

# Ofgem investigation into National Grid Metering



National Grid Metering is a subsidiary of National Grid and is responsible for National Grid's regulated metering service to around 18 million domestic, industrial and commercial customers in Great Britain.

In 2004 National Grid signed Metering contracts with most of the major gas suppliers. The contracts offered suppliers the option of continuing with their existing arrangements or receiving lower metering prices in return for a commitment to leave National Grid's meters in place for a specified period (or completing payment on them if they removed them before the end of the contracted period).

The gas suppliers had a choice to sign the new contracts or to retain their existing arrangements.

## Background to the investigation

On the 24th June 2005, Ofgem announced that it was undertaking an investigation into the new contractual arrangements between National Grid and the gas suppliers concerning the provision of gas metering services.

The contracts were developed in consultation with gas suppliers and Ofgem.

Ofgem's original allegation was that the contracts locked suppliers in for a significant share of their gas meter requirements and thereby restricted the development of competition in metering. Ofgem alleged that this conduct amounted to an abuse of dominance, which would infringe competition law. Throughout the course of the investigation, this allegation narrowed and focused more on the technical aspects of the contracts rather than the contracts themselves.

## Our view

We support competition in metering and strongly believe we have never acted anti-competitively in the development of our contracts.

We believe the contracts, which were developed over a two year period with gas suppliers and in consultation with Ofgem, have

- Delivered immediate and substantial financial benefits to customers in the form of lower metering prices, saving customers around £120 million over the four years of operation.
- Not inhibited the development of competition, such that the market share of National Grid's metering business is now around 40% of the new and replacement meter market, from a starting point of over 90% in 2002.
- Provided scope for large numbers (about 1.2 million per annum) of existing meters to be replaced annually in an orderly and sustainable way, whilst limiting consumer disruption, and wasteful replacement of good working meters.

After three years of investigation, Ofgem's case against National Grid has narrowed considerably and failed to demonstrate why National Grid's contracts restrict competition.

The contracts saved customers around £120 million over the four years of operation.

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## Timeline

### 24th June 2005

Ofgem announced that it was undertaking an investigation into the new contractual arrangements.

### 17th May 2006

Ofgem published a Statement of Objections (SO) detailing their initial findings – that National Grid had abused its alleged dominant position by entering into ‘exclusionary contracts’.

### 10th August 2006

National Grid submitted a comprehensive written response to the Statement of Objections rebutting Ofgem’s allegations.

### 27th April 2007

Ofgem amended their allegations in a further SO stating the contracts limited and restricted the commercial benefits that gas suppliers and customers might expect to obtain if they were to switch to another service provider. However, the main allegation was narrower than in the first SO; basically that if the contracts had been structured in a different way, they would have made greater numbers of meters available for free replacement.

### 8th July 2007

National Grid again submitted a comprehensive written response to the second SO, entirely rebutting Ofgem’s allegations.

### 17th October 2007

Ofgem sent National Grid a “put back letter” which accepted National Grid’s principal argument in its response to the second SO, but sought to demonstrate that the metering contracts could have been structured in such a way as to make it less expensive for suppliers to remove more of National Grid’s meters earlier than the contracts provided for.

### 8th November 2007

National Grid responded to Ofgem’s “put back letter” and demonstrated that its contracts were in fact less restrictive than the alternative suggested by Ofgem.

### 25th February 2008

Ofgem announce that they find National Grid to be in breach of the Competition Act.



Ofgem was consulted throughout this process of contract development and negotiation and has acknowledged that National Grid had no intention to breach the Competition Act.

National Grid has been instrumental in helping Ofgem develop competition in the UK metering industry.

## Next steps

We remain convinced that the contracts do not infringe competition law, and we are taking steps to lodge an appeal with the Competition Appeal Tribunal (CAT).

This appeal will deal with both the decision and the size of the fine (£41.6 million).

It will be a diversion from our primary focus on improving the services for our customers and will also distract the industry from the important development of Smart Metering solutions for the UK – which we strongly support.

## Contacts

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