



Via email

[Redacted]

Department of Energy and Climate Change
Area 4C
3 Whitehall Place
London
SW1A 2HD

23rd November 2010

Dear [Redacted]

RE: Consultation on the provision of third-party access to licence exempt electricity and gas networks

Gemserv is pleased to respond to the above referenced consultation.

Gemserv has a wealth of experience in the development and management of efficient and effective industry-wide governance arrangements that consider the needs of wide and varied participants, including as the Service Provider to the Master Registration Agreement (MRA) for over ten years and to the Independent Gas Transporters Uniform Network code (iGT UNC) since May 2007. We also applied our deep understanding of both switching and the wholesale/retail market interactions in order to design the first competitive water market in the world in Scotland.

Gemserv's response to the consultation considers the potential impacts on the gas and electricity retail markets in Great Britain, whilst recognising that some options discussed (for example solely commercial arrangements) may be achieved without the need for any changes to current market arrangements.

We set out our responses to the questions in the attached Appendix.

If you have any questions, or require any further information on aspects we have included in our response, please do not hesitate to contact me.

Yours sincerely

[Redacted signature]
[Redacted name]

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DECC Consultation on the provision of third-party
access to licence exempt electricity and gas networks

Gemserv response

Issue date: 23rd November 2010

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1. Chapter 2 Consultation Question

Do you have any views or concerns on how Government intends to apply third party access requirements to licence exempt distribution networks?

1.1 Introduction

Gemserv has engaged with the Government in respect of the potential impacts of providing third party access to private networks since early in 2010, and have continued to hold regular discussions with DECC on the subject. In addition, Gemserv acted as facilitator for a cross-code working group which considered some of the potential challenges and solutions regarding the provision of access.

The output from this working group, which included representation from parties to the Master Registration Agreement (MRA), the Distribution Connection Use of System Agreement (DCUSA), and the Balancing and Settlement Code (BSC), was considered by DECC in the production of their possible market scenarios for providing third party access. Gemserv also responded to the Government's informal call for evidence regarding third party access in July 2010.

Having been involved in these discussions, and based on our experience in the operation and governance of the electricity and gas markets across Great Britain, Gemserv welcomes this further opportunity to provide further views on the provision of third party access to customers who are supplied via private networks.

Gemserv fully supports the view that any provision of third party access for energy suppliers should be via a mechanism that is proportionate and does not place significant new regulatory burdens on undertakings. In addition, we agree that costs for both exempt network operators and licensed suppliers should not be over burdensome and costly, such that these costs become a barrier to the provision of access and consequently reduce customer switching options.

Gemserv recognises the need for a flexible approach to providing third party access and is also pleased to note that the Government are seeking to ensure that the market remains diverse and open to many different classes of network operators and suppliers.

In order to achieve the aims set out, it is important that solutions do not require disproportionately complex and costly changes to market arrangements, an aspect that Gemserv considers later in this response.

1.2 Legal Changes

The legal changes proposed by the Government to legislate for third party access are welcomed by Gemserv in that they are proportionate and place enforcement powers with the Authority, thus allowing for the Authority to act in the best interests of the consumer when considering both the licensed suppliers and license exempt network operators' obligations.

1.3 Guidance Provision

Gemserv believes that it is vital for there to be clear and unambiguous guidance regarding the requirements for third-party access to private networks. This is particularly important when considering the varied approach and drivers of those who will now be involved on the process including network operators, for whom energy supply is a non-core business.

Whilst recognising that the Authority has a vital role to play in the creation and maintenance of guidance, we believe that the codes affected by the changes (should also be involved in the drafting and provision of guidance. Indeed, it may be that the burden on the Authority is reduced by allowing the affected codes to draft guidance regarding compliance in each of their specific areas.

It is likely that these codes will include the MRA, DCUSA, and BSC for the electricity market and the SPAA, iGT UNC and UNC for the gas market.

Gemserv also welcomes the Government's view that arrangements should be flexible and to a certain extent be variable from case to case. From our experience in other markets and based on stakeholder feedback, there will need to be some constants in the solutions e.g. in regard to core data needs, and common charging methodologies, and we consider these later in our response.

1.4 Networks which are not Distribution Systems

DECC has provided some clear guidelines on the circumstances in which a network can be considered not to be a distribution system, and Gemserv is strongly supportive of these delimitations.

We note that the consultation states: *"Whether or not there is a requirement to provide third party access if asked will be a question of fact in each case."* It is our view that this could result in lengthy and protracted disputes over access, which will not only act as a barrier to Suppliers, but also cause issues for consumers wishing to switch.

Gemserv believes that it is imperative that the guidelines provide as much definition as is possible regarding the definition of a distribution system in context to the Third Directive. Identification of the circumstances in which a network may consider itself to be outside the scope of the Third Directive would benefit all those involved, and reduce the numbers of disputed access.

However, it is clear there will be cases where there are differing views over the status of a network, and it is Gemserv's belief that there is a need for a process of arbitration. This could be administered by the Authority, in a such a way that such differences can be resolved and a decision made without the need to for complex ad hoc regulatory intervention that can be time consuming and costly to administer.

1.5 Provision of third party access and switching

It is Gemserv's view that there will need to be some form of agreed charging methodology for access to private networks, in order that network owners are able to recover fair costs and margins. The current market arrangements for the passing of costs to the networks from the suppliers are governed by the DCUSA, which includes a number of measures to ensure that charging is appropriate and aligned with common methodologies.

Prior to the establishment of the DCUSA, there were a vast number of separate and bespoke arrangements between Suppliers and distribution network operators, which led to confusion, regarding the appropriate DUoS tariffs to apply to a meter point, incorrect charges and disputes between market participants. In order to avoid a return to these market conditions, Gemserv recommends that all charges for network access should follow a common charging methodology, which should be as close to the Common Distribution Charging Methodology (CDCM) as possible.

The consultation references the need for exempt network operators to support third party suppliers in meeting their own obligations in relation to allowing customers to switch supplier. These obligations could vary dependent on the nature of the supply, but for licensed suppliers will include requirements under their supply licences, and under the MRA, DCUSA, BSC, for electricity and SPAA, and the UNC for gas. It is vital that the exempt network operator is aware of these obligations in order to remove the risk of inadvertent blocking or non-compliance by any party in the process.

In addition to obligations on licensed suppliers, some of the options presented by DECC in Appendix A of the consultation would likely place obligations on licensed distribution networks to provide Meter Point Administration Services (MPAS) for meter points which are to be supplied by licensed suppliers. The impacts on both Distribution Network Operators (DNOs) and Independent Distribution Network Operators (IDNOs) will need to be considered in any solutions that the industry adopts.

These impacts could include the provision or procurement of MPAS, requirements to identify elements of Distribution Use of System Charges (DUoS) which will need to be adjusted to allow for the involvement of private networks in the supply chain and the generation and maintenance of Meter Point Administration Data (MPAD).

We believe that the exempt network operators obligations commencing at the point when a customer informs them of a wish to consider offers of supply from named suppliers, could prove to be a barrier to switching. Suppliers may not wish to enter into discussions with prospective customers where they are not able to determine what costs they would incur, and therefore provide the customer with an indicative retail tariff.

We would envisage that the customers' expression of a general interest in switching might be enough to trigger obligations, but we do recognise the risks of this in terms of the administrative burden this may place on the network operator. This could be mitigated to some extent by the initial obligation on the network operator being to provide an indicative tariff, with the approval process only commencing once one or more named suppliers have agreed to consider the customer's intent to switch.

The scope of technical and commercial information to be provided to the supplier will require some consideration, in that suppliers are likely to request a standard set of data that they are able to use for their ICT systems and processes.

It is Gemserv's view that a requirement for a minimum standard dataset should be mandated in order to ensure like-for-like information is always provided. This dataset could include for example: meter technical details, retrieval methods and passwords, consumption data and tariff information. If a solution is adopted which involves the use of MPAS, there will be a range of data requirements to meet the obligations of MRA and BSC parties. This dataset is governed by the content of the Data Transfer Catalogue (DTC).

Once a customer has confirmed their wish to transfer to a third party supplier, there will be a need to ensure that this switch can be completed within three weeks in line with the Third Package. In considering the actual transfer of the supply, we are of the view that there will need to be a 'blocking' process. The network operator, in their capacity as supplier, has similar options to raise an 'objection' as a licensed supplier in circumstances where the customer has not made all of the relevant information available to the prospective new supplier. Examples may include:

- Debt on a domestic premise;
- Contractual arrangements on a non-domestic premise; and
- A need to keep supplies aligned, this being the equivalent of 'related MPANS' in the GB Market.

The timing of the 'objection' may be expected to be different to that in the GB market, as governed by the MRA, in that the network operator would be able to provide the reason to deny access as the point of the request for a provision of information being from one or more prospective suppliers. This would ensure that all parties avoid unnecessary preparation and analysis of information regarding tariffs, and metering.

1.6 Connection Arrangements

Current market arrangements include regulation around access to networks to provide connections, and a number of statutory and regulatory instruments at both European and National level govern all parties involved. These instruments include provision for safety, measurement of energy and fuel, timing of works, access requirements, and the passing of information between parties.

All licensed supplier and network operators (both DNO and IDNO) and their agents such as Meter Operators, Meter Asset Providers, and Data Collectors are bound by these regulations as part of the standard licence conditions. It is imperative that, where access to a private network is required to maintain a connection, carry out meter works, or to obtain meter readings (physically or remotely), the private network has obligations that mirror those for public networks.

The Authority should also ensure that the costs of any connection or metering works would be no greater than the equivalent activity on comparable regulated network operators' systems, unless objectively justifiable.

1.7 Ofgem Approval of Tariffs

Gemserv welcomes the Authority's involvement in the creation of a common methodology for tariffs to be charged to suppliers by private network operators. As noted above, Gemserv would recommend that, in order to provide as comparable a set of tariffs as possible, the CDCM be used as a baseline model.

We note with interest the Government's intent that a network operator will not be permitted to delay third party access pending approval of a proposed tariff, and the view that suppliers may not wish to agree a supply contract until all charges are established. Gemserv notes that this may cause delays to the switching process, and prevent consumers being able to switch suppliers within three weeks as required by the Third Package. A solution may be an arrangement whereby a default "deemed" tariff could be applied based on the nature of the supply so that a customer switch is not delayed by the need to have a tariff calculated, agreed and approved.

1.8 Consideration of Solution Options

Gemserv supports the Government's view that there will need to be flexibility around arrangements for third party access, and that a 'one size fits all' solution would not be appropriate. With this in mind, we would now like to provide views regarding the solutions outlined in Appendix A of the consultation, and provide an additional option for consideration by DECC.

1.8.1 Commercial Agreements

Whilst the potential benefits of commercial arrangements which are 'invisible' to the regulated market sector are recognised, it is likely that individual commercial arrangements would lead to a wide range of agreements between suppliers and network operators all with differing terms.

This raises concerns that these arrangements may introduce additional complexity for customers when switching between licensed and licence exempt suppliers and increase the administrative burden for both network operators and suppliers.

For this reason, it might be desirable to permit Licensed Suppliers to be able to act in a similar manner to exempt suppliers in relation supplies on private networks. This may require changes to the Licence Conditions and industry codes, and would need further investigation.

1.8.2 Deemed Metering

Gemserv appreciates that the 'deeming' of consumption for supplies on a private network may be a practical solution in some circumstances, particularly where these are domestic supplies with a relatively stable demand that can be compared to known consumptions in the regulated sector of the market.

The concept of a central administrator is also one which we believe merits further consideration, not only in respect of deemed reads but possibly for other activities. However if, as the solution proposes, the readings are to be reported into the market systems, there would be a number of impacts on market governance, including:

- a new market role for the administrator which would need to be entered into market domain data;
- the need for the administrator to be recognised in and possibly a party to a number of codes and agreements, such as the BSC, MRA, DCUSA, SPAA, iGT UNC etc. resulting in a need for code modifications and changes to these;
- new data flows and/or instances of data flows would be required to pass reads between parties;

- requirements on the administrator to provide reads at meter register level and which reflect the tariffs in use;
- all electricity Supply Points would need to be registered and recorded at MPAS and with the Settlement Volume Allocation Agent (SVAA) in order to allow for the provision of data for Settlements;
- for electricity, there will need to be provision of MPAS services for the MPANs resulting from the new Supply Points, either by the DNO or the exempt network operator;
- a mechanism may be required to 'flag' these reads such that they do not enter settlement erroneously; and
- For gas, all meter points would need to be registered in market systems and, if over threshold, AQRs etc. maintained.

Gemserv notes that it may not be necessary for the deemed reads to be entered into existing settlement arrangements and we explore this further later in this response.

1.8.3 Opt In/Opt Out

This option would replicate existing market arrangements, and these currently require interactions between licensed suppliers and licensed distributors and transporters. This option would therefore require a similar range of changes to those outlined for the deemed metering option as outlined above, albeit without the need for a central administrator.

In the case of electricity, if the exempt network operator is providing an MPAS service, they would need to meet the same obligations under the market governance as a Licensed Network Operator. Should the provision fall to the DNO, we understand there may be a significant impact in terms of systems and processes not least due to a need to differentiate between MPANs for licensed activities and those for exempt activities, which may also require this difference to be reflected across a wide range of data flows. This could be both complex and have a high cost impact.

In the gas market, the network operator may have to become, in effect an iGT, and provide all the services and data that this entails as well as becoming a party to the relevant industry codes.

For the reasons above, Gemserv believes that take up on the 'opt in' option would likely be low.

1.8.4 Full Settlement Metering

As with the opt in/opt out option, this option replicates the current market arrangements for the regulated sector. As such, this would logically require the network operator to fulfil all the same obligations as any other similar operator in the market. Additionally, in the GB electricity market there would be obligations on the local DNO to provide third-party access if requested to do so.

Gemserv recognises that the network operator may wish to either become a licensed operator in the market, or may choose to allow their network to be adopted by a licensed operator.

In any event, there would need to be agreement regarding a supplier of default for any customers on these networks who had not proactively entered into an agreement for supply prior to MPANs/MPRNs being allocated and the network being in full market arrangements.

1.9 An additional option for consideration

Taking into account all the potential benefits of the solution options presented in the prospectus, and being mindful of risks, issues and potential costs of *any* solution, Gemserv has a further option which may prove effective across a number of scenarios.

Once the transfer to a third party supplier is achieved, there will be a number of governance, regulatory, and operational considerations. We believe that the overarching proposals for government legislation and the Authority's role in regulation as set out in the prospectus are in the main well thought through. It is in the area of market operation that we see the potential for a lower impact solution, as further expanded on below.

Our solution would include the creation of a central agent to fulfil a number of functions, including:

- Maintaining a central register of supply points which have third party suppliers, to include network operator, supplier, metering, tariff and consumption details;
- Acting as a registration interface for both initial and any subsequent switching events;
- Ensure that relevant data is passed between parties in an agreed format, including between the network operator, the supplier and meter operators and/or readers; and,
- If required, providing deemed reads.

There are a number of potential benefits to this approach:

- These services could be provided outwith the current GB market arrangements via a simple low volume interface or potentially even a manual update methodology initially.
- It would allow for assessment of take up during the initial opening of access to third parties, such that enduring solutions could be established as required.
- Any changes to data requirements and/or processes that are identified as requirements from operational experience would be relatively simple, as they would not need changes to core market systems.
- There is potential for enduring arrangements to be developed in line with the implementation of smart metering, thus reducing the volume and cost of change for market participants through synergies.

Gemserv would be happy to provide further detail regarding how this option might work in practice to either DECC or Ofgem as required.

2. Chapter 3 Consultation Question

Do you have any views or concerns on how Government intends to apply these Third Package requirements to licence exempt undertakings?

2.1 Response

Gemserv is supportive of the approach taken by Government in regard to the proposed third package requirements for exempt energy undertakings. We see these as being largely proportionate and appropriate in that they will improve customer protections, provide for a more balanced market overall, and place reasonable comparative obligation on the licence exempt sector in relation to those for the regulated sector.

Further these proposals would, under current arrangements only affect those who are not licensed although we do note that this situation may change where licensed suppliers are granted access to licence exempt networks.

