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Dear Richard,

RE: Consultation on the Energy Theft Code of Practice (Second Consultation)

Firmus energy welcomes the opportunity to respond to the Energy Theft Code of Practice Second Consultation.

Energy theft is a key concern of firmus energy (Distribution) Ltd and firmus energy (Supply) Ltd. Although not as prevalent as electricity theft, the occurrence of meter tampering to illegally acquire natural gas remains a risk to the safety and reputation of the natural gas industry throughout Northern Ireland. The practice of energy theft has many consequences and gives rise to numerous matters that have been considered as part of this consultation process by the Utility Regulator (UR), energy companies, consumer bodies and other industry stakeholders. In particular these matters include health and safety, network and asset management, allocation of cost and liability, consumer protection and criminal prosecution.

As part of our response to the first consultation to energy theft on 12th September 2016 we provided a number of key high-level comments as well as key matters arising from proposed implementation of the Draft Code of Practice for the Theft of Gas. These were as follows:

- Consultation Approach
- Current Arrangement and Obligations on Distribution and Supply
- Meter reading obligations
- Timelines
- Health and Safety
- Provision of Information to Customer

We welcome the UR's consideration of our response to the first consultation and the clarity provided on some of the areas of concern raised. In response to this second consultation we have restricted our comments to a review of the amendments made in this second consultation only.

We have not commented on the specifics relating to electricity energy theft, instead focusing on matters relating to natural gas theft. Furthermore, we have approached our response in a manner that highlights the individual and collective concerns of both our distribution and supply companies.

Revised proposals for the requirements of governance arrangements for, and compliance with, the Energy Theft Code

We welcome the UR's decision to implement one set of natural gas industry standards across Northern Ireland. This will allow consistency for natural gas suppliers operating across multiple Network Areas and ensure fair treatment of customers in all networks.

These industry standards should provide detailed definitions of key processes in relation to prevention, detection and investigation of the theft of gas. It is imperative that these processes are discussed at industry wide forums and licensee responsibilities are collectively agreed between all relevant parties.

If the UR implements licence modifications for this Code of Practice (CoP), then they should be timed to coincide with the implementation of the final industry procedures. While this is accounted for in the UR's second consultation, we encourage the UR to allow for additional unforeseen circumstances that may arise from the industry discussions on the procedures. These industry procedures will attempt to align multiple existing procedures into a single document which creates potential for delays in implementation. We believe due consideration at this stage will serve to strengthen the long-term benefit and robustness of an agreed document.

As we have previously stated in firmus energy's first response, it is important to have a designated body to facilitate the implementation of these industry procedures and the UR is best placed to undertake this role.

The proposal for a 'co-ordinating DNO' to oversee the process is not a viable solution. This suggestion creates the risk that a single DNO will have undue influence in the creation of these procedures. This would be to the detriment of the other DNOs and supply companies.

Revised definition of vulnerable customer

Firmus energy welcomes the amendment of the vulnerable customer definition to 'a domestic customer who is of pensionable age, disabled or chronically sick'. This revised definition is in line with the gas supply licences and as such will allow for a more transparent approach by all suppliers and DNOs. For the purposes of this code this definition should apply to the account holder only and should not extend to additional residents of the property.

All gas suppliers maintain vulnerable customer registers and share these with DNOs at regular intervals, in line with industry standards. These are opt-in registers that customers can choose to nominate themselves for and organisations can subsequently amend their interactions with these customers accordingly. It is not appropriate for industry to make a determination of vulnerability on behalf of a customer, based on attending a property for operational reasons. It is also beyond the scope of the attending employee to ascertain if this vulnerable status should be attributed to any additional member of the household.

Firmus energy will continue to maintain its vulnerable customer register and continue to remind all domestic customers of the firmuscare register on an annual basis. If at any point of direct interaction with firmus energy (including the prevention, detection or investigation of the theft of gas) the customer declares that they should be added to the vulnerable register, firmus energy will endeavour to do this as soon as possible.

Proposed Draft Code of Practice for the Theft of Gas

We note that the '3Ds' principles have been removed from this version of the CoP and have been replaced with the standard terminology of:

- (i) Prevention of Theft of Gas;
- (ii) Detection of Theft of Gas; and
- (iii) Investigation of Theft of Gas.

firmus energy has no issue with the alignment of terminology between industry and law enforcement.

Para 1.6

The industry procedures must include distribution and supply activities and the industry procedures must set out the roles and responsibilities of each party in a clear and transparent way.

The proposal by the UR that the "industry procedures must include distribution and supply activities" should be further explained as it is unclear if industry must create a combined distribution and supply document with all industry bodies having an equal input into the drafting of all elements. Firmus energy would suggest that industry develop two industry procedures for distribution and supply businesses, given the different requirements of licensees in relation to energy theft. A full list of the distribution and supply obligations was provided in firmus energy's first consultation response. For example, DNOs should not influence supply specific procedures such as dealing with customers.

Para 1.7

The gas DNOs will share the drafting of the gas industry procedures, with one DNO adopting a principal co-ordinator role in developing the industry procedures; however the DNO with the principal co-ordinator role, other DNOs and all gas suppliers must take all reasonable steps to cooperate with other licence holders where necessary, to facilitate the development, implementation and compliance with the industry procedures.

We agree with the UR recommendation to have an industry-lead team working together to develop the detail in these procedures, however, the UR must retain a co-ordinating role. No single service provider within industry should have a greater influencing power compared to any other relevant party when determining shared industry procedures.

Para 1.8

Firmus energy would welcome independent views from third parties (such as CCNI and HSENI) during the determination of the industry procedures, although the final decisions on procedures will remain with industry service providers.

Paras 1.9 & 1.10

The UR must take a co-ordinating role in order to facilitate timely industry agreement and industry stewardship.

Para 1.11

Firmus energy welcomes the UR's adapted timelines for this consultation process. Adherence to the timelines will be best achieved with the involvement of the UR in a co-ordinating role.

Para 2.1

As previously mentioned, firmus energy has no issue with the amendment of the wording this section to incorporate 'prevention, detection and investigation' into the CoP.

1. Safety

Firmus energy supports the UR's continued prioritisation of safety as a key consideration in the CoP and industry procedures.

2. Costs

The costs associated with energy theft are complex and will require industry wide agreement particularly when determining which companies will be responsible for certain elements relating to recovering costs. This must be discussed in full during the development of the industry procedures, underpinned by the principle that costs of theft are borne by the people who have stolen gas.

A distinction should be made between costs associated with recovering actual stolen gas and costs associated with industry wide deterrence measures, as the latter cannot be attributed to specific customers and therefore must be recognised within the price control allowances of regulated service providers.

6. Customer Vulnerability

Firmus energy agrees with the UR's decision to define a Vulnerable Customer in line with the gas supply licences and recognises that there may be certain circumstances where licensees would need to give consideration to these vulnerable customers, primarily regarding communication with customers. We believe network safety and criminality outrank vulnerability when dealing with meter tampering and the theft of gas.

3. Requirements for Prevention of Theft of Gas

3.2

We welcome the amendment to the wording of this paragraph. All industry participants should continue to contribute to the prevention of energy theft, including by staying informed of new technologies.

3.5

The UR prescription that DNOs will keep up-to-date with the latest methods for detecting energy theft is already mentioned in the review of CoP and industry procedures.

4.2

Firmus energy welcomes the wording change to reflect that DNOs and suppliers may not have the opportunity to identify all instances of the potential theft but will take all reasonable steps to inspect for evidence.

5. Requirements for Investigation of Theft of Gas

5.4

Firmus energy welcomes the amendment to the wording in this paragraph to account for disconnection on safety concerns.

5.6

We note that this paragraph refers to electricity theft as opposed to gas theft. Gas suppliers have licence obligations to maintain a vulnerable customer list and share this with DNOs. Customers are encouraged to identify themselves to their gas supplier for inclusion on this list, which imposes additional customer care obligations on suppliers and DNOs. There should not be an additional obligation on either DNOs or suppliers to determine whether a customer and/or any other resident should be added to that list. We understand that where a customer has identified themselves to a gas

supplier or DNO as vulnerable, their future interactions may need to be adjusted and this may take place in relation to theft. Gas suppliers and DNOs will continue to share information on which customers have been classified as vulnerable, in accordance with licence obligations. We note, even customers who are demonstrably vulnerable often do not wish to identify themselves as such.

5.7

We welcome the amendment to the wording of this paragraph, as there are myriad forms of communication between suppliers, DNOs and customers and it would be impractical to record all interactions.

8. Compliance Reporting

Firmus energy welcomes the clarification on compliance reporting under energy theft but notes that any reporting should be proportionate and not the sole focus of the CoP.

Firmus energy agrees with the proposal to include a statement of compliance to this CoP in its annual compliance reporting, as provided under REMM.

9. Definitions

Theft of Gas: We believe this definition is sufficient for a CoP but will need to be further explored within the industry procedures.

Vulnerable Customer: We agree with the use of this definition, taken from the gas supply licences, however, it should not be extended further than the account holder, nor those customers choosing to 'opt in' to the scheme.

Licence Modifications

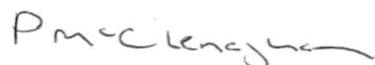
As stated previously, if the UR decides to continue with licence modifications, the timelines should be cognisant of progress in the development of the industry procedures.

The wording of the new licence condition is consistent with existing conditions and firmus energy has no suggested amendments at this time.

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We look forward to further engagement with the Utility Regulator and other stakeholders as part of this Consultation process.

Yours sincerely,



Peter McClenaghan
Regulatory Affairs Manager
firmus energy