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Dear Nick

Gas Retail Governance – Final Proposals

I refer to Ofgem's March document setting out Ofgem's conclusions in respect of the introduction of a supply point administration agreement (SPAA).

Shell Gas Direct (SGD) welcomes Ofgem's proposal to not ask industrial and commercial (I&C) suppliers to accept a licence condition mandating accession to SPAA. We consider this to be a pragmatic way forward. We consider that the main purpose of SPAA is to provide governance to processes related to the domestic market, in relation to RGMA and potentially the codification of DCOP and other domestic agreements.

Ofgem also seeks views on how full participation of I&C suppliers can be achieved without mandatory accession. SGD would consider signing to SPAA if the benefits of doing so outweigh the risks. At present, this is not the case. It is likely that there will be benefits to having an agreed governance process for amending multi-party processes, ie the RGMA baseline, when metering liberalisation is introduced. However, while we note Ofgem's comments about the voting structure but remain concerned that there is the potential for *active* I&C-only suppliers to be out-voted by those with domestic licences. Furthermore, Ofgem's insistence on the involvement of energywatch raises issues of reputational risk and uncertainty not found in normal commercial agreements where only affected parties are able to propose change.

Our most significant concerns involve Ofgem's decision to have transporters sign up to SPAA and its preference to have some aspects of the Network Code migrate to SPAA. As we set out in our response to Ofgem's June 2003 document, we consider that migrating aspects of the Network Code into SPAA needs to be subject of a separate consultation process, consideration of the impacts, etc. Given the extensive work programme to restructure the gas industry (ie through RGMA and the DN sale work) over the coming year, we do not understand why Ofgem considers this to be a priority at this stage. Indeed, we remain to be convinced that it is necessary.

In the RIA, Ofgem states that doing nothing has been discounted as "it would do nothing to address existing problems with gas retail governance". We know of no evidence that there are existing problems in respect of gas retail governance in relation to the I&C market. We have learned through the Customer Transfer Programme that transfer problems are a greater issue in the electricity market. We cannot see how replicating the electricity arrangements can do anything except to cause problems in

the gas market to increase. The only area of concern that we have with the current governance of the Network Code (and therefore of supply point administration (SPA)) is with some aspects of its governance. For this reason, we have supported Total's proposal (M679) to bring the Modification Rules into the Network Code.

Migrating SPA processes into SPAA would appear to be "solving" a problem which remains undefined and many of the benefits claimed in the RIA are at best are unproven. Other benefits set out in the RIA are specific to the domestic market and remains unclear whether there are benefits for I&C suppliers nor for our customers. As set out in our previous response, we consider that ICOP is working well and therefore this does not apply to this market segment.

We recommend that Ofgem looks at this again after the current major restructuring of the gas market is complete. This discussion should remain a separate project from the DN Sale project. Any discussion of moving aspects of SPA out of the Network Code must cover: which sections will migrate; how the governance arrangements will work together; Gas Act implications (ie only shippers can contract with a transporter so any aspects that move to SPAA cannot relate to transportation charges); licence modifications required (GTs, shippers and suppliers); how processes in the Code will work with those in SPAA especially for DM sites where changes can result in site visits and capital investment (eg changes to SOQ; interruptible to firm); the impact if major change to the interruption regime is also introduced etc. A full, separate RIA should be completed at this time which makes clear what will be improved through this governance change. Ofgem may also wish to consider whether transfer processes for domestic and I&C consumers should be separated so that changes to one regime can be made without affecting the other. The current conflict between the definition of domestic consumer as in suppliers' licences and smaller supply point definition used by Transco in the Network Code may need to be reviewed.

The proposed wording of the licence condition indicates that Ofgem's motivation for having GTs in from the start is predicated on the assumption that supply point administration will move into SPAA eventually. SGD therefore does not support this proposal. We assume it is due to Ofgem's views on moving SPA into SPAA although it also appears that it is now being claimed that SPAA can help resolve problems with iGTs. The document only outlines this option for going forward. It may be that common interfaces can be introduced, eg through the Agency proposed by Transco as part of the DN Sale project. However, this may not be the best approach and it could be that the current governance arrangements (Network Codes) could equally be utilised.

As discussed at the seminar, while it appears possible to voluntarily sign up to the SPAA, the current provisions do not appear to provide a way of exiting from the agreement. Resolving this would go some way to mitigate the concerns we have set out above.

SGD welcomes Ofgem's proposal to not propose licence obligations on I&C suppliers to sign up to the SPAA. This is a practical way forward. While we can see that there may be benefits in signing up to SPAA, at present for I&C suppliers the risks appear to outweigh any benefits.

Yours sincerely

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