



To the NTS operator, the DN operators and other interested parties

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27 July 2006

Proposal to modify Standard Special Condition A5 ("Obligations as Regards Charging Methodology") of the gas transporter licence applicable to NTS and DN operators

Attached to this letter is a notice pursuant to paragraph 3 of Standard Special Condition (SSC) A2 (Private Collective Licence Modification Procedure in respect of Standard Special Conditions applicable to both NTS and DN licensees) of the gas transporter (GT) licence granted under section 7 of the Gas Act 1986. The notice formally proposes a modification to SSC A5 (Obligations as Regard Charging Methodology) of the GT licence.

SSC A5 of the GT licence sets out the licensees' obligations as regards charging methodologies. Paragraph 2 of SSC A5 provides that, when a change is proposed to the charging methodology, the relevant licensee must provide the Authority with a report before implementing such proposed change. Paragraph 2 of SSC A5 also states that unless the Authority has vetoed the proposed change within 28 days of the report being received then the modification shall be made.

Under section 5A of the Utilities Act 2000, where the Authority is proposing to do anything for the purposes of, or in connection with, the carrying out of any function exercisable under or by virtue of Part 1 of the Gas Act 1986 or the Electricity Act 1989 and where it appears that such proposals are "important", Ofgem has, except in limited circumstances, a statutory duty to undertake and publish an impact assessment. Section 5A(2) provides details of the criteria against which importance should be assessed.

Ofgem considers that, where appropriate, conducting an impact assessment is an integral part of taking a structured approach to decision making. Consequently, Ofgem has committed to aim to set a minimum consultation period of six weeks and where the period is shorter to explain why. At present the requirement under SSC A5 for Ofgem to take a decision on a charging methodology proposal within 28 days constrains Ofgem's ability to undertake impact assessments.

This notice follows an initial consultation, published on 31 May 2006, which is available on Ofgem's website¹.

¹http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/15186_9306.pdf?wtfrom=/ofgem/work/index.jsp§ion=/areasofwork/transchar.

The Authority received eight responses to this initial document. On the whole responses were in favour of the proposed modification on the basis that the existing licence arrangements constrain Ofgem's ability to undertake impact assessments. Two respondents stated that the extension of the period from 28 days to three months should be by exception rather than the norm due to the increased uncertainty a longer notice period would bring. Another two respondents did not support the change and expressed concern about the impact that these modifications will have on the ability of licensees to make timely changes to the relevant charging methodologies. We have taken account of the responses to this initial consultation in drafting the modified conditions. The drafting ensures that extensions to the period will be for a *maximum* of three months and that 28 days should remain the default period should an impact assessment not be required.

The drafting of the proposed modification to the GT licence can be found in Schedule 1 of the attached notice.

Schedule 2 of the notice gives details of how a respondent may register a statutory objection.

Yours sincerely,

Joanna Whittington
Director of Gas Distribution
Authorised on behalf of the Authority

TO THE COMPANY SECRETARY

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02006000
NGT House
Warwick Technology Park
Gallows Hill
Warwick
CU34 6BA

Scotland Gas Networks Plc
SC264065
55 Vernon Road
Reading
RC1 814

Southern Gas Networks Plc
05167021
55 Vernon Road
Reading
RC1 814

Northern Gas Networks Ltd
05167070
1100 Century Way
Thorpe Business Park
Colton
Leeds
L515 8TU

Wales & West Utilities Ltd
05046791
Wales and West House
Spooner Close
Celtic Springs
Coedkernow
Newport
WP10 8F2

NOTICE UNDER PARAGRAPH 3 OF STANDARD SPECIAL CONDITION A2 OF THE GAS TRANSPORTER LICENCE GRANTED UNDER SECTION 7 OF THE GAS ACT 1986

The Gas and Electricity Markets Authority (the "Authority") hereby gives notice pursuant to paragraph 3 of Standard Special Condition (SSC) A2 (Private Collective Licence Modification Procedure in respect of Standard Special Conditions applicable to both NTS and DN licensees) of the gas transporter licence applicable to NTS and DN operators as follows:

1. The Authority proposes to modify SSC A5 (Obligations as Regard Charging Methodology) (the "Condition") of the gas transporter licence granted to the DN Operators and the NTS Operator - National Grid Gas Plc, Scotland Gas Networks Ltd, South Gas Networks Ltd, and Northern Gas Networks Ltd. Wales & West Utilities Ltd - (the "licensees") in the manner set out in the Schedule attached herewith by modifying paragraph 2 of the Condition.
2. Under the Condition a licensee can modify its charging methodology if within 28 days of furnishing the Authority with a report setting out the proposed modifications, the Authority has not directed that the modification should not be made.
3. The Authority considers that this 28-day period is not consistent with the Authority's aim to set a minimum consultation period of 6 weeks when discharging its duty under section 5A of the Utilities Act 2000 to carry out impact assessment.
4. The effect of the Authority's proposal to modify the Condition is to allow an extension of the 28 day period to a maximum of 3 months where needed as set out in the draft licence condition in Schedule 1 hereto.
5. The reason why the Authority proposes to modify the Condition is set out fully in the May 31 2006 letter 93/06, '*Proposal to modify Standard Licence Conditions C5 (Use of system charging methodology) and C6 (Connection charging methodology) of the electricity transmission licence and SSC A5 (Obligations as regards charging methodology) of the gas transporters licence*', which is available, together with responses from interested parties (free of charge) from the Ofgem library, 9 Millbank, London SW1P 3GE (020 7901 7003) or the Ofgem website (www.ofgem.gov.uk).
6. Any representations or objections to the proposed licence modification should be made in writing on or before **31 August 2006** and should be sent to john.mcnamara@ofgem.gov.uk or to:

John McNamara
Ofgem
9 Millbank
London
SW1P 3GE
Direct dial: 020 7901 7035

Responses will be retained in electronic format and published on the Ofgem website unless clearly marked as confidential.

7. Any respondent wishing to register a statutory objection is encouraged to use the pro-forma set out in Schedule 2 hereto.

Dated the 27th day of July 2006

Joanna Whittington
Director of Gas Distribution
Authorised on behalf of the Authority

Schedule1

Proposed Amendment (in struck-through and italicised text) to Paragraph 2 of Standard Special Condition A5 (Obligations as Regard Charging Methodology) of the gas transporter licence applicable to both NTS and DN licensees

2. Except in so far as the Authority otherwise approves, or in response to a determination by the Secretary of State under paragraph 2A of Standard Special Condition A27 (Disposal of Assets), the licensee shall not make a modification of the charging methodology unless –

(a) it has consulted relevant shippers on the proposed modification and allowed them a period of not less than 28 days within which to make written representations; and

(b) it has furnished the Authority with a report setting out –

- (i) the terms originally proposed for the modification;
- (ii) the representation (if any) made by relevant shippers; and
- (iii) any changes in the terms of the modification intended in consequence of such representations.

~~(c) 28 days have elapsed since the said report was furnished without the Authority having given the licensee a direction requiring that the modification not be made~~

provided that, where the licensee has complied with the requirements of sub-paragraphs (a) and (b), it will not make any modification to the charging methodology where the Authority has, within 28 days (or within three months if the Authority intends to undertake an impact assessment) of the report being furnished to it under sub-paragraph (b) given a direction to the licensee that the modification shall not be made.

Schedule 2

Notice under paragraph 3(a) of Standard Special Condition A2 of the gas transporter licence granted under section 7 of the Gas Act 1986

Proposed Modification of Standard Special Licence Condition A5 (Obligations as Regard Charging Methodology) of the gas transporter licence applicable to both NTS and DN licensees

In response to the statutory notice dated [] in respect of the above proposed modification(s), this notice constitutes a statutory objection to that proposal on behalf of [state full name of (each) relevant licence holder making the objection].

I confirm that I am duly authorised to give this notice on behalf of [each of the above named companies] [the above named company].

[Signed]

Date: []

[Address for acknowledgement, preferably including email address]