be found by either selecting Electricity Infrastructure from the drop down window or by using the following link:

<http://www.ofgem.gov.uk/ofgem/work/index.jsp?section=electricityinfrastructure>
- 3) Any written comments by an addressee on the representations made by others must be sent to me, **no later than 9 October 2003**.
- 4) While it is Ofgem's intention that the exchange of information leading to determinations should be largely written, any party may present its case in person to the decision-maker. Any such hearing will only take place after the written process has been completed.
- 5) The case officer will be responsible for setting time limits at all stages of the process and will exercise discretion as to the admissibility of late submissions.
- 6) The decision-maker will make his decision on the basis of the statement prepared by the case officer, the written submissions of each party and any hearings. This decision and the reasons for it will be recorded on the above webpage and copies will be provided to all.

If you wish to comment on any of the points raised in this letter then please contact me on Catherine.Monaghan@ofgem.gov.uk or 020 7901 7176.

Yours sincerely,



Catherine Monaghan (Case Officer)
Market Infrastructure
Supply Directorate

Ofgem's Procedure for Determining Disputes

Introduction

- 1 There are circumstances in which a dispute between an electricity supplier or distributor or a gas supplier or transporter and a consumer may be referred to the gas and Electricity Markets Authority for determination. These may arise under statute (particularly the Gas Act 1986 and the Electricity Act 1989) or the provisions of licences or industry agreements.
- 2 This memorandum outlines the procedures that Ofgem will generally follow in such cases¹. These procedures are in addition to any procedural requirements set out in the relevant Acts, licences or agreements.

Start of the Process

- 3 Where a matter is referred to Ofgem that may lead to a determination, Ofgem will first consider if the matter is one which Ofgem may determine. Once Ofgem has decided that this is a matter in respect of which it is capable of making a determination, Ofgem start the procedure by explaining to all the parties the procedures that it proposes to follow. It is expected that this will usually be done by providing a copy of this note, together with any additional guidance which may be relevant to the particular type of dispute.
- 4 At the same time Ofgem will ensure that all the parties know the identity of the Ofgem official who will:
 - ◆ Be responsible for the conduct of the procedures (the 'case officer'), and
 - ◆ Make the final decision

These will never be the same people. If at any stage during the process the identity of either official changes for any reason, Ofgem will inform all the parties as soon as is practical.

During the Process

- 5 It is Ofgem's intention that each party should have full opportunity to put their cases and that the case put by each party should be fully exposed in writing to all other parties, subject to appropriate safeguards in respect of commercially confidential information.
- 6 If any party wishes to provide confidential information, it should notify the case officer before doing so and explain why it is confidential. The case officer may require a non-confidential summary to be provided to the other party. In reaching its

¹ These procedures do not apply where the disputes relate to a licence contravention and may lead to enforcement action.

decision, Ofgem will consider the weight which it is appropriate to give to information on which any other party has not had an opportunity to comment.

- 7 Ofgem will invite each party in turn to provide to it a written submission setting out the relevant facts and reasons supporting that party's position. Ofgem may provide a guide as to be information which a party will need to provide to enable the matter to be decided. At the start of the process, the case officer will set a date by which written submissions must be received by Ofgem. The length of the period allowed for preparation of submissions will depend on a number of factors including the complexity of the matter and the extent to which the documentation already exists. Ofgem would not normally expect this period to exceed four weeks.
- 9 Ofgem will normally expect to copy its correspondence to one party to the other parties and for each party to copy any letter it writes to Ofgem to the other parties to the dispute. Ofgem may itself raise questions to the parties on matters arising from the responses received.
- 10 In the light of submissions and comments, the case officer will draw up a statement of the main facts of the case and each party's arguments. The parties will have an opportunity to comment on the summary of the main facts and Ofgem's summary of their own evidence. This is not intended to provide an opportunity to restart any dispute of facts or raise new arguments.

Oral Hearings

- 11 While it is Ofgem's intention that the exchange of information leading to determinations should be largely written, any party to a matter to be the subject of a determination can, at its request, present its case in person to the decision maker. It is expected that any such hearing will normally take place only after the written process has been completed. Both parties will normally attend such meetings but, in appropriate cases, it may be directed that only one party may attend, for example for the purpose of putting confidential information before Ofgem. When both parties are present, it is not envisaged that the hearing should be formal and it will not be normal for there to be cross examination, although each party will be permitted to comment in brief on the other's representations. When only one party is present, Ofgem will disclose any new information which it receives at the hearing but which is not in fact confidential to the other party for comment.
- 12 The case officer will be responsible for setting time limits at all stages of the process. In connection disputes, the case officer will specify the proposed timetable in his initial letter to the parties. He may, in exceptional circumstances, extend time limits that he has set. He has complete discretion as to the admissibility of submissions received late. It is therefore important that all parties provide information in a timely and accurate manner in support of their case.

The Decision

- 13 The decision-maker will make his decision on the basis of the statement prepared by the case officer, the written submission of each party and any hearings which have

been held. This decision and the reasons for it will be recorded in writing and the case officer will provide a copy to each party.

- 14 During the course of the process the decision-maker may obtain advice from Ofgem staff, including guidance from the Ofgem management committee. The fact that he has done so, and the advice given will not generally be made public, but if any material new points are raised, the parties will be invited to comment on them.

Public Register

- 15 Ofgem is required to place on the public register maintained by it under the relevant Act a copy of certain types of decision and it is its normal practice to make all other decisions available to the public on request. The name and address of the customer will normally be omitted from the published version of the decision. If any party to a decision wishes any matter to be excluded from the publication, it should make representations to the case officer within fourteen days of the issue of the decision. After which it may be placed on the register or otherwise made publicly available in the form in which it was issued to the parties.