

November 1999

**Priority Gas Customer Arrangements
Modification of the Public Gas
Transporter Licence.**

A Decision Document

1 Executive Summary

In July 1999, Ofgem published a consultation document¹ dealing with the means of safeguarding, so far as it is safe and practicable to do so, the supply of gas to certain essential large volume users during a gas supply emergency. This proposal arose from work carried out by the Department of Trade and Industry (DTI) on gas contingency planning, which has the support of Ofgem.

Under the existing contingency arrangements in the event of a severe interruption in the supply of gas all customers consuming less than 732,000 kilowatt hours (kWh) per annum are given precedence over larger customers and the supply of gas to these customers is maintained for as long as possible consistent with safety considerations.

However, in Ofgem and the DTI's view the position of the larger customers (i.e. those consuming above 732,000 kWh) needed to be clarified. Whilst it may be that many such customers would not warrant any degree of priority at all in the allocation of gas supplies during an emergency, some, e.g. hospitals with firm supply contracts, would need to have their gas supplies safeguarded as far as possible. Other important users might need gas until they could change over to an alternative fuel or shut down a major item of capital plant without damage.

The consultation document therefore proposed a number of amendments to Standard Condition (SC) 18 of the Public Gas Transporter (PGT) Licence which would enable PGTs to give varying degrees of priority status to one or more customers or classes of customers in the circumstances of a severe interruption to gas supplies. (see Annex A for the description of the three categories so far identified).

Ofgem received 18 written responses to the consultation document. These included responses from:

- ◆ all eight public gas transporters

¹ Priority Gas Customer Arrangements. Modification of the public gas transporter licence. A consultation document.

- ◆ the Health and Safety Executive

- ◆ gas shippers

- ◆ gas suppliers and

- ◆ companies that use large quantities of gas, and their representatives.

The full texts of those responses not marked confidential have been placed in the Ofgem library.

There was broad support from respondents for the proposal to amend SC 18 of the PGT Licence to include an obligation on PGTs to maintain a list of Priority Customers by category and, as far as practicable, to provide gas to those customers in priority order. Ofgem therefore decided to make the modifications to SC 18 which were set out in the Schedule to Annex A of the consultation document.

Chapter 1 of this document sets out the background to the proposed licence modifications; Chapter 2 outlines the particular issues raised in relation to the proposal, and Ofgem's responses to them.

Annex A contains a short description of the priority categories.

Appendix 1 contains a copy of the formal document which modifies the standard conditions of public gas transporters' licences to include the new condition.

Appendix 2 contains the text of the condition showing the changes made to the original wording.

1 Background

The Network Emergency Co-ordinator (NEC)² is required by the Gas Safety (Management) Regulations 1996 to prepare a safety case setting out how a supply emergency would be managed. In addition each of the Public Gas Transporters (PGTs) are required to prepare a safety case showing how they would co-operate with the NEC during such an emergency and how they would manage the flow of gas on their networks. SC 18 of the PGT licence supports these arrangements.

The original wording of SC 18 requires PGTs to establish a list of customers who would have priority in the event of an emergency, and is framed simply in terms of priority as to the "maintenance of a supply and the maintenance of the conveyance of gas to a premise". It does not explicitly recognise the possibility that there could be more than one class of priority customer, each class having separate gas supply requirements, which need to be treated differently. In addition under the terms of the original wording:

- there is no common understanding of what a non-domestic priority customer is - as a consequence there was a risk of inconsistency amongst PGTs, shippers and suppliers in identifying appropriate customers and premises for priority treatment;
- the original wording did not permit the nomination of specific categories of priority customer by means of a Direction issued by the Secretary of State, and the recognition of those priority categories by the PGTs.

It is also the case that SC 18 does not reflect the role of the Network Emergency Co-ordinator in dealing with supply or system emergencies.

The Director General of Gas Supply attaches considerable importance to the maintenance of gas supplies to customers and therefore concluded that in order for PGTs:

- a) to be able more effectively to meet their obligations under the Gas Safety (Management) Regulations 1996, and

b) comply with any Directions issued by the Secretary of State relating to the handling of priority customers, or the inclusion of further categories of such customers,

and, more generally,

c) to align the licence obligations more closely to present industry practice,

it was necessary to amend SC 18 of the PGT licence.

However, it must be emphasised that, although the new arrangements are primarily designed to minimise, as far as possible, the impact on priority users of any gas shortage:

- the allocation of a priority category to a site does not guarantee a supply of gas, and
- supplies to priority customers can be lost e.g. if a PGT issues a priority user with a direction under the Gas Safety (Management) Regulations requiring them to cease using gas, that instruction has precedence over any “priority” status accorded under these arrangements.

It is therefore possible that customers who have been defined as priority customers will nevertheless lose their gas supply in certain circumstances. In such cases, on the restoration of the supply, a PGT may liaise with the relevant customers to request that their offtake rates commence at levels below those which they have contracted for.

² Under the Gas Safety (Management) Regulations 1996, when two or more gas transporters are operating on a network there should be appointed a Network Emergency Co-ordinator for that network.

2 Issues Arising from the Consultation

Ofgem received 18 written responses to the consultation document. These included responses from The Energy Intensive Users Group, British Steel, The Gas Consumers Council, the Health and Safety Executive, and all eight Public Gas Transporters.

There was broad support from respondents for the proposal to amend Standard Condition 18 of Public Gas Transporters' Licence to enable them to comply with the PGCA. However, a number of areas of concern were raised by respondents and these are set out below.

- **Consultation between PGTs and the NEC/Secretary of State at the onset of an emergency**

The Health and Safety Executive (HSE) have drawn attention to a difficulty arising from the original drafting of paragraph 11 of SC 18 which would not be addressed by the revised drafting proposed in the Ofgem consultation. Paragraph 11 of SC 18 appears to require, in the event of a supply emergency affecting the whole or a substantial part of Great Britain, the Network Emergency Co-ordinator (NEC) to consult with the Secretary of State before requesting relevant customers (i.e. those consuming above 732,000 kWh per annum or holding Category B status under the PGCA) to refrain from taking gas. The HSE note that, although the requirement to consult is qualified, the NEC safety case – which the HSE have accepted – makes no reference to consultation with either the Secretary of State or the DTI before declaring a supply emergency or before requiring firm load shedding.

The HSE believe that a requirement for the NEC to consult with the Secretary of State is appropriate during an extended supply emergency, where decisions may need to be made over the allocation of gas – irrespective of any priority arrangements. However, it considers it inappropriate during the onset and initial stages of a supply emergency where a rapid response by the NEC is required to prevent an emergency from occurring, or to prevent an existing emergency from becoming worse.

Both Ofgem and the DTI agree with the point raised by the HSE. We have considered whether it would be possible to revise the proposed amendment to SC 18 take account

of the HSE's concerns. In our view it would be outside the scope of that consultation to make such an amendment at this stage. We will therefore undertake a separate 28 days consultation on a further revision to paragraph 11 of SC 18.

- **Responsibilities of Shippers and Suppliers**

Concern has been expressed by customers and some PGTs that, although shippers and suppliers are supportive of the PGCA, they might not allocate the necessary resources to enable them accurately to identify priority customers. Some respondents suggested that Shippers' and Suppliers' Licences should therefore be modified, to oblige them to comply with requests from PGTs for information about possible candidates for priority customers.

In Ofgem's view there is no need for additional obligations to be placed onto Shippers and Suppliers to ensure that they co-operate with the PGTs in implementing the PGCA.

Shippers are already obliged, under SC 2(1) and 2(2)(c) of their licence to act in "a reasonable and prudent manner and not to knowingly or recklessly pursue any course of conduct which is likely to prejudice the safe and efficient operation by a relevant transporter of its pipeline system, efficient balancing or the due functioning of the arrangements provided for in its network code". Under paragraphs 1.6 and 2.5 of section Q of the network code Shippers are obliged to take all reasonable steps to ascertain whether any consumer satisfies the priority criteria designated by the Secretary of State. Additionally, SC 4(2) of the Gas Shippers' Licence obliges holders to take every reasonable step to assist PGTs.

SC 28(1)(a) of the Suppliers' licence obliges the holder to provide the relevant PGT with whatever information is reasonably required to enable the transporter to fulfil its licence obligations to draw up plans for the safe operation, development or maintenance of its pipeline system. Additionally, SC 31(2) obliges Suppliers to take every reasonable step to assist the relevant transporter during an emergency.

However, we are asking PGTs to advise us if they experience any particular difficulties which could be either avoided or alleviated with supplier or shipper assistance.

- **Direct customer access to Transco**

Several customers felt that they should be able to contact Transco directly about the priority status of their sites, arguing that apart from speeding up the process of compiling and keeping up to date the priority lists, direct contact with Transco would guarantee the provision of accurate information since customers know their own sites best and are more highly motivated than shippers or suppliers to ensure that the right sites are prioritised.

The contractual arrangements in the gas industry do not provide for direct contact between customers and PGTs. Information from customers about their sites has to be first passed to the customer's supplier, which passes it onto the Shipper and thence to the PGT. It is not the intention of Ofgem to interfere with this process during this consultation. Ofgem is however, currently considering the introduction of a Special Licence Condition for Transco (as the largest PGT) which would facilitate the two way exchange of information with large gas consumers.

Consistent with Ofgem's aim to permit greater customer/Transco communication, Transco has been trialling an Internet based facility to allow a pilot sample of customers in the industrial and commercial market to access the data which Transco holds on their sites. Ofgem fully supports this initiative which should assist customers to check their site data and, if appropriate, challenge it via the supplier and seek to get erroneous entries changed.

Ofgem hopes that, on the satisfactory conclusion of Transco's Internet trial:

- a) the checking facility will be rolled out nationally and
- b) the information available will include customers' priority category status.

However, Transco is concerned that the current wording of section 42 of the Gas Act 1986 prevents it from releasing to customers information it has acquired under or by virtue of the Act. Ofgem, Transco and customer groups have raised this important matter with the DTI and we will continue to work with the DTI in order to arrive at a satisfactory resolution.

- **Electricity Generation**

Several respondents have drawn attention to the importance of gas in electricity generation and have suggested that there should be consistency in how emergencies on both the gas and electricity networks are treated.

It has also been suggested that there should be an additional class of priority customer to give gas-fired electricity generating stations, with an alternative fuel supply, a sufficient notice period to stop consuming gas and make an efficient transfer to an alternative fuel.

The issue of providing special treatment for gas fired generating stations was addressed in the DTI's consultation response paper, issued in May 1999, which stated that, if the circumstances of the emergency necessitated it, the Secretary of State, in consultation with the NEC, could decide that supplies of gas should be available for additional classes of customer and issue directions to the PGTs to give effect to that decision.

- **Clarification of Categories**

Some respondents felt the definitions of Categories A, B and C were not clear enough, particularly the basis of the £50m cost proposed in Category C. One respondent also expressed concern that the PGT would be adjudicating on which customers' sites merited Category C status.

As the consultation document explained, the Categories will be clearly defined in the Secretary of State's Direction but are based on the wording used in the DTI's consultation exercise. Category C refers to large plant on firm load with a repair or replacement value of £50m or more. Only the cost of rectifying the damage should be taken into account, not any pecuniary losses consequent to the damage.

Additionally, paragraph 16 of SC 18 states that any question as to whether a particular customer should be included in the priority list shall be determined by the Secretary of State.

- **Contractual Issues**

The point was made that PGTs need to check their Network Codes to ensure that they are consistent with the requirements of the PGCA. Another respondent suggested that a new standard clause should be inserted in all contracts to ensure that customers understand their obligations under PGCA.

In Ofgem's view these are matters for the industry to resolve.

Other Points

One respondent drew attention to the costs of emergency interruption for the owners of large sites both in terms of lost business (and the possibility of incurring breach of contract or similar penalties) and the potential for incurring structural damage to plant arising from a rapid shutdown or switchover to an alternate fuel. It has been suggested that it might be possible to develop a process whereby sites called on to interrupt in an emergency could bid to stay on supply - particularly where such an interruption would be for a very short period of time. Such a process, it is argued, would enable sites facing severe financial penalties for loss of production e.g. in the area of electricity generation, to meet their contractual obligations.

Aside from the problems of establishing a value for emergency – as opposed to normal – interruptions, and implementing a “bidding process” including the handling of revenues received by the NEC, Ofgem has three major concerns with this suggestion. These are:

- a) it may not cater for regional or locational gas supply difficulties which demand an urgent reduction of load in a specific area and where the site in question represents a significant percentage of the reduction needed i.e. no substitution is possible;
- b) it is not always possible for the NEC to determine, in advance, the likely duration of an emergency interruption;
- c) the time taken by a “bidding process” could jeopardise the prompt handling of a potential supply emergency by the NEC.

The same respondent has also suggested that the ring-fencing of priority sites will increase the exposure of non priority sites to interruption and therefore proposes the creation of a low priority list e.g. Category Z which would have the highest probability of interruption: companies could then bid to be put onto the list and receive financial considerations from those e.g. Category C companies which have avoided exposure.

In addition to the points made above, it is Ofgem's view that emergencies occur extremely infrequently and when they do, economic concerns, though important in normal circumstances, take on a lesser importance than safeguarding lives; it is therefore debatable whether a complex market approach to emergency interruption is actually warranted. However, Ofgem will consider whether the circumstances of emergency interruption should be included within the ambit of our review of the interruptions regime.

2.1 The Proposed Licence Modifications

In order for the proposed modifications to be made, it is necessary, under section 23 of the Gas Act 1986, for not less than 90% of all licensed public gas transporters, both by number and by volume of gas transported, to consent to them. Ofgem has sought and obtained the agreement of 100% of licensed PGTs, which means that both tests have been satisfied.. Ofgem has therefore introduced the changes proposed in the July consultation, with effect from 22 November 1999.

The amended Standard Condition 18 of the PGT Licence is set out in Appendix 2.

The Priority Gas Customer Arrangements (PGCA)

Priority Customer Categories can only be designated by the Secretary of State; there will initially be three such categories (known as A, B and C). However the Secretary of State will be able to direct further categories, if the circumstances of a particular supply situation warrant it. The definitions of the initial categories are:

Category "A"

This covers priority customers (above 732,000 kWh per annum) on firm supply contracts, where a failure in the supply to their premises could put lives at risk. Such premises would be as defined by the Secretary of State in any directions issued but would not be expected to include sites on the basis that a continuous energy supply was required to ensure the safety of employees. As a practical matter to facilitate the task of identifying relevant customers for the purposes of these criteria, it will be presumed that all such customers are dependent on gas if they are not supplied under an interruptible supply contract. As far as possible, PGTs will endeavour to maintain gas supplies to such customers at all times, and take urgent steps to reinstate supplies if they ever fail.

Category "B"

This covers priority customers who would otherwise fall within category "A" but for the fact they are on PGT interruptible contracts. As far as possible supplies to such sites will be maintained for the contractually agreed notice period for interrupting the supply of gas. Whilst this typically allows a maximum of four hours to cease using gas, sites in this category would be expected to stop using gas as soon as reasonably possible. In effect, such sites require priority status only at the onset of an emergency. However, during an extended emergency, supplies might be restored to such customers in advance of supplies to other interruptible customers.

Category "C"

This covers customers operating major items of capital plant (e.g. blast furnace/coke ovens) which require time to be safely shut down and which would sustain serious damage (£50 million or more) if gas supplies ceased suddenly; but would not be expected to include sites on the basis that a continuous energy supply was required to ensure the safety of employees. If possible, supplies to such sites will be maintained to allow the relevant equipment to be progressively decommissioned to avoid major economic loss. However during an emergency, such customers would be expected to shut down immediately any other gas demand at the site which is not directly essential to the safe shut down process. These customers must also supply a site shutdown plan and a site load profile to the PGT.

THE GAS ACT 1986

Section 23

Modification of the Standard Conditions of Licences Granted and Treated as Granted under section 7 of the Gas Act 1986 (Public Gas Transporters' Licences)

The Director General of Gas Supply, pursuant to sections 4(2)(a), 4A, 23(1)(b) and (7) of the Gas Act 1986 (c.44) ("the Act"), hereby modifies the standard conditions of licences granted and treated as granted under section 7 of the Act (public gas transporters' licences) in the manner set out in the Schedule hereto.

**The Official Seal of the Director
General of Gas Supply hereunto
Affixed is authenticated by:-**

.....

**Duly authorised in that behalf by the
Director General of Gas Supply**

Schedule to Notice under section 23(3) of the Gas Act 1986

Public Gas Transporter Licence, Standard Condition 18: Emergency Services & Obligations –Modification

For paragraphs (9) to (13) of standard condition 18 of licences granted and treated as granted under section 7 of the Gas Act 1986 there shall be substituted the following paragraphs –

“(9) Paragraph (10) shall apply in relation to relevant customers and the premises of relevant customers.

(10) Where the licensee considers that, for reasons of safety (not being reasons relating solely to particular premises or a particular locality), the supply of gas to any relevant customer or the conveyance of gas to his premises needs to be interrupted, reduced or restricted, it shall, so far as reasonably practicable in the circumstances having regard to the over-riding importance of safety –

- (a) when making such a request of a relevant supplier or shipper as is mentioned in condition 31(2) of the Standard Conditions of Gas Suppliers’ Licences or condition 4(2) of the Standard Conditions of Gas Shippers’ Licences;
- (b) when telling a relevant customer that he should refrain from using gas, in pursuance of such a term of that customer’s contract for the supply of gas as is mentioned in condition 31(3)(b) of the Standard Conditions of Gas Suppliers’ Licences; or
- (c) when interrupting, reducing or restricting the conveyance of gas, give priority to the maintenance of the supply of gas to, and the conveyance of gas to the premises of, relevant customers or classes of relevant customers in accordance with, and to the extent specified in the list required by paragraph (12), and (to the extent that they supersede or supplement such list) such directions as may from time to time have been given by the Secretary of State under paragraph (14) or (15).”

(11) Where the reasons of safety referred to in paragraph (10) relate to the whole or a substantial part of Great Britain or there is a significant shortage of gas affecting the whole or a substantial part of Great Britain, the licensee shall so far as is reasonably practicable in the circumstances having regard to the over-riding importance of safety –

- (a) (i) consult the network emergency co-ordinator, or
- (ii) where the Licensee is the network emergency co-ordinator, inform and if appropriate consult the Secretary of State, on the taking of any such steps as are mentioned in sub-paragraph (a) or (b) of that paragraph and,

- (b) shall do so before taking any such steps.
- (12) The licensee, if licensed under section 7(2)(a) of the Act, shall –
- (a) unless it has done so before being so licensed, establish a list of relevant customers who should be given priority as respects the maintenance of a supply of gas and the maintenance of the conveyance of gas to their premises, and
 - (b) as often as is appropriate, review the list, and so far as appears appropriate, amend it, after consultation with all relevant shippers which appear to the licensee to have an interest in the proposed amendment, and, without prejudice as aforesaid, shall conduct such a review and make any such amendments on being directed to do so by the Secretary of State.
- (13) When the licensee establishes, reviews or amends any list established under paragraph (12), it shall comply with any direction given by the Secretary of State as to –
- (a) the classes of relevant customers on which the list is to be based;
 - (b) any other criteria on which the list is to be based;
 - (c) any other customers or classes of customers specifically required to be included in the list; and
 - (d) the nature and extent of any priority which will be given to any relevant customer or class of relevant customer as specified in the list.
- (14) The licensee shall comply with any directions given by the Secretary of State for the purposes of this condition generally requiring priority to be given, in such manner and to such extent as may be specified in the directions, to the maintenance of the supply of gas to, and the conveyance of gas to the premises of, one or more classes of relevant customers.
- (15) The licensee shall comply with any directions given by the Secretary of State requiring the licensee to give priority, in such manner and to such extent as may be specified in the directions, to the maintenance of the supply of gas to, and the conveyance of gas to the premises of, one or more relevant customers or classes of relevant customers.
- (16) Any question arising under this condition as to whether a particular relevant customer is required to be included in the list established, reviewed or amended under paragraph (12) shall be determined by the Secretary of State.
- (17) In this condition –
- (a) “relevant customer” includes –
 - (i) any person who is supplied by a relevant supplier with gas conveyed to a particular supply point at a rate which is reasonably expected to exceed 732,000 kilowatt hours a year, to the extent that the terms on which that person is supplied permit such supply to be interrupted or reduced only in pursuance of such a term as is mentioned in Condition 31(3)

- of the Standard Conditions of Gas Suppliers' licences or in pursuance of directions given under section 2(1)(b) of the Energy Act 1976, and
- (ii) any person mentioned in any direction given by the Secretary of State in relation to paragraph (13)(c) of this condition, and
- (b) "network emergency co-ordinator" shall be construed in the same manner as that term is construed in the Gas Safety (Management) Regulations 1996³.

(18) References in this condition to the maintenance of supply or conveyance of gas include references to the resumption of such supply or conveyance following its interruption or reduction."

³ S.I.1996 No. 551.

Public Gas Transporter Standard Licence Condition 18: Emergency services and obligations – Proposed Modifications

New text is shown underlined, together with deleted text.

(9) Paragraph (10) shall apply in relation to relevant customers and the premises of relevant customers.

~~(9) Paragraph (10) shall apply in relation to—~~

~~(a) non-domestic customers who are supplied with gas on terms on which the supply of gas may only be interrupted or reduced in pursuance of such a term as is mentioned in condition 31(3) of the Standard Conditions of Gas Suppliers' Licences or in pursuance of directions given under section 2(1)(b) of the Energy Act 1976, and~~

~~(b) the premises of such non-domestic customers.~~

(10) Where the licensee considers that, for reasons of safety (not being reasons relating solely to particular premises or a particular locality), the supply of gas to any relevant customer or the conveyance of gas to his premises needs to be interrupted reduced or restricted, it shall, so far as reasonably practicable in the circumstances having regard to the over-riding importance of safety –

(a) when making such a request of a relevant supplier or shipper as is mentioned in condition 31(2) of the Standard Conditions of Gas Suppliers' Licences or condition 4(2) of the Standard Conditions of Gas Shippers' Licences;

(b) when telling a relevant customer that he should refrain from using gas, in pursuance of such a term of that customer's contract for the supply of gas as is mentioned in condition 31(3)(b) of the Standard Conditions of Gas Suppliers' Licences; or

(c) when interrupting, reducing or restricting the conveyance of gas, give priority to the maintenance of the supply of gas to, and the conveyance of gas to the premises of, relevant customers or classes of relevant customers in accordance with, and to the extent specified in the list required by paragraph (12), and (to the extent that they supersede or supplement such list) such directions as may from time to time have been given by the Secretary of State under paragraph (14) or (15).

~~(10) Where the licensee considers that, for reasons of safety (unrelated to particular premises or a particular locality), the supply of gas to any non-domestic customers to whom this paragraph applies or the conveyance of gas to their premises needs to be interrupted, reduced or restricted, it shall, so far as is reasonably practicable in the circumstances having regard to the over-riding importance of safety—~~

~~(a) when making such a request of a relevant supplier or shipper as is mentioned in condition 31(2) of the Standard Conditions of Gas Suppliers' Licences or condition 4(2) of the Standard Conditions of Gas Shippers' Licences;~~

- ~~(b) — when telling a non domestic customer that he should use his best endeavours to refrain from using gas, in pursuance of such a term of that customer’s contract for the supply of gas as is mentioned in condition 31(3)(b) of the Standard Conditions of Gas Suppliers’ Licences, or~~
- ~~(c) — when interrupting or restricting the conveyance of gas, *give priority to the maintenance of the supply of gas to consumers on the priority list required by paragraph (12) and the conveyance of gas to their premises.*~~

(11) Where the reasons of safety referred to in paragraph (10) relate to the whole or a substantial part of Great Britain or there is a significant shortage of gas affecting the whole or a substantial part of Great Britain, the licensee shall so far as is reasonably practicable in the circumstances having regard to the over-riding importance of safety –

- (a) consult –
 - (i) the network emergency co-ordinator, or
 - (ii) where the Licensee is the network emergency co-ordinator, inform and if appropriate consult the Secretary of State, on the taking of any such steps as are mentioned in sub-paragraph (a) or (b) of that paragraph and,
- (b) shall do so before taking any such steps.

~~(11) — Where the reasons of safety referred to in paragraph (10) relate to the whole or a substantial part of Great Britain or there is a significant shortage of gas affecting the whole or a substantial part of Great Britain, the licensee shall consult the Secretary of State on the taking of any such steps as are mentioned in sub paragraph (a) or (b) of that paragraph and, so far as is reasonably practicable in the circumstances having regard to the over-riding importance of safety, shall do so before taking any such steps.~~

(12) The licensee, if licensed under section 7(2)(a) of the Act, shall –

- (a) unless it has done so before being so licensed, establish a list of relevant customers who should be given priority as respects the maintenance of a supply of gas and the maintenance of the conveyance of gas to their premises, and
- (b) as often as is appropriate, review the list, and so far as appears appropriate, amend it, after consultation with all relevant shippers which appear to the licensee to have an interest in the proposed amendment, and, without prejudice as aforesaid, shall conduct such a review and make any such amendments on being directed to do so by the Secretary of State.

~~(12) — The licensee, if licensed under section 7(2)(a) of the Act, shall~~

- ~~(a) — unless it has done so before being so licensed, establish a list of non-domestic customers who should be given priority as respects the maintenance of a supply of gas and the maintenance of the conveyance of gas to their premises, and~~
- ~~(b) — as often as is appropriate, review the list, and so far as appears appropriate, amend it, after consultation with all relevant shippers~~

~~which appear to the licensee to have an interest in the proposed amendment, and, without prejudice as aforesaid, shall conduct such a review and make any such amendments on being directed so to do by the Secretary of State,~~

~~and, if the Secretary of State has designated criteria to be taken into account when such a list is established, reviewed or amended, the licensee shall take account of those criteria in doing so.~~

(13) When the licensee establishes, reviews or amends any list established under paragraph (12), it shall comply with any direction given by the Secretary of State as to –

- (a) the classes of relevant customers on which the list is to be based;
- (b) any other criteria on which the list is to be based;
- (c) any other customers or classes of customers specifically required to be included in the list; and
- (d) the nature and extent of any priority which the list should specify will be given to any relevant customer or class of relevant customer.

~~(13) Any question arising under this condition as to whether a particular non-domestic customer satisfies the designated criteria shall be determined by the Secretary of State.~~

(14) The licensee shall comply with any directions given by the Secretary of State for the purposes of this condition generally requiring priority to be given, in such manner and to such extent as may be specified in the directions, to the maintenance of the supply of gas to, and the conveyance of gas to the premises of, one or more classes of relevant customers.

(15) The licensee shall comply with any directions given by the Secretary of State requiring the licensee to give priority, in such manner and to such extent as may be specified in the directions, to the maintenance of the supply of gas to, and the conveyance of gas to the premises of, one or more relevant customers or classes of relevant customers.

(16) Any question arising under this condition as to whether a particular relevant customer is required to be included in the list established, reviewed or amended under paragraph (12) shall be determined by the Secretary of State.

(17) In this condition –

- (a) “relevant customer” includes –
 - (i) any person who is supplied by a relevant supplier with gas conveyed to a particular supply point at a rate which is reasonably expected to exceed 732,000 kilowatt hours a year, to the extent that the terms on which that person is supplied permit such supply to be interrupted, reduced or restricted only in pursuance of such a term as is mentioned in Condition 31(3) of the Standard Conditions of Gas Suppliers’ licences or in pursuance of directions given under section 2(1)(b) of the Energy Act 1976, and
 - (ii) any person mentioned in any direction given by the Secretary of State in relation to paragraph (13)(c) of this condition, and

(b) “network emergency co-ordinator” shall be construed in the same manner as that term is construed in the Gas Safety (Management) Regulations 1996⁴.

(18) References in this condition to the maintenance of supply or conveyance of gas include references to the resumption of such supply or conveyance following its interruption, reduction or restriction.

⁴ S.I. 1996 No. 551.