

## TOTAL GAS & POWER LIMITED

Nick Simpson  
Director, Modifications  
Office of Gas and Electricity Markets  
9 Millbank  
London  
SW1P 3GE

2<sup>nd</sup> April 2004

Dear Nick,

Re: **SPAA Gas Retail Governance– Response to Ofgem Final Proposals, March 2004**

Total Gas & Power Limited (T G & P) welcome the opportunity to make comment on the above Consultation. We are appreciative of the developments that have occurred as a result of the significant discussion on the topic of Retail Governance since the last consultation was raised in June 2003. We believe the proposals are now more reflective of the gas industry within the UK. We are concerned however with the length of time that it has taken to date to progress the proposals, particularly as T G & P believe that the final proposals still do not address all the issues that exist in connection with the SPAA Gas Retail Governance concept.

We have not commented in detail on every aspect of the proposals, recognising that by removing the licence obligation for I&C Suppliers to join SPAA, much of the detail of SPAA lies with Domestic suppliers, and hence it is these suppliers that must agree, and be comfortable, with the arrangements. Neither have we commented on the changes to the wording of the Supply Point Administration Agreement although we do believe that there are some errors particularly with respect to cross-references within the document. The following comments relate to those areas that we believe still need to be addressed from the perspective of an I&C only supplier.

### **Procedure for voluntary termination of SPAA membership**

There does not appear to be a method for companies to voluntarily exit SPAA should their position change relating to the benefits of membership. As it is now being proposed that membership will not be a licence condition for all companies, it would be sensible to introduce a means for companies who have voluntarily elected to join, to be able to leave.

### **Appeals**

T G & P welcome the extension of the existing provisions for appeals to include class actions. In previous responses, we have expressed concerns regarding the potential for the voting and constituency constructs to allow companies who consider themselves to be primarily domestic influencing decisions in the I&C section based on the requirements of domestic businesses. With this in mind, a further improvement for SPAA would be to allow potential I&C Supplier members on the Executive Committee to be proposed by suppliers who hold only an I&C supply licence(s).



## **Licensing of Suppliers**

T G & P welcome the decision taken by Ofgem that it does not intend to ask I&C Suppliers to accept a licence condition mandating accession to SPAA. We also note the comments made regarding the importance of the RGMA baseline and the resulting incentive on I&C suppliers to accede on a voluntary basis. Whilst I&C suppliers will individually decide whether or not it is commercially sensible to join SPAA, we believe there are strong arguments for them to join so that they can participate in the discussion of changes to areas that it is in their interest to keep consistent across both the Domestic and I&C sectors.

## **The Industrial and Commercial Code of Practice (ICoP)**

T G & P welcome the decision to remove the ICoP from the Schedule 5 list of topics to be pursued as a priority by the SPAA Executive Committee. Once SPAA is well established this decision should be reviewed to check whether SPAA then provides a better environment and support for the ICoP.

## **GT involvement in SPAA**

We have no fixed opinion on the timing for GT involvement in SPAA. However we recognise that there are significant benefits to be gained from developing standardisation across all GT's for both Metering and Supply Point administration. The agent concept is being discussed as part of the DN sale and regardless of whether or not one or more DN's are sold, NGT have stated that they will establish an Agency. This seems the ideal area to initially concentrate effort to develop and offer standardised procedures for NGT's retained DN's, independent DN's and iGT's. From our perspective it would appear that the problems of fragmentation arising from iGT's are of far greater importance than issues related to the governance of retail aspects of the SPA procedures within NGT's Network Code. If the current NGT SPA processes could be offered to the iGT's and administered by the Agency, then this would appear to provide a first class development for the industry.

Once this stable platform has been achieved, it may then be opportune to look at whether SPAA could take over governance arrangements for SPA changes and, possibly the actual financial responsibility for running the SPA systems together with any development costs for such systems.

As regards the removal of the current SPA processes from NGT's Network Code, we remain to be convinced of the urgency behind this and therefore support Ofgem's proposal that this should be a second phase of development post-RGMA. Whilst we recognise the theoretical problems created by the lack of any direct incentive for NGT to make large changes to its SPA systems, as an active participant in the Network Code process, we are unaware of any proposed changes that have failed to be progressed as a result solely of this. We are also aware that there may be concerns that the industry is over paying for the SPA services provided by NGT although this should largely be addressed through the regulation of NGT. Further, the establishment of the Agency may be an opportunity to test whether or not the administration costs are reasonable.

Our overriding concern from the extensive discussions that have taken place to date is that there is still a lack of understanding of how the SPA processes have been developed and the importance of their interaction with other areas of the Network Code. Ofgem have themselves clearly outlined in paragraphs 5.40 through to 5.43, the crucial need for SPAA and the Network Code(s) to work together in tandem in order to ensure effective governance of the gas market. Until it is clearly demonstrated otherwise, we will continue to believe that the best way of addressing the potential problems detailed in these paragraphs, is to operate a single governance regime along the lines of that currently in use. We recognise that the governance processes themselves could be improved and the industry is currently attempting to address this. For example, a change may be to allow



Suppliers to raise Network Code modifications although we continue to struggle to see how this may not already be effected via a Supplier's relationship with their Shipper. We are also prepared to consider whether the role of NGT in the current governance process is correct or whether it needs to be reviewed.

We trust that the above comments will be properly considered in your future deliberation on the Gas Retail Governance proposal. Should you have any queries regarding any issues raised in our response, please do not hesitate to contact myself for further assistance.

Yours sincerely,

***(This message is sent electronically and is therefore not signed)***

**Steve Ladle**

**Head of Regulation**

Tel: +44 (0)20 7318 6814

Fax: +44 (0)20 7318 6717

E-mail: [steve.ladle@total.com](mailto:steve.ladle@total.com)

