

**The provision of gas connection services by
Transco**

A Consultation Document

November 2002

Summary

Following investigation by Ofgem, since April 2002, of 45 formal complaints regarding Transco's level of performance in the provision of connection services, this document seeks views and representations from customers in order to establish whether these complaints are isolated or whether they indicate the existence of more general shortcomings in Transco's provision of connection services.

The 45 complaints broadly relate to the following issues:

- Compliance by Transco with the requirements of the 1999 Enforcement Order
- The accuracy of quotations provided by Transco
- The timeliness of effective response to queries in respect of existing quotations
- Timely attendance on site and effective completion of site works by Transco's service provider
- Non cost reflective charging
- Compliance with safety regulations.

Poor performance in relation to these issues can result in the following outcomes:

- Breach of the 1999 Enforcement Order
- Customers being over or under charged for work
- Competition being restricted
- Added cost and inconvenience for customers and Transco's competitors
- Increased risk to customer safety.

Ofgem's findings from its investigation highlighted areas of concern as well as areas where further information was required to inform a final decision. In particular the question of Transco's compliance with Section 9(2)(a) of the Gas Act and Licence Condition 4D require further investigation. Ofgem welcomes representations from customers in respect of the above issues as well as respondents' views on Transco's connections performance/ policies generally since the 1999 Enforcement Order was introduced.

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1. Rationale

Issue

During the period April – November 2002 Ofgem received 45 formal customer complaints regarding Transco's levels of performance in the provision of connection services. These complaints related to one or more of the following issues:

- a) Compliance by Transco with the requirements of the Enforcement Order made by Ofgas in February 1999 (the 1999 Enforcement Order) in relation to Transco's provision of connection quotations, including non-payment of compensation due under the terms of the Scheme introduced by Transco to comply with the requirements of the 1999 Enforcement Order (the Scheme)
- b) The accuracy of quotations received from Transco for the provision of infrastructure and self lay connection services provided by Utility Infrastructure Providers (UIPs)
- c) The timeliness of effective response to queries in respect of existing quotations
- d) Timely attendance on site and effective undertaking / completion of site works in relation to infrastructure and self lay connections
- e) Non-cost reflective charging resulting in high charges for certain types of connection work
- f) Compliance with the Gas Safety Management Regulations (GSMR)

Impact on customers of poor Transco performance

- a) Compliance with the 1999 Enforcement Order including the non – payment of compensation due under the terms of the Scheme

Non-compliance with the 1999 Enforcement Order could result in Transco facing reduced incentives to provide customers with the standards of service considered appropriate by Ofgas when it introduced the 1999 Enforcement Order. Furthermore, given that the 1999 Enforcement Order was considered requisite for the purpose of securing compliance with Transco's obligations under the Gas Act 1986 (the Act) and its gas transporter licence (the Licence), failure to comply with the 1999 Enforcement Order must raise questions as to its continuing compliance with those obligations.

Non-payment of compensation due under the Scheme will result in customers being disadvantaged financially. In addition Transco will face a reduced incentive to provide timely quotations or to operate the Scheme efficiently. Non-payment could also indicate shortcomings in the systems introduced to support the Scheme.

b) The accuracy of quotations

Poor performance can lead to customers being under or over charged for work. Inaccurate quotations can also restrict competition because Transco's competitors (UIPs/ Gas Transporters (GTs)) rely on Transco to provide accurate quotations for at least some elements of connections work in order to provide accurate quotations to their own customers. Poor levels of accuracy by Transco can reflect badly on a third party acting on behalf of a customer whether in respect of infrastructure quotations or in the provision of a self lay connection.

c) The handling of queries in respect of existing quotations

Poor performance can lead to added cost and inconvenience to customers due to time and effort required to remedy errors by Transco. It can also restrict competition because third parties working on behalf of customers can be perceived to be responsible for delays by the customer and lose contracts as a result.

d) Timely attendance on site and completion of site works

Poor performance can lead to added cost and inconvenience to customers. It can also restrict competition because third parties working on behalf of customers can be perceived to be responsible for delays by the customer and lose contracts as a result.

e) Non-cost reflective charging

Non-cost reflective charging for particular categories of work can result in overcharging and undercharging for certain categories of customer and restrict competition through inappropriate cross-subsidies.

f) Compliance with the GSMR

Non-compliance with the GSMR could result in increased risk to customer safety.

Ofgem's findings

- a) Compliance with the 1999 Enforcement Order, including the non-payment of compensation due under the terms of the Scheme

Ofgem requires more information before reaching a formal decision on this issue and this consultation is intended to inform that decision.

- b) The accuracy of quotations

In several cases Ofgem found evidence of inaccuracy that caused it to consider that Transco might not have in place appropriate systems to deliver a timely and accurate response to customers. In a competitive connections market, failure to do this will raise questions of compliance with Section 9(2)(a) of the Act and Licence Condition 4D. These problems indicate the possibility that some of the issues that resulted in the 1999 Enforcement Order may persist and call into question the effectiveness of the 1999 Enforcement Order.

- c) The handling of queries in respect of existing quotations

In several cases Ofgem found evidence that caused it to consider that Transco might not have in place appropriate systems to deliver a timely and accurate response to enquiries in respect of existing quotations. In a competitive connections market, failure to do this will raise questions of compliance with Section 9(2)(a) of the Act and Licence Condition 4D.

- d) Timely attendance on site and completion of site works

In several cases, Transco's performance in relation to the carrying out of site works appeared to fall short of what could reasonably be expected of a GT. It should be noted that the 1999 Enforcement Order did not deal with the issue of site works.

e) Non-cost reflective charging

Ofgem has identified features of certain of Transco's contracts with its connections contractors that lead to non-cost reflective charging for certain classes of customer. Ofgem has raised this concern with Transco.

f) Compliance with the GSMR

The Health & Safety Executive is the statutory body responsible for enforcement of the GSMR and Ofgem has therefore passed the relevant details to that body.

The 1999 Enforcement Order

The existing 1999 Enforcement Order can be viewed on the Ofgem website at

<http://www.ofgem.gov.uk/docs/finaldec.pdf>

In summary the 1999 Enforcement Order required Transco to:

- Introduce systems for the following: collecting data on quotations; providing quotations within published time-scales and in accordance with the methodology published for them; reporting on performance of providing quotations within published time-scales; and implement a training programme for staff involved in handling quotations for connections, certified to ISO9001
- Introduce a scheme for paying compensation to persons adversely affected by the failure by Transco to respond to requests for quotations for connections within the published time-scales. The scheme was to provide, as a minimum, for payments to be made in such amounts and circumstances and on such terms as set out in Attachment 1 to the Order
- Introduce a scheme for paying compensation to persons adversely affected by a failure by Transco to provide quotations for connections in accordance with the statement submitted in accordance with standard condition 5 of the licence. The scheme was to provide, as a minimum, for payments to be made in such amounts and in such circumstances and on such terms as are provided in Attachment 2 to the Order

- Arrange for an audit of the reporting systems and a selection of quotations provided by each LDZ

Transco has introduced the systems and compensation schemes provided for in the 1999 Enforcement Order. In each case the scheme introduced covered at least those matters set out in the Attachments to the 1999 Enforcement Order. The Attachments expressly provide for the scheme to vary from their contents with the consent of the DGGS and such consent was given in respect of certain aspects of the scheme.

Ofgem monitoring of the 1999 Enforcement Order and Transco progress to date.

Transco has fulfilled the requirements of the 1999 Enforcement Order relating to achievement of ISO9001 and introduction of new systems. Transco provides Ofgem with monthly reports on its standards of performance in relation to its connections standards of service (CSOS) targets. Transco has met the 90% target for each CSOS every month in the majority of cases. Overall Transco's performance in terms of the provision of timely quotations appears to be significantly better than in 1999, primarily because there are now computerised systems in place to more efficiently process the production of connections quotations.

Transco is also required by the 1999 Enforcement Order to arrange for an external audit with regard to accuracy of quotations to be carried out by a firm of chartered accountants. There have been 14 audits to date. While there has been a general trend of improvement in terms of accuracy of quotations audited Ofgem is not satisfied that Transco's performance justifies removal of the requirement for external audit. Unfortunately the sample size dictated by the 1999 Enforcement Order is too small to draw any conclusions on trend of accuracy or Transco's accuracy performance. Ofgem is currently considering how this aspect of the audit process could be usefully improved.

Ofgem's Options

In the light of the data provided to Ofgem by complainants, by Transco and by respondents to this consultation Ofgem will consider whether it is appropriate for it to take any form of enforcement action against Transco. If further investigations indicates

that there are failings in Transco's systems which are not currently covered by any regulatory obligation, but which have an adverse effect on competition in connections, Ofgem will also consider whether modification of Transco's licence may be appropriate.

Ofgem notes that any third party who considers that they have suffered loss as a result of Transco's failure to comply with the 1999 Enforcement Order is entitled under the Act to bring an action against Transco.

Next steps

Ofgem would be interested to receive representations from customers of Transco's connection services in respect of the matters discussed above. Where possible respondents should provide evidence to support the views expressed in terms of supporting data such as details of particular connection jobs e.g. Transco job reference number, nature of problem, resolution of problem. Respondents' views on Transco's connections performance/ policies since the 1999 Enforcement Order was introduced would also be welcomed.

Responses should be addressed to:

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Ofgem intends to publish the results of this consultation by February 2003.

All responses will normally be published on the Ofgem website and held electronically in the Research and Information Centre unless there are good reasons why they must remain confidential. Respondents should try to put any confidential material in

appendices to their responses. Ofgem prefers to receive responses in an electronic form so they can easily be placed on the Ofgem website.

2. Background

Transco, other GTs and UIPs compete to provide connections to both existing and prospective gas consumers. Transco's share of the market for gas connections to new build domestic properties has fallen significantly since 1995 due to competition from other GTs. However, Transco still provides more than 95% of all connections to existing domestic and non-domestic premises.

Gas Industry Registration scheme

During 2000/01 Transco and the other GTs jointly produced a registration scheme intended to assess the competence of UIPs to undertake gas connections work. The contract to operate the scheme was awarded to Lloyds Register following a tender process in late 2001 and is now in operation with a number of UIPs currently being assessed. The first certificates of registration are likely to be awarded by end 2002. The purpose of the scheme is to provide assurance to both GTs and customers that UIPs are able to do satisfactory gas connections work that will be fit for purpose for GTs to adopt.

Final connections

During 2001 Transco managed a trial within a limited number of local distribution zones (LDZs) that involved UIPs undertaking final connections to Transco's existing mains. This work was undertaken by UIPs following Transco's own procedures for such work. In July 2002 Transco concluded that the trial had been successful and the procedure could be rolled out across the rest of Transco's network. From 1 January 2003 this work can only be undertaken by UIPs that have successfully been certified as competent by the Registration scheme

23 / 10 metre rules

GTs are required by Licence Condition 4B(1)(b) to provide the first 10 metres of pipework in the public highway free to any domestic customer requesting a connection whose premises are within 23 metres of a relevant main. This cross subsidy makes it

almost impossible for a UIP to compete for such work. Ofgem intends to issue a consultation document on this issue towards the end of 2002.

Planning rules

UIPs are required to submit applications for planning permission in respect of pipe-work they lay while GTs are not. This can result in significant delays and additional costs not faced by GTs. This issue will be considered in the consultation document on the 23/10 metre rule.

Transco / Fulcrum Connections relationship

Transco's connection services are provided on its behalf by Fulcrum Connections (Fulcrum). Fulcrum is the name given to the connections operations unit formerly part of Transco but now an unregulated company within the National Grid Transco group. Transco's relationship with Fulcrum is commercial and contractual. A significant proportion of connections work is undertaken by independent contractors managed by Fulcrum. Fulcrum Direct is a UIP organisation offering connection services to customers separately from Fulcrum Connections in its role as Transco's service provider. Fulcrum Connections is required by the terms of its contract with Transco to ensure that Transco's customers do not subsidise Fulcrum Direct's operations. Fulcrum Direct has to operate in the connections market subject to the same statutory/ commercial restrictions as any other UIP.

Statutory framework

The Statutory framework under which Ofgem carries out its duties and the powers under that framework are set out below:

General Objectives: As provided for in s.4AA(1) of the Gas Act, Ofgem's principal objective in carrying out its functions is to:

"... protect the interests of consumers in relation to gas conveyed through pipes, wherever appropriate by promoting effective competition

between persons engaged in, or in commercial activities connected with, the shipping, transportation or supply of gas so conveyed.”

Ofgem is aware that in carrying out its functions, it must have regard to all of its duties set out in s.4AA of the Act and any guidance issued under s.4AB of the Act. Ofgem's role, in respect of its health and safety function is dealt with under s.4A of the Act. Pursuant to this section a Memorandum of Understanding has been agreed with the Health and Safety Executive (HSE) and Health and Safety Commission (HSC) under which Ofgem will refer to the HSE any significant health and safety matters arising from Ofgem's regulatory remit.

Transco: Transco is the holder of a gas transporter licence treated as granted under section 7 of the Act. As such it has duties under both the Act and its licence.

In particular, section 9(1) of the Act requires it, amongst other things, to develop and maintain an efficient and economic pipe-line system for the conveyance of gas and, subject to that duty, to comply, so far as it is economical to do so, with any reasonable request for it to connect to that system any premises. Section 9(2)(a) imposes on Transco a duty to avoid undue preference or undue discrimination in the connection of premises to any pipe-line system operated by it.

A number of conditions of Transco's licence are likely to be particularly relevant to the matters considered in this consultation:

- Standard Condition 4B contains a number of obligations relating to connection charges. These include an obligation on Transco to comply with any directions given by the Authority to produce and publish a statement showing the methods by which it will calculate, amongst other things, its connection charges. Such a direction has been made. Transco is obliged to make connections charges only in accordance with its charging statement
- Standard Condition 4D, which requires Transco to conduct its transportation business in the manner best calculated to secure that neither Transco (including its affiliates and related undertakings) nor any gas shipper or gas supplier obtains an unfair commercial advantage including, in particular, any such advantage from a preferential or discriminatory arrangement.