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2006
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Dear Julian

Re. Modification Proposal UNC 122 – Modification Proposal

energywatch welcomes the opportunity to comment on Modification Proposal UNC 122. This response is non-confidential and we are happy for it to be made publicly available alongside other responses.

Energywatch wishes to express considerable concern that there is a substantial liability arising from the LDZ reconciliation process associated with what is now commonly referred to as the Farningham offtake metering error. As far as we understand, the error arose from incorrect calibration of an offtake meter over a period of time from 13 July 1999 up to 30 June 2005. There is now a demand for re-distribution of monies to cover the error which amounts to £25.6 million. Under the current reconciliation process rules, the total liability will be passed through to domestic consumers. This occurs at a time when these consumers are already subject to significant additional costs through recent price rises. For the most vulnerable of these consumers, this creates an unnecessary burden which arises from circumstances over which they had no control.

We are struck by the fact that some of those who may benefit from the re-distribution of monies arising from the error would have been happy, up to the point that the error was discovered and rectified, to accept the incorrect calibration of the meter and, therefore, effectively accepted previous erroneous meter readings as accurate. We believe that this is essentially a claim for monies arising from the failure to effectively apply meter validation procedures which, if they had been addressed appropriately at the relevant time, could have prevented the error occurring at all, or could have at least mitigated the impact of the error in a more timely manner. We are also concerned that some

of the affected shipper parties who will pay for the error may not have been offtaking gas from the relevant LDZ point over the full period of time which is the subject of the claim. This clearly adversely impacts their consumers who will be charged for gas which they never used.

It seems inherently unfair that a liability lies with parties who have had no direct control over the cause of the error. In particular, consumers appear to be paying a high price for failures of process and observation of basic validation procedures.

If, however, there is a legal basis for recovery of monies associated with the error, there needs to be a clear limit to the period of recovery on a retrospective basis. Firstly, this is because the recovery is retrospective and should only be undertaken on an exceptional basis in any case. Secondly, it would be quite possible for the party discovering the error to simply backbill for whatever periods it thought convenient, providing no incentive to rectify the error earlier and limit the liability.

The period of recovery goes beyond the existing price control period and potentially may have had some influence on the level at which price control allowances were set for the 2002-07 price control had it been discovered earlier. We would agree with the proposer of UNC 122 that it is sensible to take the view that the recovery period is limited to the beginning of the last price control period, as another arbitrary date could simply be chosen for convenience to some parties to limit a genuine liability. However, this is in the context of our comments above that market participants must operate effective procedures for meter validation and not raise unnecessary claims for retrospective reimbursement arising from their own failings.

We would be extremely perturbed if this particular claim is not isolated. We would then seriously question whether there is proper control being exercised over the calibration of LDZ offtake meters and whether those responsible effectively review the procedures involved to ensure that there is timely and effective operation of the relevant procedures. In those circumstances, windfall benefits should not sit with those who may have had a causal impact on the circumstances giving rise to the error.

From a consumer viewpoint, recovery of these monies is a direct financial benefit to those claiming it and will be of no benefit to consumers, as the shippers who pay will pass the costs to consumers. Is there a guarantee that the effective windfall payments to be made to those claiming them will similarly be shared with consumers through savings in the price controls? We do not believe that the re-distribution of monies involved in the reconciliation claim should simply remain with the claimants.

Extent to which implementation of the proposed modification would better facilitate the relevant objectives

We seriously question whether transporters need additional incentives to operate procedures such as timely and effective calibration of meters. We would certainly limit any amounts which they can claim if errors occur and are settled in their favour by a reconciliation process. Are transporters not under a licence obligation to operate an efficient and economic system and is the failure to calibrate meters in both a timely and procedurally correct manner not a clear breach of the obligation? We would query whether the error has just arisen as an honest mistake or whether there is an issue to be explored around licence obligations and their effective observance by licensees.

We believe that the failure to calibrate meters in a timely and effective manner can adversely impact security of supply. What if the error had not been discovered for a further number of years? While there are clear financial implications of such errors, there is a real concern that incorrect meter data may influence commercial decisions by market participants which create wider issues for security of supply. This underlines our view that accurate and timely billing is an essential requisite at all levels within the energy sector and for all types of consumer, not just the end consumer. It is the failure to produce accurate and timely bills which creates other qualitative issues within the industry.

We agree that the correct operation of procedures to calibrate meters should be undertaken by the relevant operators. We do not understand how this may involve significantly higher costs. It should be the aim of any business to produce an accurate bill for its customers at the end of the day, with or without particular incentives. It seems to us that the billing failures that affect so many end consumers are prevalent at all levels and that the industry must tighten its processes to improve matters.

We note that the proposer has now raised a review proposal, UNC 0126, which is intended to open a broader front in considering the issues arising from this modification proposal and UNC 117. We agree that these issues need full and fair consideration and would be happy to contribute to this process to provide a consumer viewpoint.

If you do wish to discuss our response further please do not hesitate to contact me on 0191 2212072.

Yours sincerely

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energywatch is the trading name of the Gas and Electricity Consumer Council