

Nick Simpson
Director of Modifications
9 Millbank
London
SW1P 3GE

Chris Train
Director Blackwater

Direct tel +44 (0)1926 655667

2 April 2004

Dear Nick,

Gas Retail Governance – Final Proposals

Transco supports Ofgem's drive to develop regulatory and commercial regimes that facilitate retail competition and promote strong and effective industry governance. We also support Ofgem's objective of securing effective governance of the RGMA baseline under SPAA.

Achieving Full participation

Within the document, Ofgem invites views on its proposal 'not to ask I&C Suppliers to accept a Licence Condition mandating accession to the SPAA'. We have previously expressed the view that in order to maintain effective governance of the process, both I&C and Domestic suppliers should be treated equally in respect of their Licence obligations.

Whilst supportive of Ofgem's desire to formulate a single gas retail code to provide the market disciplines for data transfer in areas such as RGMA, we would be concerned at the prospect of disaggregation of the governance arrangements. Where suppliers are not party to SPAA arrangements for facilitating and codifying gas retail governance, this may give rise to retail sectors operating under disparate governance arrangements, creating conflict in commercial interests leading to unstable operational and contractual arrangements.

GT Licence Condition

Whilst considering SPAA to be primarily a retail framework, we recognise the benefit of involvement of all Gas Transporters and therefore support an appropriate GT Licence modification.

We believe that the valuable work undertaken during 2003 within the SPAA / GT workgroup needs to be concluded so that inter-code processes that will support effective change between GT Network Code(s) and SPAA, can be finalized. We are therefore willing to chair future workgroup meetings to ensure completion of the work needed to arrive at an agreed GT constitution and inter-code operating framework.

We suggest that the proposed GT Licence modification in its present form needs some further development in providing clarity of the GT role in SPAA, recognising Network Code as the primary GT governance framework. We consider that the role of the GT should be focused on supporting the development and implementation of SPAA, facilitating future arrangements in the creation of a SPA supplier hub and ensuring effective processes are in place to underpin inter-code

co-ordination. We would therefore welcome the opportunity to discuss the proposed Licence modification with Ofgem ahead of the intended consultation under section 23 of the Gas Act.

Attached to this response is an appendix covering the issues we consider arise from the final proposals document and may need to be addressed by the industry. We remain committed to working with Ofgem and all other parties in the development of the GT aspects of SPAA and will continue to support the process going forward.

Yours sincerely,

Chris Train

National Grid Company plc
Registered Office: 1-3 Strand, London WC2N 5EH
Registered in England and Wales, No 2366977

Transco plc
Registered Office: 1-3 Strand, London WC2N 5EH
Registered in England and Wales, No 2006000

Appendix 1 – Issues requiring consideration

In reviewing the final proposals, we consider the following points require consideration to ensure effective market governance and that co-ordination of change is not at risk from inter code differences and conflict arising from differing market sector requirements.

- I&C Suppliers, who are not party to the SPAA, may continue to look to Shippers to raise Network Code modifications to provide the necessary change to meet their market development requirements.
- The existing differences in market categorisation of Supply points (AQ in Network Code and 'Wholly or mainly used for domestic purposes' under Supplier licence) may complicate the process of change particularly where I&C Suppliers direct change at Network Code.
- It is not clear from the Ofgem proposals how I&C suppliers will be required to comply with the RGMA baseline and whether changes introduced under SPAA for Domestic would also apply to I&C.
- Where I&C Suppliers do not hold a Licence Condition to be party to SPAA, but instead elect to join, Ofgem may have limited or no enforcement rights over failure to comply with mandatory schedules.
- There are currently no provisions to enable exit by I&C Suppliers from the SPAA should a Supplier later decide not to continue to be a party. It was recognised at the Ofgem meeting (22/3) that this would need consideration, however this could also lead to a Supplier leaving the SPAA where a change was accepted that they didn't wish to be bound by.
- Although the constitution as drafted provides for I&C mandatory schedules, it is not clear how these would operate where not all I&C Suppliers are party to the agreement.
- If market differentiation in the RGMA baseline is allowed this may cause additional cost on Meter Operators and GT in complying with the requirements.
- The ability to remove metering arrangements from NGT Network Code may be hindered where I&C Suppliers are not bound by the RGMA provision.
- Future arrangements to support the migration of SPA activities to SPAA governance may be at risk where all I&C suppliers are not party to the arrangements resulting in I&C SPA processes remaining in Network Code.