Heat Networks: Building a market framework – Gemserv response

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1 June 2020

Gemserv

Gemserv's response to Heat Networks market framework consultation

Gemserv is an expert provider of professional services, helping clients make the most of a world increasingly driven by data and technology. We provide professional services across energy, electric vehicles, healthcare, the public sector and a diverse range of industries including water, telecoms and construction.

Gemserv are pleased to submit our response to the Government's *Heat Networks: Building a market framework* consultation. In preparing our response, we would like to draw attention to an important factor which underpins the views outlined in our detailed response below – this being the nascent condition of the existing heat network market. Given that the decarbonisation of heat is critically important to achieving the UK's 2050 goal of net-zero carbon emissions by 2050, the level and nature of the regulation of the heat network market could have a significant impact on the development of the market.

It is important that the regulatory model for heat networks is fundamentally risk-based, focussing attention on protecting and informing consumers from actual risks, whilst also promoting innovation and investment in the market. It is important to acknowledge that technological advancements often outpace regulation, and therefore regulatory framework should be flexible enough to support, and not inhibit, the development of appropriate technical solutions to local needs. The emergence of new and innovative business models in the heat network market is encouraging, indicating that these projects are considered investable. To maximise the sector potential, we feel that it is essential that the market framework which emerges from this consultation should continue to support this innovation and investment, whilst also providing the equivalent protections afforded to gas and electricity consumers.

We are very happy to discuss any of these points or our specific responses further if you have any questions or queries.

Yours faithfully,

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Consultation response

REGULATORY FRAMEWORK OVERVIEW

Q1. Do you agree with the inclusion of micro-businesses within consumer protection requirements?

Yes, it is sensible to provide the same protection to Micro-businesses as to domestic consumers because they are likely to be less well-resourced. This approach also reflects the current arrangements in the energy industry.

Q2. Do you agree that consumer protection requirements should not cover non-domestic consumers (other than micro-businesses)?

Yes. Again, this reflects similar existing arrangements.

Q3. Do you agree with our proposed approach to a definition of heat network, including that it should cover ambient temperature networks but not ground source heat pumps with a shared ground loop? Are there network arrangements you think would not be covered by this and which should, or vice versa?

No, we consider that explicitly defining what constitutes a heat network in such a way unnecessarily inhibits the application of different technologies appropriate to the local conditions. The regulator should instead focus on developing and applying regulation appropriate to the technology and situation.

PROPOSED REGULATORY APPROACH

Q4. Do you consider Ofgem to be the appropriate body to take on the role of regulator for heat networks? If not, what would be an alternative preference?

Yes. We support the proposal to expand Ofgem's powers and remit to encompass heat networks, for the same reasons stated above, as well as the fact that Ofgem already has a role in the low carbon heat space via its role in the Renewable Heat Incentive mechanism.

REGULATORY MODEL OPTIONS

Q5. Do you agree that the proposed regulatory model is appropriate for the regulation of heat networks?

Yes, mostly. We support the adoption of a light touch model, given the role that heat networks will have in supporting the UK's switch from fossil-fuelled space heating to low carbon sources, and the relative underdeveloped condition of this market. It's important that the model is risk-based, addressing market level risks (such as consumer protection and supply) while avoiding unnecessary regulatory burden. In the event that liabilities arise (e.g. a provider ceases to trade) these should be underwritten through market-wide

commercial insurance arrangements, with premiums set according to the standards of performance achieved by the different market participants.

We consider that the task of monitoring decarbonisation targets and performance should be undertaken by Ofgem (Figure 4 implies that a 'different authority' would be responsible). Splitting the regulation of another separate role away from Ofgem is unnecessary and adds an additional level of administrative effort and cost for market participants. It would be helpful to understand the rationale for this element of the proposed model.

Q6. Which entity should be responsible and accountable for regulatory compliance, particularly where the heat supplier and heat network operator are not the same entity? Please explain why you think this.
There are a number of organisational structures currently in use within existing heat network schemes, making the identification of one specific entity responsible for regulatory compliance a challenge. However, we consider that in the majority of cases the consumer-facing entity (the supplier) is most likely to be the appropriate body responsible for regulatory compliance.

Q7. Do you agree that consumer protection requirements during the operation and maintenance project stage should be regulated, such as pricing, transparency and quality of service?
We support having strong consumer protections in place, to build and strengthen consumer confidence in heat networks as a reliable and affordable source of heating for their homes. However, it is equally important that the regulatory efforts must not be an obstacle to the efficient and speedy growth in the size of the heat network market and the volume of heat provided to consumers and, as such, applied according to risk.

Q8. Should there be a de minimis threshold below which a) very small domestic schemes and/or b) non-domestic schemes with very few domestic consumers are exempted from any of the regulatory requirements proposed in this framework? Please explain why you think this.
In principle we agree with the proposed principle which is in line with our view on risk-based regulation, however we do not have a view on the specific level of the threshold. We consider that setting the appropriate threshold levels may be informed by those in place in electricity and gas supply licences regulations.

Q9. Should there be a size threshold above which larger schemes are subject to more detailed regulation and scrutiny? If so, what type of threshold would you consider most appropriate?
In principle we agree with the proposed principle, however we do not have a view on the specific level of the threshold. We consider that setting the appropriate threshold levels may be informed by those in place in electricity and gas supply licences regulations.

Q10. Should an optional licence be available for entities seeking rights and powers? If not, what other approaches could be considered?

No comment.

Q11. Are there any other adjustments that could be made to the proposed model to enable it to work better?

No comment.

Q12. Are there circumstances in which transitionary arrangements should be introduced? If so, in what circumstances might these apply and for what length of period?

No comment.

EMERGING BUSINESS MODELS

Q13. Do you consider our proposed approach sufficiently flexible to accommodate emerging business models, including unbundling of different components of a heat network? If not, please suggest ways in which we could ensure alternative business models are not precluded.

Yes, the proposed approach supports the emergence of new and innovative business models. Whilst the heat network market is maturing, and the objective is to encourage new investment, it is better to retain a more flexible model, applied according to market risk.

Q14. How should government and the regulator ensure that enforcement action is proportionate and targeted? Are there particular considerations for not for profit schemes?

No comment.

ENFORCEMENT POWERS

Q15. Do you agree that imposing fines and removing a licence/authorisation are an appropriate and adequate set of enforcement actions for the regulator of the heat network market?

Yes, in principle we agree with the proposed enforcement options. The detailed enforcement rules must be appropriate to the relative impact of the infringement and the impact on the licensee.

Q16. Do you agree that the regulator should have powers to impose penalties at the entity level which are proportionate to its size, in a scenario where there are repeated or systemic failures across multiple schemes owned or operated by the same entity?

Yes, in accordance with our response to Q15, we support this approach.

Q17. Do you agree that the regulator should have powers to revoke an authorisation for single networks owned or operated within a group scenario, so that the entity would still be authorised or licensed to operate those networks within the group that remain in compliance? If not, what alternative approach might the regulator take?

No comment.

Q18. If compliance issues are more widespread within the group of networks owned or operated by the same entity, do you agree that the regulator should be able to revoke the authorisation or licence for the entity as a whole covering its entire group of networks? If not, what alternative approach might the regulator take?

No comment.

Q19. Do you agree that individual domestic consumers should have access to ombudsman services for redress? Do you have any views as to which ombudsman is best placed to provide this function for heat networks?

It would be most appropriate to use the existing Energy Ombudsman redress scheme, to deal with individual consumer complaints. This is the same as in other regulated sectors, they are presently dealing with complaints from consumers whose service provider is a Heat Trust member. This should help in reducing consumer confusion and improve the customer journey to redress.

STEP-IN ARRANGEMENTS

Q20. Do you agree that step-in arrangements are necessary both to cover the risk of stranded consumers and as a deterrent against sustained failure to meet the regulatory requirements? If not, why?

We consider that there is a case for step-in arrangements as described. We believe such arrangements need to be clear on how arising liabilities are met. Current arrangements in the electricity and gas markets are fragmented and not efficient. We believe that market-wide commercial insurance arrangements should be considered rather than market participants needing to hold reserve funds or themselves covering the failure of other participants. Solutions may include establishing a 'captive fund' and we encourage engagement with the insurance industry on this.

Q21. Do you have any examples of approaches we should be considering as we develop the step-in arrangements?

No comment.

TRANSPARENCY

Q22. Do you agree that the provision of minimum information would help consumers in making decisions at pre-contractual stages of property transactions?

Yes, consumers need to be protected and be at the centre of the new regulations. They need to be provided with information in a format that is clear and transparent. This needs to be provided along with information that they are not able to switch suppliers. This will assist in enabling the consumer to make an informed decision.

Q23. Do you agree that heat suppliers should be responsible for developing information and guidance for prospective consumers? If yes, what minimum information should be included?

Yes, and this should be underpinned by a regulatory requirement to do so. Heat Trust members already provide and meet advice standards for their consumers, however non-Heat Trust members should also be required to provide information that enables consumers to understand how their heating system and meters work. There should also be clear information so that consumers know how to get redress when things go wrong.

Information on the Heat Trust website advises https://www.heattrust.org/for-prospective-heat-network-customers.

Q24. How can we ensure new consumers receive or have access to information about the heat network before moving into the property?

The regulator needs to look at best practice that is already set up in the gas and electricity market and develop a communication standard that advises consumers of what to expect. To increase this type of consumer awareness, we recommend the development and rollout of a digital home energy and heat information solution.

Q25. Do you agree that the market framework should regulate and enforce the provision of information during residency?

We agree with the recommendations. Aligning with current arrangements in the energy industry makes it easier for consumers to understand what they can expect across the industry.

Q26. Do you agree that the regulator should have powers to mandate and enforce price transparency? Can you foresee any unintended consequences of this?

We believe price transparency is a key measure supporting consumer understanding that they are being billed correctly and treated fairly.

Q27. What are the current barriers to publishing and maintaining accurate information on fixed charges, unit rates and tariffs? What are the main reasons for information on pricing not being available at present?

No comment.

Q28. Do you agree that there should be clear, consistent rules on what costs should be recovered through fixed and variable charges?

We agree that there should be easy access to rules on how costs are recovered and how that is split between fixed and variable costs. This should be available digitally through a single market portal accessible by all Market Participants.

Q29. Do you agree that the regulator should have powers to undertake investigations on pricing and to enforce directions and remedy actions, where there is sufficient evidence that these could lower prices for consumers?

Yes, we agree. This is a monopoly market which needs an appropriate regulation and accompanying enforcement regime.

Q30. Do you agree that price regulation in the form of a price cap or regulation of profits should not be implemented at this point in time? Please explain your answer.

We believe that allowing the regulator to have the powers to introduce rules in the future is a sensible approach. Monitoring of the market will give the regulator the triggers as to the appropriate timing of any interventions needed. A digital framework employed for this would enable this to be effective and agile enough to protect consumers.

Q31. What might cause price regulation to become an appropriate intervention in future? What evidence would be required to demonstrate this?

If we look to the price cap intervention in the pre-payment meter sector of the energy market, this measure was introduced to protect consumers and level the playing field in this area. It was proven to reduce costs for a potentially vulnerable group of customers in the short term. Any similar interventions should be agile enough to respond quickly to put measures in place but equally to relieve measures as soon as appropriate. By utilising a digital model and central market portal, the evidence can be more easily collected on consumer harm and fairness in terms of pricing levels.

QUALITY OF SERVICE STANDARDS

Q32. Do you agree that consumers on heat networks should have comparable levels of service and protection as consumers in other regulated utilities? How do we ensure the associated compliance costs of such protections remain proportionate?

Yes. Consumer service and protection levels should be comparable and consistent with other regulated utilities. To keep compliance costs down, we need to focus on modern digital tools that allow easy access to rules and regulations and that allow those rules and regulations to be enforced or relaxed in proportion to the risk they place. A “one size fits all” model often means measures are not proportionate and not adaptable to risk.

Q33. Do you agree that minimum standards should be outcome-based to allow the regulator scope to implement these flexibly and proportionately depending on the size and nature of different schemes? Are there other ways these outcomes could be achieved?

Yes, please see our answer to Q32.

TECHNICAL STANDARDS

Q34. Do you agree that all new schemes should be subject to minimum technical standards (once developed), given the potential impact on system performance and end consumers?

No comment.

Q35. How could we ensure the impact of minimum technical standards on new small communal networks is proportionate?

No comment.

Q36. Do you agree that regulated entities should demonstrate they are compliant through an accredited certification scheme?

No comment.

Q37. What do you consider to be the most appropriate approach to setting the technical standards?

No comment.

Q38. Are there examples of the roll out of technical standards or the introduction of compliance schemes which you consider particularly relevant from other markets or technologies?

The Microgeneration Certification Scheme (MCS) is a good example of a highly successful scheme built on technical standards developed and maintained by industry. The MCS encompassed a broad range of different technologies and as such is a good example of a scheme that could inform a heat network compliance scheme (given the range of heat technologies that may be utilised in a heat network).

RIGHTS AND POWERS

Q39. Do you agree that a (licensed) heat network entity should be classified as a statutory undertaker?

No comment.

Q40. Do you agree that the proposed rights and powers should be given to heat network entities which meet the terms of our proposed licensing system?

No comment.

Q41. Is it reasonable to assume that the proposed rights and powers would only be relevant to district heat networks (not communal networks)? If not, please explain why.

No comment.

Q42. What impacts will the proposed rights and powers have on the development and extensions of heat networks? And what impacts do you think these rights will have on the operator's ability to maintain and repair heat networks?

No comment.

ACCESS RIGHTS

Q43. Do you agree that licensed heat network entities should be granted statutory access rights?

No comment.

Q44. Do you agree that the process should be similar to that for electricity and gas companies, in that the licensed heat network entity will have to make an application to the responsible minister for the easement and that any compensation arrangements will be determined by the Tribunal Service?

No comment.

Q45. Do you agree that these access rights would primarily be used to install and maintain pipework, or do you anticipate that they would be used for other purposes?

No comment.

STREET WORKS

Q46. Would you consider the ability to apply for a street work permit a considerable benefit compared to a Section 50 Street Works licence? If so, in what way?

No comment.

Q47. Do you have any experience of applying for a Section 50 Street Works licence? Did you find this delayed either construction or repair and maintenance work required?

No comment.

RIGHTS TO LAY PIPES UNDER THE ROADWAY

Q48. Do you agree that heat networks should be given equivalent powers to other utilities to install and keep heat network pipes underneath roadways? Are you aware of any potential unintended consequences?

No comment.

PERMITTED DEVELOPMENT

Q49. Do you agree that licensed heat network developers should be granted permitted development powers similar to other statutory undertakers? Are you aware of any potential unintended consequences?

No comment.

Q50. In addition to permitted development rights specified (install or replace pipes or electricity cabling; erect small temporary structures and small ancillary buildings, machinery or apparatus), are there any other activities to which a permitted development right should apply?

No comment.

CONSULTATION RIGHTS

Q51. Do you agree that the administrative burdens of being statutory consultees would be disproportionate for heat networks?

No comment.

Q52. Beyond improving the guidance on non-statutory consultees, do you think that there are any other areas of government guidance that could be improved to ensure that heat networks are more routinely consulted on relevant development in their areas?

No comment.

LINEAR OBSTACLE RIGHTS

Q53. Do you believe that licensed heat network developers should be given equivalent rights to cross linear obstacles? Can you provide examples of where such rights would be beneficial to heat network development?

No comment.

DECARBONISATION OF HEAT NETWORKS

Q54. Do you agree that consumers should have access to information on the energy performance and percentage of low-carbon generation of their network?

Yes, we support measures that improve consumer understanding and drive better choices. As public opinion continues to grow in support of low carbon technologies, sharing this information with consumers can help to foster a more positive experience with their heat network. It can also act as an impetus to heat network operators to continue to improve the carbon intensity of their system and support the move towards a zero-carbon economy.

Q55. Do you agree that regulation is necessary to encourage decarbonisation of heat networks over the period to 2050? Are there alternative means by which government could act to support the decarbonisation of heat networks?

Yes, we support the use of targeted and risked-based regulation to drive the decarbonisation of heat networks. However, it is important to allow the market to innovate and decide the best way to meet the standards and targets contained within the regulations.

WASTE-HEAT SOURCES

Q56. How could the Environmental Permitting Regulations be amended to ensure that waste-heat sources connect to networks when it is cost-effective and feasible to do so? What do you consider are the main barriers for waste heat sources to be connected to heat networks?

No comment.

Q57. Which sources of industrial and commercial heat could government bring within the scope of the Environmental Permitting Regulations in addition to the sources already being identified?

No comment.

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