



Modification of NGC's Transmission Licence

Direction to modify NGC's Transmission Licence

In accordance with the powers contained in section 11(1) of the Electricity Act 1989 ("the Act") and with the consent of the National Grid Company plc ("NGC"), the Gas and Electricity Markets Authority ("the Authority") has directed a modification to the Transmission Licence treated as granted to NGC under section 6(1)(b) of the Act with effect on and from 1 April 2004. The direction to modify the Transmission Licence was issued by the Authority to NGC on 19 December 2003.

This letter constitutes notice by the Authority under Section 49A of the Electricity Act 1989 in relation to this Direction.

Background

On 19 November 2003 the Authority gave notice pursuant to section 11(2) of the Act that the Authority was proposing to modify the conditions of NGC's Transmission Licence.

The Authority proposed to modify the following licence conditions:

- (1) Special condition AA5: Revenue Restriction Conditions: Definitions;
- (2) Special condition AA5A: Revised Restrictions on Revenue; and
- (3) Special condition AA5C: Information to be Provided to the Authority in Connection with the Transmission Network Revenue Restriction

The section 11(2) notice stated the proposed modifications to the Transmission Licence and their effect and the reasons why the Authority proposed the modifications.

The Authority has been considering a number of Modification Proposals to NGC's Charging Methodologies. One of these Modification Proposals was Connection Charging Methodology Modification 07 "Implementation of "PLUGS" – Change to Connection Boundary and associated removal of Land Charges and Type B Termination Charges and Change to Calculation of Site Specific Maintenance Charges" ("CCM-M-07"). CCM-M-07 would reduce the amount NGC could charge via connection charges. Under the current licence provisions there would not be an automatic corresponding increase in the amount NGC could charge via its use of system charges. NGC would also have to repay users for customised historic charging options for connection charges, including repayments for capital contributions and accelerated depreciation. This has been collectively referred to as resolving "legacy issues".

In the 19 November 2003 notice, the Authority set out the reasons why it believes that NGC should be allowed to recover the revenue it would lose if CCM-M-07 were implemented. The Authority therefore consulted on specific proposals to modify NGC's licence so it could continue to recover this revenue.

The notice invited any representations or objections with respect to the proposed modifications to the Transmission Licence to be made by 5pm on 17 December 2003.

Respondents' views

Ofgem received seven responses to the consultation, of which one was marked confidential. All of the six non-confidential respondents agreed that the proposed licence modification should be made if CCM-M-07 is implemented. NGC consented to the proposed modification to its transmission licence with effect from 00.00 hours on 1 April 2004, provided that no changes are made to the draft legal text, and that the Authority does not veto CCM-M-07. Ofgem did not receive any objection from the Secretary of State.

Two of the respondents re-iterated their opposition to the changes proposed to NGC's Charging Methodologies. One of these also considered that the timetable for NGC's charging review has slipped, and that this has led to prolonged uncertainty on the effect on users' charges from 1 April 2004. This respondent was also concerned that NGC has not set out the principles for addressing legacy issues and incorporating provisions for this in the Connection and Use of System Code or the Charging Methodologies. In addition, this respondent was also concerned over the lack of information from NGC regarding the impact on charges for users with firm price agreements and the interconnector asset owner. One respondent considered that repayments by NGC for accelerated payments should be recovered from users over the usual life of the asset.

Finally, the two respondents opposed to the changes, were also concerned over the interaction with the proposed British Electricity Trading and Transmission Arrangements ("BETTA"), and considered that the proposed changes to NGC's Charging Methodologies should not be made ahead of the implementation of BETTA. One of these respondents was of the view, that as the Bill to introduce BETTA has had its second reading in Parliament, Ofgem should have regard to GB considerations in making its decision on the modification to NGC's transmission licence and the associated changes to the Charging Methodologies. The respondent believed that the proposed changes are so fundamental that if implemented for England and Wales, they could not be easily reversed at the stage at which a GB Charging Methodology was introduced.

Ofgem's view

Ofgem welcomes the fact that all respondents agreed that the proposed modification to NGC's transmission licence should be made if CCM-M-07 were implemented.

Ofgem believes that its decision not to veto the proposed changes to NGC's Charging Methodologies and to direct the proposed modification to the transmission licence removes the uncertainties about charges from 1 April 2004 which one respondent referred to. The reasons for Ofgem's decision not to veto NGC's change to the charging methodology CCM-M07 are contained in a letter issued today. This letter is available from NGC's website at http://www.nationalgrid.com/uk/indinfo/charging/mn_modifications.html.

Some respondents raised concerns as to whether NGC are going to adequately resolve bi-lateral issues that arise from this change to the charging methodology. Ofgem considers that NGC and Users should seek to resolve legacy issues on a bilateral basis as soon as possible. Obviously, if NGC and Users are unable to resolve any bi-lateral issues then it is open to either Party to refer the issue to Ofgem for ultimate determination (see transmission licence condition C7E.3).

Two respondents raised the issue that Ofgem should not proceed with any changes until after BETTA has been introduced. On 17 January 2003, Ofgem wrote to the chairmen of the Balancing and Settlement Code Panel and the Connection and Use of System Code Amendments Panel to explain that Ofgem would consider whether to consult on modifications on a GB wide basis from the time of second reading in Parliament of the Bill necessary to introduce BETTA. Ofgem wrote to the chairmen again on 5 December, giving further guidance on the process for consultation leading up to BETTA¹. The draft

¹ These letters can be downloaded from Ofgem's webpage on www.ofgem.gov.uk

Energy Bill, which will enable introduction of BETTA, had its second reading in Parliament on 11 December 2003².

Ofgem will consider, on a case by case basis, whether proposals to modify NGC's Charging Methodologies merit GB wide consultation prior to Ofgem making its decision. Wherever possible, Ofgem intends to conduct the GB wide consultations in parallel with NGC's consultation, to allow Ofgem to have view of any GB representations when making its decision on these modification proposals.

Ofgem has decided not to consult GB wide on the proposed changes to NGC's Charging Methodologies. Ofgem is satisfied that appropriate consideration has been given to the proposals. Furthermore, NGC is conducting a GB wide consultation on GB Charging Methodologies, which includes the proposed changes in CCM-M-07 and UoSCM-M-10³. Ofgem will have regard to all responses to NGC's consultation when making its decision on GB wide charging methodologies.

The Authority's decision

The Authority has today decided not to veto CCM-M-07. The Authority's rationale for making the proposed consequential modifications to the Transmission Licence remained unchanged following the Authority's consideration of the representations or objections received.

Consequently, having regard to the representations made to the Authority, for the reasons set out in the section 11(2) notice, the Authority has directed that the modifications described above shall be made to NGC's Transmission Licence with effect from 1 April 2004.

Relevant information

Copies of the section 11(2) notice and of the proposed modifications are available on the Ofgem website at the following address:

http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/5120_Statutory_NGC_licence_change_19nov03.pdf

The final legal text is also available at the Ofgem website at the following address:

<http://www.ofgem.gov.uk/ofgem/work/index.jsp?section=/areasofwork/licensingmodifications>

² See Hansard available from http://www.parliament.the-stationery-office.co.uk/pa/ld199697/ldhansrd/pdvn/lds03/text/31211-01.htm#31211-01_head0

³ NGC's consultation document was issued 16 December and is entitled "GB Transmission Charging: Initial Thoughts". It is available from NGC's website at http://www.nationalgrid.com/uk/indinfo/charging/pdfs/NG_GB_Charging_Initial_Thoughts.pdf. NGC has invited responses by 30 January 2004.