



ENERGY THEFT CODE OF PRACTICE  
UR SECOND CONSULTATION

SSE AIRTRICITY RESPONSE TO  
THE UTILITY REGULATOR

2017

## INTRODUCTION

SSE Airtricity welcomes the opportunity to further comment on the UR's second consultation on Energy Theft.

SSE Airtricity is the largest independent supplier operating in Ireland with almost 800,000 domestic and commercial customers on the Island of Ireland. We are committed to developing competition in Northern Ireland to presenting its customers with choice and quality customer services.

SSE Airtricity continues to support all initiatives that aim to address the issue of energy theft in an appropriate manner and we are pleased to see the Utility Regulator consult further on an issue that has very serious impacts on the NI energy market and its customers.

## GENERAL COMMENTS

While SSE Airtricity welcomes the opportunity to provide further comments on the Energy Theft Code of Practice we are disappointed to see that the UR is not taking a more active role in the development of the detailed industry procedures. We are concerned, that without the UR's direct involvement, progress on the development of the procedures may be slow and targets may not be met if issues have to be brought to the UR collectively as an industry group.

SSE Airtricity is part of the CCNI's Energy Theft Customer Awareness working group and we welcome the requirement on the gas and electricity industry to also develop consumer awareness education programmes as we believe these will majorly contribute to reducing energy theft incidents in Northern Ireland.

SSE Airtricity is concerned that currently there does not seem to be a deterrent for customers to prevent tampering especially in the electricity market. We hope that with the development of customer awareness campaigns and more reporting of interference crimes by the DNOs to the PSNI that customers will understand both the safety and criminal implications of interfering with meters, as well as the fact that the cost associated with tampering is passed on to other customers. However, we also believe there should be some disincentive to tampering with meters in the event someone has been the beneficiary of this activity.

## KEY POINTS

### UTILITY REGULATORS ROLE IN DEVELOPMENT AND APPROVAL OF INDUSTRY PROCEDURES

SSE Airtricity is disappointed to learn that the UR will not be directly involved in developing or approving the underlying energy theft industry procedures. The UR sits as an observer on the electricity Central Design Authority board which discusses, agrees, and develops changes to the retail market design and, as per the Market Registration Code, all Change Reports relating to the retail market design are submitted to the Utility Regulator for approval. Development of the energy theft detailed industry procedures should be treated no differently to that of other industry procedures. As such, they should come under the established electricity Central Design Authority procedures and be incorporated in to the Meter Registration Code or for gas should come under the Gas Market Opening Group. Indeed existing industry procedures, e.g. MP NI 12 - Meter Problems and Damage, Enquiries and Complaints, are likely to be impacted by the Energy Theft Code of Practice so it would be sensible for all changes to existing procedures or the development of new procedures to follow the same approval process while noting that it may not be appropriate for all procedures to be made public.

We're concerned that the gas and electricity markets may take a diverging view on a particular requirement and this this may only come to light at a very late stage or after the procedures are approved. It cannot be the responsibility of dual fuel suppliers to ensure that the gas and electricity markets are interpreting the Code of Practice requirements consistently. The Utility Regulator needs to consider how this will work.

Paragraph 1.13 of the draft Code of Practice notes that where the UR considers the industry procedures are not best practice arrangements or do not comply with the Code of Practice it may direct the DNO and suppliers to review and amend the procedures. We have a concern that the development of the industry procedures could be at an advanced stage or even finalised when the UR potentially considers them not best practice or non-compliant.

It is for this reason we believe the UR should be involved from an early stage in the development of the industry procedures to give direction and advice regarding what it considers best practice etc. We also believe the UR should provide examples from other jurisdictions of best practice at the outset so a clear understanding is possible of what is considered best practice based on evidence that exists elsewhere.

### TREATMENT OF COSTS

While SSE Airtricity agrees that the costs associated with Theft of Energy must be fair, transparent and as far as possible not exceed the actual costs incurred by the licensees, we are concerned at the requirement that all customers should be treated the same in relation to the minimum standards in the CoP for payment of bills or the rate of recovery of related debt. The practice of interfering with meters is illegal and also has safety implications. There needs to be some form of disincentive. Separately, in some instances there may be more than one form of illegal activity going on at a premises, it is unclear why this type of customer would be afforded the same rights as a customer who abides by the law.

The UR has set out in the consultation document that the costs that apply to customers who have stolen should be treated as a debt to suppliers and recovered through normal debt recovery arrangements. This does not align to Section 6 of the Electricity Order below.

#### *Supplies of Electricity Illegally Taken*

4.—(1) Where any person takes a supply of electricity which is in the course of being conveyed by an electricity distributor, the distributor shall be entitled to recover from that person the value of the electricity so taken.

(2) Where—

(a) any person at premises at which a connection has been restored in contravention of paragraph 5(1) takes a supply of electricity which has been conveyed to those premises by an electricity distributor; and

(b) the supply is taken otherwise than in pursuance of a contract made with the holder of a licence under Article 10(1)(c) or a supplier operating in pursuance of an exemption under Article 9, or of a contract deemed to have been made with an

electricity supplier by virtue of paragraph 3 or regulation 42 of the Electricity Regulations (Northern Ireland) 2007,

the distributor shall be entitled to recover from that person the value of the electricity so taken.

SSE Airtricity's understanding is that provision is made within the legislation for the electricity distributor to specifically recover monies owed due to theft. This is supported by the mechanism which allows the DNO to recover losses through its network charging regime. It is essential that the issue of unrecoverable theft related charges is addressed by the UR to ensure that suppliers are not held liable for unrecoverable theft related debt.

Suppliers act as an agent on behalf of the distributor to collect monies where they are identified in the same way as use of systems charges are collected. While we are happy to act on behalf of the distributor, we do not support a position where it is the supplier who is held responsible for theft related charges by NIE Networks and not the person who has illegally taken the electricity. To date we have seen no resolution to this issue. Where the DNO passes these charges to suppliers, their network losses are reduced even where the debt is unrecoverable. An issue with PPM meters has been identified in the electricity market which has led to an overwhelming level of theft occurring. An industry solution to the debt associated with these meters must be reached to ensure that the competitive market is not impacted by this issue. Ensuring the charges feed into DNO costs also allows the UR to incentivise the DNO with respect to its metering activity. We seek further clarification from the UR in relation to this matter.

## SPECIFIC COMMENTS

### VULNERABLE CUSTOMERS

SSE Airtricity welcomes clarification on the definition of vulnerable customers. SSE Airtricity already collects vulnerable customer information from customers and informs the relevant DNO. As per our Code of Practice on the Provision of Services for persons who are of Pensionable Age, Disabled or Chronically Sick we already provide many services to vulnerable customers and also remind customers annually of the existence of our Customer Care register.

While suppliers make the DNO aware of a customer's vulnerability there is no formal reciprocal process for DNOs to make suppliers aware where they discover a vulnerable customer or a customer notifies them of vulnerability. There is an informal arrangement in the gas markets where the DNOs do inform suppliers where they become aware of a customer's vulnerability however in the electricity market there is no arrangement and it is highly likely that vulnerable customer information held by suppliers does not align to vulnerable customer information held by NIE Networks. A reconciliation exercise is required to ensure DNO and supplier databases match to ensure all customers who had registered a vulnerability are fully captured and protected by the industry.

Formal processes must also be put in place in both markets for the DNOs to advise suppliers of a customer's vulnerability where the DNO becomes aware or is directly notified of a customer's vulnerability. In addition, if the situation arises where the DNO does not accept a vulnerable customer status from a supplier then the DNOs should provide clear explanation to the supplier as to why not.

In cases where the gas DNO proceeds to disconnecting a vulnerable customer we support the UR's decision that the DNO should provide an alternative source of heat. We also suggest that contact details for further advice and support services should be given at the point of the DNO visit.

Finally we note that the draft gas CoP makes no reference to gas Priority sites. The gas detailed industry procedures must address the potential scenario of tampering or interference at a gas Priority site. We also note also that there is no consistent definition of what qualifies as a gas Priority site across the gas

DNOs and we believe a consistent definition must be agreed before the industry procedures can be drawn up.

## REPORTING TO PSNI

It is essential that a clear, transparent and consistent approach is taken to investigating and reporting theft to the PSNI. As such, SSE Airtricity believes it is important a single entity retains responsibility for co-ordinating and investigating theft on behalf of each market. This will ensure all theft cases are treated in the same way. We believe that because the DNO is the asset owner and responsible for investigating and addressing theft that it is the DNO who must report the tampering or interference to the PSNI.

This is already the process in gas and works well. It is also the process as documented in the existing NIE Networks Revenue Protection Code of Practice. The DNO tests the meter, confirms the tampering, retains all physical evidence of tampering, and calculates the undercharge so it is the DNO who is best placed to report the interference and provide evidence to the PSNI. DNOs also have well-established and experienced RP teams unlike suppliers, especially smaller suppliers, who may not have a dedicated RP team. It is also likely that a site could be registered to multiple suppliers over the course of interference so it would not be clear whose role it would be to report to the PSNI if multiple suppliers were involved and suppliers were required to report it.

The PSNI already has an established relationship with the DNO and it is more appropriate for the PSNI to continue with their current arrangement rather than liaising with several suppliers' credit control/ billing/ customer service functions. It is unclear why a supplier would be responsible for reporting theft in relation to a DNOs asset to the PSNI. We suggest that the Code requires the DNOs to report all illegal interference cases to the PSNI in line with previous processes.

As described above, we believe there must be a deterrent to customers engaging in any illegal activity, however currently there is none. Without this, there will be no reduction in the number of cases of theft and meter interference will remain the norm. While there are a number of options to consider with regards to deterrents we believe that the risk of being taken to court is a more serious deterrent. This has been a successful strategy in other jurisdictions and we request the UR to address this issue in their decision.

## DISPUTE RESOLUTION

It is our view that the current complaints handling procedures do not adequately address complaints or disputes relating to energy theft given that the supplier may be entirely depending on the DNO to assist in resolving the dispute or complaint. Currently there is no service level agreement in place between suppliers and the DNO for query resolution and this is something that needs to be put in place to ensure compliance with this Code.

In addition it is our experience that where a customer questions the unrecorded consumption as calculated by NIE Networks, that NIE Networks will only discuss the matter with the customer's solicitor and will not engage with the customer directly. Given the customer is already facing a debt relating to the undercharge, we cannot understand why they have to go to the additional cost of engaging a solicitor in order to liaise with NIE Networks? In instances such as this we believe it is appropriate for NIE Networks to provide a direct contact for customers. In the absence of this, it may be impossible for a supplier to fully resolve a dispute within the 3 month timeframe. We believe an industry SLA for the DNO to respond to suppliers is required.

## PREVENTION OF ENERGY THEFT

Currently there is little to deter customers tampering with their meter especially in the electricity market. We welcome the requirements set out to prevent the theft of energy and believe there are a number of other options that should be considered and researched as part of the development of industry procedures. These options could include upfront payments, increased site visits and inspections, incentives on DNOs to reduce energy theft, disconnection, and criminal convictions. These are applied in other jurisdictions and are successful in both reducing the level of interference and making the general public aware of the consequences of tampering through the reporting of convictions in local media.

## ANALYSING ENERGY USAGE

The Code of Practice places an obligation on suppliers to routinely analyse energy usage to identify any potential instances of theft. Analysis of energy usage by suppliers will only identify potential theft or interference if it commences after the customers switches to the supplier. If the theft or



interference started before the customer switched supplier the new supplier will not have a full history of consumption to compare usage against. The DNO, on the other hand, has a full history of consumption at a site and has the demand forecasting tools to identify if a customer is potentially tampering with their meter or not. Additionally, the DNOs have access to comparable consumption information to identify if a customer is potentially interfering with their meter by comparing it to similar neighbourhood properties. Therefore, the obligation on analysing energy usage must also be placed on the DNO to ensure that a full analysis takes place using the data and tools already available to the DNO.

### IDENTIFICATION OF PERSON RESPONSIBLE

The draft Code of Practice places a requirement on licensees “to identify the person who either intentionally or by culpable negligence is responsible for the theft (referred to as the customer)”. SSE Airtricity does not believe this is an appropriate or fair requirement to place on suppliers. It is unclear how the UR would envisage this identification taking place. Unless the licensee is present when the theft actually takes place or the person admits to the offense there is no known avenue to establish who undertook the activity. We also believe this is beyond the remit of a supplier in particular with respect to the electricity market where suppliers have no reason to visit a premise. Some customers don’t engage with suppliers or DNO’s at all where theft is identified/ confirmed and access must be sought via the use of a warrant. SSE Airtricity requests that this requirement is removed.

In applying this requirement, SSE Airtricity believes the UR is increasing the opportunity for those who tamper with meters to challenge court cases. The UR is creating an unachievable obligation which can be referred to or relied on in court if a licensee cannot definitively attribute responsibility under the obligation. It is important that in developing requirements, the UR does not create a situation that would decrease the ability to address those who tamper within the market.

### CHECKING FOR EVIDENCE OF THEFT

SSE Airtricity would like UR to clarify the requirement on suppliers when visiting properties to take all reasonable steps to inspect meters and equipment for damage or interference. In the electricity market this role is undertaken by the DNO on behalf of all suppliers. We seek clarification from

the UR on who it sees as being relevant supplier staff in the context of this requirement.

### BEST PRACTICE

In order to ensure that the gas and electricity markets implement best practice arrangements we believe that the UR needs to provide established examples at the outset as to what it considers best practice arrangements look like. We are concerned that if industry is not given this direction at the outset that at some point during the development of detailed procedures or sometime after the UR will determine that the industry procedures are not best practice even if they were thoroughly researched at the time. Evidence based practice provides the best way of establishing best practice.

### IMPLEMENTATION AND COMPLIANCE

SSE Airtricity agrees with the proposed approach of aligning the implementation of the new licence condition with the completion and implementation of the industry procedures. However sufficient time must be allowed for both DNO and suppliers to make any necessary changes to their own internal processes and IT systems following approval of the industry procedures.

### FUTURE REVIEWS

SSE Airtricity agrees that there must be a process for ongoing reviews and that industry must have the ability to change the procedures when necessary. SSE Airtricity proposes that the final electricity industry procedures form part of the Market Registration Agreement and therefore any changes to the procedures be managed through the established Central Design Authority change management procedures and for gas fall under the Gas Market Opening Group. As the CDA board and GMOG meets regularly the DNO, Suppliers, the UR, and CCNI can react to changes in the industry and or environment.

## CONCLUSION

Energy theft is a significant issue for Northern Ireland energy markets and its customers. SSE Airtricity supports the UR's timetable for implementation as the industry must make progress on addressing the issue of theft and interference. While supporting the timetable we also request that the UR allows sufficient time for suppliers to make any necessary changes to their own systems or processes once the industry procedures are finalised. We urge the UR to attend the workshops that will be held on developing the detailed industry procedures otherwise we believe targets may not be met and implementation of the Code may be delayed. The issue of unrecoverable debt must be addressed by the UR as the Electricity Order is clear that it is the responsibility of the Distributor to recover debt outstanding from the customer and not from the supplier. Finally the incident of theft or interference must be reported on a regular basis to the PSNI and we believe that the DNO is best placed to report this to the PSNI.

SSE Airtricity believes it is essential to clarify the roles and responsibilities of industry participants in advance of issuing a decision on the Code. This will allow clear understanding of how to progress industry procedures.