

23 November 2010

Mr [REDACTED]
Department of Energy and Climate Change,
Area 4C,
3 Whitehall Place,
London,
SW1A 2HD.

Our Ref: FW/DECC/1

Dear [REDACTED],

**Re: CONSULTATION ON PROVISION OF THIRD PARTY ACCESS TO LICENCE EXEMPT
ELECTRICITY AND GAS NETWORKS**

I am writing to you in response to your October 2010 consultation document, on the provision of third party access to licence exempt electricity and gas networks.

I would like to start my letter by providing you with a brief background to the reason for my response. I head up the Peel Electricity Services Ltd company and Utilities Services (MediaCity:UK) Ltd company, who are responsible for a number of licence exempt electricity and gas networks across the North of England. The electricity networks are connected to a Licensed Distribution Network Operator's system at the higher voltages and the gas networks are connected to a licensed Gas Distribution Network Operator's system at high pressure. These networks are situated on Peel developments only and provide supplies to a range of commercial and industrial customers.

Moving onto your consultation document, I provide a response below covering the key issues that I feel need addressing before you implement any third party access regime into the exempt energy sector. These issues raise a number of questions which have not yet been considered and demonstrate that the implementation of any new legislation must first be carefully considered by all relevant stakeholders. Failure to do so by DECC and OFGEM is unfair and unequal and does not represent due process.

Consultation Process

Based on the information I have seen over the past few months in terms of the call for evidence and now the consultation, both relating to the provision of third party access to licence exempt electricity and gas networks, there appears to be an extremely quick process afoot to implement what is such a radical change to the way my business operates on a day to day basis. Having not long ago worked in the licensed electricity market myself, a consultation of this type would take several months if not longer to conclude and include numerous workshops where key Stakeholders would be invited to attend inclusive of: energy exempt sector parties; licence suppliers; OFGEM and DECC representatives and other interested parties primarily from the UK energy sector.

A timescale for implementation is normally agreed between all parties involved in this process which takes into account the need for debate and agreed ways forward on key issues to enable a positive outcome for those parties having to embed the changes into their businesses. Indeed, when the competitive licensed supply market was formed implementation was carried out in three tranches: one in 1990 for the 1MW and over, one in 1994 for 100kW up to 1MW and in 1998 for the mass market. As I understand it from the consultation document, for proposed changes to the unlicensed sector, one workshop has so far been held on 26th October 2010, another is pencilled in for January 2011, with an implementation date of 3rd March 2011. This is clearly unacceptable and, as mentioned above, does not represent due process. The debate has so far been minimal, key stakeholders have not been consulted until a very late stage (almost as an afterthought) and there are many issues still to be considered and resolved. An implementation date of March 2011 is far too close for businesses

affected to make all the necessary changes to achieve compliance. Such consideration needs to be afforded to the impacts on businesses from the perspective of their original business models and set up criteria and future cost exposure and implications regarding administrative burdens and systems burdens – both of which have yet to be fully explored by DECC and OFGEM.

In this current economic climate, businesses such as the one I operate are run on the basis of ~~cost~~ keeping overheads to a minimum which aligns to the justification for the initial investment decision to open the company, and any cost increases due to unforeseen changes such as the one you are now advising of are not easily absorbed and could tip the scales in terms of the future viability of running such a business. The proposed changes should be aimed at facilitating competition; not squeezing out a business such as the one I run at the expense of larger competitors. *Citiworks* raised questions of competition of supply in the unlicensed sector.

Legislative and Administrative Burdens

The operational resources I currently have in place to cover technical, commercial and contractual activities to provide my existing licence exempt energy services are purposely kept to a minimum to ensure charges for supplying electricity and gas services are competitive with those which could be achieved from the licensed energy sector. This is to give customers connected to our electricity and gas networks good value for the supply they receive. The introduction of charging methodologies, change of supplier systems and processes, separate accounts, provision of switching data, reconciliation of energy charges and several other activities as covered in the 'Third Package' will undoubtedly force me to increase my current resources to cater for these needs, together with the need to introduce new systems and processes. These changes will all come at a significant cost, which will be over and above what I currently expend, and will be required to cover the basic arrangements to be in place should only one customer wish to switch to a licensed supplier. This, I feel, is wholly disproportionate based on the volumes of churn which could occur on these networks. My business overheads are therefore likely to increase significantly, which then will start to impact on the future viability of the business I am currently running.

Relationship/Contractual Burdens

My understanding of the third party access environment is that my business will need to facilitate and contractually agree new relationships which currently do not exist. My current relationships are: with one licensed Supplier for all my imported electricity and two licensed Shippers for all my imported gas; three Licensed Distribution Network Operators for my electricity connections and two licensed Gas Distribution Network Operators and last but by no means least I have relationships with my end customers. These relationships will not change going forward, unless my business loses its supply arm completely. As an existing licence exempt Supplier, I will be required to facilitate new relationships with potentially multiple licensed Suppliers through, I assume, a form of Change of Supplier process and as an existing and future licence exempt Distributor I will be required to facilitate relationships with potentially multiple licensed Suppliers through, I assume, a form of the Distribution Connection and Use of System Agreement. All these new relationships will need to be carefully managed to ensure I am in robust contractual and commercial positions with each party. This will require me to put in place a certain level of industry expertise within my business, as I certainly won't be able to hit the ground running without that, and as advised in my previous paragraph I will need to implement a number of system and process changes to enable the facilitation of this third party access regime.

Proposed Changes: Four Possible Market Scenarios

Whilst I welcome the flexible approaches/options you have provided in terms of the facilitation of third party access to my licence exempt electricity and gas networks, these four options demonstrate that more consideration needs to be undertaken before a method is applied to implement the changes. There are positive and negative aspects of each option, but there are also potential other methods which could be employed. All of the options detailed will result in significant financial and administrative burdens for my business, and no doubt for many other businesses affected by this consultation.

Commercial Agreement

This proposal appears to be the lesser administrative burden and potentially the easiest to implement, but is commercially unrealistic. The key problem with this option is that my business could be capped at agreeing a price with the licensed Supplier/Shipper which is similar to the purchase price for the upstream intake supply, to enable the licensed Supplier/Shipper to make a margin on their charge to the end customer. This would then impact on the ability of my businesses to recover our indirect costs and also significantly erode any margin as captured within my prices to end customers.

Deemed Metering

This proposal indicates that each customer will have an estimated meter reading and the aggregate of these estimated reads will be matched to the meter at the boundary position. To adopt this approach, you would almost certainly need a form of correction factor/reconciliation applied, as the boundary meter will not identically match the aggregate of the customers' supplies. This will create a level of inaccuracy as the typical difference between boundary take and customer take is down to distribution losses and to apply what may well be a one stop correction factor to all customers will not take account of the differences in their supply voltage and therefore applicable losses. The administrative and financial burdens of implementing this will be enormous.

Opt in/Opt out

The measurement and data collection of consumption associated with this approach would suggest the need to use Full Settlement Metering. This would clearly have significant cost and administration implications. I feel the use of Full Settlement Metering is the best course of action for licence exempt networks, as it will be a more accurate solution than 'Deemed Metering' and involves a system and set of processes being The Balancing and Settlement Code, which is tried and tested. The issue I would have with this approach is it has not been decided who would pick up the cost of this metering, however in the licensed energy sector it would be covered by the Supplier directly or the customer directly. My business currently adopts a policy of installing OFGEM accredited metering systems and automated meter reading devices polling 'real time' data, so is already proactive in providing accurate data for billing purposes and for effective energy management purposes for each customer.

Full Settlement Metering

My view on this approach is identical to that as stated for the 'Opt in/Opt out' one.

On-site Generation

The business I operate has an on-site generation station connected to a specific electricity network and our policy is to look at the feasibility of installing on-site generation on each future development containing a licence exempt network. This policy is to ensure we consider our contribution to achieving the Low Carbon Economy i.e. supplying local demand via local distributed generation. It is also part of the wider Peel Corporate Social Responsibility, i.e. the need for sustainable developments to be put in place and BREEAM Excellence to be achieved.

The third party access regime which you are now advising needs to be implemented takes no consideration of the fact that this generation provides a power flow onto the licence exempt network, and therefore all the electricity provided to the customer has not just come via the boundary supply but includes for an injection of on-site power. To provide this generation, significant capital investment has been outlaid by my business, together with payments for ongoing operational and fuel costs. To potentially lose the ability to supply end customers who are connected to an existing network that includes on-site generation negates the business investment decision which was made in the first place and also provides me with issues going forward in terms of recovery of my OPEX costs.

The consultation and proposed changes also clearly fails to consider the potential for end customers to request to install on-site generation themselves under the terms of the Third Package. This is just one of a number of examples of the consultation failing to address significant issues.

Existing Contractual Commitments

This area needs further detailed consideration before any changes can be implemented. I have a number of contracts currently in place with parties covering: supply, meter operation and data collector services.

The supply contracts tend to be for a minimum period of two years and also contain a volume variance clause as part of the T&C's which would be enacted should our measured consumption at the boundary position reduce due to loss of downstream supplier role. The introduction of a third party access regime would therefore contain serious financial penalties for my business as I currently purchase around 20GWh per annum, all of which could be supplied by other third parties.

The customers which are supplied on my licence exempt networks are provided with OFGEM approved Code of Practice metering systems with 'real time' data collection facilities. Contracts are in place with a Meter Operator Agent - United Utilities Metering and Data Collection Agent – IMServ for the provision of these services. These contracts run for several years apiece, and again are not terminable without paying compensation payments.

Network Matters

I have recently been informed by a colleague who attended your October workshop that representatives of DECC and OFGEM had advised that the licence exempt network electricity Distributor can refuse to connect new supplies for both demand and generation on the grounds of the technical capability of the existing system. I would ask for your confirmation of this point in writing as this could pose an issue for my networks in terms of delivering the needs of individual development sites long-term master plans, which these networks have been installed to facilitate ie Liverpool International Business Park which is estimated to fully develop out by 2015 and Robin Hood Airport Doncaster Sheffield which is estimated to fully develop out by 2025.

I feel I must also point out that the business I run already provides competitive prices to end customers for their electricity and gas supplies. As I competitively tender a bulk purchase supply at each intake position and I also drive out economies of scale via a large purchase (typically 10GWh) per network for electricity, I can pass on a competitive price to each end customer which aligns favourably with the lower prices in the licensed market.

The points I have raised above are the key areas which require further detailed consideration but these are by no means an exhaustive list.

The proposed changes are going to have a significant impact on my business – both financially and administratively. In order to implement the changes in my business to achieve compliance with the *Citiworks* case, the business will require a suitable and sufficient period of time to allow these *changes to be carried out without significant adverse effect on the viability of the business as a whole*. As detailed above, some of the proposed solutions are not commercially, administratively or financially viable and DECC / OFGEM therefore need to consult with all stakeholders to find a solution that is suitable for all.

I look forward to receiving an invite to attend all future workshops relating to this consultation and included on your circulation list for all correspondence, so I can proactively contribute to the debate and decision making process on this subject matter.

Yours sincerely,

The signature and name of the sender are redacted with black ink.