

GDPCR: Second Licence Drafting Consultation Document



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Target audience: Consumers and their representatives, gas distribution networks (GDNs), the national transmission system (NTS), independent gas transporters (IGTs), gas shippers and suppliers and any other interested parties.

Overview:

This document sets out our updated views on the changes to the gas transporters' licence conditions that are necessary to make our proposals for the Gas Distribution Price Control Review (GDPCR) effective. The proposed modifications are consistent with our final proposals for GDPCR. This will be the final informal consultation on the licence conditions and the next consultation will take the form of a statutory consultation.

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Context

Part of the gas distribution price control review is to ensure that the gas transporters' licence conditions reflect our final proposals. The GDPCR final proposals document was published on 3 December and this document sets out the changes to the licence conditions to make the final proposals effective.

Although GDPCR primarily affects the GDNs this document also includes changes to the IGT licence conditions to ensure consistency with changes to the GDNs' licences, and to NGG NTS's licence conditions where appropriate. These areas are highlighted in the introduction chapter and also in each of the relevant chapters.

This will be the final opportunity for respondents to comment on the licence drafting before we issue the statutory consultation, which we intend to do in February 2008.

Associated Documents

- GDPCR Final Proposals Document, December 2007 (Ref. 285/07);
- Open letter on Ofgem's proposals to implement revised standards of performance arrangements for gas transporters, November 2007 (Ref. 279/07);
- Electricity Distribution Licence Review: Proposals, October 2007 (Ref. 259/07);
- GDPCR Updated Proposals Document, September 2007 (Ref. 226/07);
- GDPCR Initial Licence Drafting Consultation, September 2007 (Ref. 221/07);
- Supply Licence Review - Final Proposals, June 2007 (Ref. 128/07);
- GDPCR Initial Proposals Document, May 2007 (Ref. 125/07);
- GDPCR Fourth Consultation Document, March 2007 (Ref. 49/07);
- GDPCR One Year Control Final Proposals, December 2006 (Ref. 205/06); and
- GDPCR Third Consultation Document, November 2006 (Ref. 203/06).

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Summary

The final proposals for the gas distribution price control review sets out the revenue allowances for each of the GDNs for the five year period from 1 April 2008 and includes a range of incentives designed to encourage GDNs to operate efficiently and deliver an agreed quality of service to their customers. In September 2007 we published an initial licence drafting consultation setting out our proposals for the modifications to the gas distribution licences that will be required in order to implement the price control. The initial licence drafting consultation was based on the proposals set out in the GDPCR initial proposals document.

The second licence drafting consultation seeks to address some of the comments raised by respondents to the initial consultation and also proposes additional and amended drafting to take account of GDPCR final proposals.

The initial licence drafting consultation included our proposed changes to the Gas (Standards of Performance) Regulations. However, the regulations require additional scrutiny not required for amendments to the gas transporters' licence, for example it requires the Secretary of State's consent. Therefore we have issued a separate consultation for the regulations and intend to issue the statutory consultation on the regulations in January 2008. In comparison we intend to issue the statutory consultation for the licence conditions in February 2008.

This will be the last consultation before we issue the statutory consultation and it is important that interested parties provide their comments to this consultation.

Some of our proposed modifications will also apply to independent gas transporters to ensure that consumers whose premises are connected to IGT networks have the same protection as those connected to a GDN. We are also proposing a new licence condition for IGTs and are revoking the overall standards of performance. This condition is not necessary for GDNs as we have moved this obligation into their existing consumer satisfaction survey obligations.

Some of the proposed modifications to the licence conditions will apply to the national transmission system (NGG NTS) as well as to gas distribution networks due to the structure of the licence conditions. In this document we have clearly identified which provisions will affect the IGTs or NGG NTS. The appendices also include the amendments to the IGT licences where appropriate.

1. Introduction

Chapter Summary

This chapter sets out the purpose of the document, summarises the related SI consultation process, summarises the proposed licence modifications that are likely to affect the IGTs and NGG NTS and explains how the document is organised.

Question box

There are no specific questions in this chapter.

Purpose of this document

1.1. The price control that currently applies to the GDNs expires on 31 March 2008. Earlier this month we issued the GDPCR final proposals which will reset the revenue allowances for the eight GDNs for the next price control period 1 April 2008 to 31 March 2013.

1.2. The GDPCR final proposals also set out a range of incentives to encourage the GDNs to operate their networks efficiently and quality of service outputs in order to ensure that efficiency savings are not pursued to the detriment of quality of service to its customers. This consultation document considers how to make the GDPCR final proposals effective through modifications to the gas transporters' licence.

1.3. In the initial licence drafting consultation, which was published after GDPCR initial proposals, we noted that there were some areas where policy was still being developed. Following the publication of GDPCR final proposals all policy associated with GDPCR has now been finalised and this consultation document is intended to include all the licence drafting necessary to make GDPCR final proposals effective.

1.4. Although GDPCR primarily affects GDNs there are some issues, in particular the quality of service arrangements and financial ring fencing provisions, which we consider should apply to IGTs as well as GDNs to ensure that customers have the same level of protection regardless of whether they are connected to the IGT's or GDN's network. These areas are summarised in paragraph 1.11 below. Some of the changes to the licence conditions will apply to NGG NTS as well as to the GDNs, particularly modifications to SSC Part A, which applies to both GDNs and NGG NTS. These conditions are summarised in paragraph 1.15 below.

1.5. This will be the last consultation before we issue the statutory licence consultation in February 2008. We hope that all interested parties who wish to comment on the proposed licence conditions will do so now in order to ensure that all comments are considered before issuing the statutory consultation. However, parties should be mindful that these conditions are still in draft form so are not legally binding and are still subject to change.

1.6. In January and February 2008 we will continue to hold working group meetings with the GDNs, and where appropriate NGG NTS and the IGTs, to discuss the proposed changes to the licence conditions. If any interested parties are concerned about the proposed licence conditions we would be happy to meet to discuss the rationale for the changes. We intend to publish the statutory consultation in February 2008 and make the licence modifications in March 2008.

1.7. The purpose of this consultation is to seek comments from respondents on whether the proposed amendments to the licence conditions are adequate to implement the GDPCR final proposals. In providing comments to the licence drafting consultation respondents should be aware that the policy associated with GDPCR has been finalised.

Consultation on the SI

1.8. In the initial licence drafting consultation we consulted on our proposed changes to the Gas (Standards of Performance) Regulations which constitute a statutory instrument (SI). The procedures for making modifications to the SI are different to gas transporter licence modifications. In particular the Authority is statutorily obliged to sign and seal the SI; and the SI can only be made with the consent of the Secretary of State. The Office of Public Sector Information requires a copy of the SI well in advance of its implementation date.

1.9. Therefore, in order to ensure that the amendments to the SI are implemented by 1 April 2008 we consider that it is necessary to bring forward the consultation. We issued the second consultation on the SI in November 2007 with a deadline for responses by 19 December 2007. We intend to issue the statutory consultation on the SI in January 2008 with a deadline for responses in February 2008. This ensures that there is sufficient time for the Authority and Secretary of State to sign the SI and for the HMSO to publish the SI before 1 April 2008.

1.10. As part of the second consultation on the SI we included a draft of amendments to standard condition 20 (Payments in relation to standards of performance) of the gas transporters licence (SLC 20) as it is intended to complement the regulations. We intend to include this condition in the statutory licence consultation in February 2008.

Impact of the modifications on the IGTs' licence conditions

1.11. As discussed above some of the proposed licence modifications will apply to IGTs as well as GDNs. In particular Appendix 13 includes our proposed modifications to SLCs 17 to 23. These conditions set out the quality of service obligations and are consistent with our proposed changes to SSC A19-25 which are set out in more detail in chapter 3. Appendix 13 includes a new licence condition for IGTs to capture obligations which were previously in the overall standards of performance. The proposed new condition is set out in more detail in chapter 3.

1.12. Appendix 13 also includes our proposed modifications to SLCs 44 and 46. The modifications reflect changes to the ring fencing provisions. The proposed modifications are consistent with our proposed changes to SSC A30 to 40 and are set out in more detail in chapter 3.

1.13. The changes to SLC 4B, which set out changes to the connection charging methodology, are set out in Appendix 7 and will also apply to the IGTs. This is set out in more detail in chapter 3.

1.14. It would be helpful if IGTs could indicate whether they are minded to accept these draft licence conditions in their response to this consultation. GDNs have already been asked to indicate whether they are minded to accept our proposals as part of the final proposals document.

Impact of the modifications on NGG's NTS licence conditions

1.15. Standard licence condition 4B and the proposed new licence condition for independent systems will apply to the NGG NTS. The amendments to the Part A Standard Special Conditions will also apply in the NTS licence. So NGG NTS will be a party to the required collective modification process and the proposed changes to these conditions will apply equally to them. In the initial licence drafting consultation document we indicated that the quality of service provisions in SSC A19-25 do not in practice apply to the NTS. We are currently giving more consideration to whether this is the case and in particular we note that some of the quality of service conditions apply to non domestic as well as domestic consumers. If we do determine that any or all of these conditions did not apply to the NTS, we would move them to section D of the licence, which applies only to the GDNs. We also noted that there was some uncertainty about whether the proposed changes to SSC A15 - Agency, should extend to the NTS. Our current view is that these provisions should apply to the NGG NTS.

1.16. The licence consultation process for the NTS licence following TPCR inserted a new Special Condition 1B. This condition made amendments to Standard Special Conditions A37 and A40, two of which we are now reflecting directly in those standard special conditions, so the equivalent paragraphs will be removed from Special Condition 1B.

1.17. It would be helpful if NGG NTS could indicate whether it is minded to accept these draft licence conditions in their response to this consultation. GDNs have already been asked to indicate whether they are minded to accept our proposals as part of the final proposals document.

Structure of this document

1.18. This consultation document is structured as follows:

- Chapter 2 sets out our proposed modifications to SSC Part E;

- Chapter 3 sets out our other proposed modifications;
- Chapter 4 sets out the next steps;
- Appendix 1 explains the response process and summarises the questions raised;
- Appendix 2 sets out the Authority's powers and duties;
- Appendix 3 is a glossary of the key technical terms used in this consultation; and
- Appendix 4 is the feedback questionnaire.

2. Proposed modifications to Special Conditions in Part E

Chapter Summary

This chapter sets out a summary of our proposed changes to the Special Conditions in Part E which only apply to the GDNs.

Question box

Question 1: Is it appropriate to include a provision in SC E7 which enables the Authority to determine on TMA costs that are not already covered by the provisions of the re-opener?

Question 2: Are our proposed changes to SC Part E appropriate?

Introduction

2.1. Appendices 10 and 11 set out our proposed changes to SC Part E. The version in appendix 10 applies to the IDNs and the version in appendix 11 applies to the RDNs. The main differences between the two sets of licence conditions is that the RDNs have additional obligations prohibiting the consolidation of GDNs for the purposes of reporting; they also have two additional licence obligations, SC E21 (Undertaking from ultimate controller concerning non-discrimination between the Distribution Network transportation activity and the NTS transportation activity) (previously SC E9) and SC E22 (Separation of NTS and Distribution Network Businesses) (previously SC E10). The calculation of prescribed rates is also different for the RDNs and this is explained in more detail in paragraph 2.7 below.

2.2. This section sets out our proposed changes to SC Part E. Since the initial licence drafting consultation we have added a number of new licence conditions which relate to new incentives which we have added as part of the GDPCR final proposals. The new licence conditions are set out in SC E8-12. We have provided a detailed explanation of these conditions in the appropriate sections below. For detail and the background on the other licence conditions please refer to the initial licence drafting consultation. We have also added three 'not used' conditions which can be used to implement new incentive obligations in the event that we consider it appropriate before the next GDPCR without the need to renumber the non revenue restriction conditions.

2.3. As a result of these additions, and in the interests of keeping the licence conditions relating to the price control revenue restriction grouped together, some of the licence conditions have been renumbered since the previous version issued with the first licence drafting consultation. For ease of comparison, table 2.1 below sets out the current and previous order, as well as the location of comparable items in the current version of the licence.

Table 2.1 Organisation of Part E

| Current draft of Part E | Previous draft of part E | Existing Part E |
|---|---|--|
| E1: Revenue restriction definitions in respect of the Distribution Network | E1: Revenue restriction definitions in respect of the Distribution Network | E1: Revenue restriction definitions in respect of the Distribution Network |
| E2: Restriction of revenue in respect of the Distribution Network Transportation Activity | E2: Restriction of revenue in respect of the Distribution Network Transportation Activity | E2B Part 1b paragraph 8 (1) |
| E3: Distribution Network allowed pass-through items (Ft) | E3: Distribution Network allowed pass-through items (Ft) | E2B Part 1b paragraph 8 (1) |
| E4: Distribution Network Transportation Activity Revenue adjustment (Kt) | E4: Distribution Network Transportation Activity Revenue adjustment (Kt) | E2B Part 1b paragraph 8 (4) |
| E5: Mains and Services Replacement expenditure adjustment (MSRAt) | E5: Mains and Services Replacement expenditure adjustment (MSRAt) | E2B Part 1b paragraph 8 (2) and (3) |
| E6: Distribution Network Exit Capacity costs and incentive revenue (Ext) | E6: Distribution Network Exit Capacity costs and incentive revenue (Ext) | E2B Part 1b paragraph 8 (1) and (5) |
| E7: Determination of any adjustment factor to be applied to MRt (IAEt) | E7: Determination of any adjustment factor to be applied to MRt (IAEt) | E2B Part 1b paragraph 8 (6) |
| E8: Distribution Network shrinkage allowance (Sht) | E8: Distribution Network shrinkage incentive revenue (Sht) | E2B Part 1b paragraph 8 (7) |
| E9: Distribution Network environmental emissions incentive revenue (EEt) | N/A | N/A |
| E10: Distribution Network discretionary reward scheme revenue (DRSt) | E9: Distribution Network discretionary reward scheme revenue (DRSt) | N/A |
| E11: Distribution Network innovation funding incentive for sustainable development scheme (IFISDt) | N/A | N/A |
| E12: Distribution Network loss of Meter Work revenue driver (LMt) | N/A | N/A |
| E16: Disapplication of the Distribution Network Transportation Activity Revenue restriction | E10: Disapplication of the Distribution Network Transportation Activity Revenue restriction | E2B Part 1b paragraph 8 (11) |
| E17: Allocation of revenues and costs for calculations under the price control in respect of the Distribution Network | E11: Allocation of revenues and costs for calculations under the price control in respect of the Distribution Network | E3: Allocation of revenues and costs for calculations under the price control in respect of the Distribution Network |

| Current draft of Part E | Previous draft of part E | Existing Part E |
|--|---|--|
| E18: Excluded services | E12: Supplementary provisions of the revenue restrictions in respect of the Distribution Network | E4: Supplementary provisions of the revenue restrictions in respect of the Distribution Network |
| E19: Restriction of prices in respect of Tariff Capped Metering Activities | E13: Restriction of prices in respect of Tariff Capped Metering Activities | E5: Restriction of prices in respect of Tariff Capped Metering Activities |
| E20: Revenue Reporting and Associated Information to be provided to the Authority in connection with the Distribution Network transportation activity revenue restriction | E14: Revenue Reporting and Associated Information to be provided to the Authority in connection with the Distribution Network transportation activity revenue restriction | E6: Revenue Reporting and Associated Information to be provided to the Authority in connection with the Distribution Network transportation activity revenue restriction |
| E21: Undertaking from ultimate controller concerning non-discrimination between the Distribution Network transportation activity and the NTS transportation activity (This condition applies to the RDNs only) | - | E9: Undertaking from ultimate controller concerning non-discrimination between the Distribution Network transportation activity and the NTS transportation activity |
| E22: Separation of NTS and Distribution Network Businesses (This condition applies to the RDNs only) | - | E10: Separation of NTS and Distribution Network Businesses |

Specific changes to SC E

SC E1 - Revenue Restriction definitions in respect of the DN

2.4. As set out in the initial licence drafting consultation document we have moved a number of definitions which were in various Part E provisions into SC E1 so that they are easier to find. We have also capitalised the defined terms where they are used in the main body of the licence conditions to clarify which terms are defined and deleted definitions which are now redundant.

SC E2 - Restriction of Revenue in respect of the DN transportation activity (previously SC E2B Part 1b paragraph 8(1))

2.5. SC E2 has been amended to include the new incentive terms. We have populated Annex A of SC E2 according to the relevant amounts included in the base revenue allowances in the final proposals. The Zt term is equal to the total allowed revenue figure shown in Appendix 14 to the final proposals, less our assumed allowance for shrinkage, less any amount allowed for independent systems. Revenue

for independent systems will in future be recovered through NGG NTS charges, as set out in chapter 8 of the final proposals document.

SC E3 - DN allowed Pass through items (previously SC E2B Part 1b paragraph 8(1))

2.6. There are no substantive changes to SC E3 since the version we published as part of the initial licence drafting consultation, except that we have populated Annexes B-D of SC E3 according to the relevant amounts included in the revenue allowances in the final proposals. The sum of RBEt and LFEt is equal to the amounts shown in Appendix 14 to the final proposals, line 2 1 (non-controllable costs). PDEt is equal to line 20 (NTS charge for pensions).

2.7. Some respondents expressed concern that the formula for allowed rates from 2010-11 onwards in the event that the Authority considers that the licensee has not taken reasonable endeavours to minimise its rates bill was unduly harsh. For clarification, in such an event the amount that would be included in the licensee's revenue allowances in respect of business rates would be the amount included in the final proposals, which was based on GDNs' estimates of their 2007/08 rates bill, multiplied by the appropriate inflation factor for the year. To the extent that actual rates increased systematically faster than RPI, there is a chance that this amount would not be sufficient to cover the rates bill before the increase arising from the revised rating valuation. We are not aware of evidence that this is likely to be the case, but we seek respondents' views on the matter.

SC E4 - DN transportation activity revenue adjustment (previously SC E2B Part 1b paragraph 8(4))

2.8. SC E4 has been amended to include the two tier revenue recovery mechanism which is consistent with the proposals set out in paragraphs 2.13-2.16 of the GDPCR final proposals document.

SC E5 - Mains and services replacement expenditure adjustment (previously SC2B Part 1b paragraph 8(2) and (3))

2.9. Since the draft in the initial licence drafting consultation we have clarified and added some services definitions and made minor amendments to the formula in paragraph 2 to correctly calculate the RPI adjustment. We have also removed the paragraph setting out the application of the mains and services cap. In paragraphs 6.15 to 6.18 of GDPCR final proposals we have set out the mechanism for treating overspend or underspend against the mains and services allowances and we will treat overspend/ underspend in accordance with these provisions.

SC E6 - DN exit capacity costs and incentive revenue (previously SC E2B Part 1b paragraph 8(1) and (5))

2.10. The drafting of SC E6 has been complicated by the fact that the incentive arrangements change towards the end of the price control as a result of interruption reform. We have segmented the licence condition into three parts to take account of these arrangements. Part A clarifies when each of the incentive mechanisms will apply, Part B sets out the current incentive mechanism, the DN exit capacity incentive, which will apply until 31 March 2011 and Part C sets out the new incentive mechanism, the DN capacity outputs incentive, which will apply from 1 April 2011.

2.11. Under the existing licence the DN exit capacity incentive is set to run until 30 September 2011. To properly align the operation of the new capacity outputs incentive with the formula year in which it will apply, it has been necessary to modify the licence such that the new capacity outputs incentive will take effect from 1 April 2011 and the existing DN exit capacity incentive will expire on 31 March 2011. Under the new capacity outputs incentive GDN performance against target will be calculated with reference to flat capacity bookings in the period October - March of each formula year. The fact that for 2011-12 the incentive will apply from the beginning of the formula year while the new interruption rights will not take effect until 1 October, will therefore not impact on GDN incentive performance.

2.12. The DN capacity outputs incentive set out in Part C of SC E6 is consistent with the arrangements set out in paragraphs 6.19 to 6.38 of the GDPCR final proposals document and includes an exit capacity incentive to incentivise the booking of NTS flat exit capacity and an interruption incentive to incentivise the GDNs to book interruption capacity efficiently.

2.13. One GDN suggested that the calculation of performance against target on the exit capacity incentive should be based on bookings between 1 October and 31 March of any year as this is when peak volumes are booked. We have made this change as part of the capacity outputs incentive to apply from 1 April 2011 but not as part of the existing DN exit capacity incentive as this incentive has already been consulted on and agreed by the GDNs in a previous licence consultation process.

2.14. We have decided to calculate performance against target on the exit capacity incentive, to apply from 1 April 2011, with reference to capacity charges prevailing at the time of booking rather than on charges at the time that the capacity is used. It is on this basis of prevailing capacity charges that GDNs will make any trade offs between investment, exit capacity and interruption so it seems more appropriate that their performance against the incentive is calculated using the best information available to them.

2.15. We intend to add a licence obligation on the GDNs which exposes their booking of flex capacity to explicit scrutiny in the event that their bookings increase by more than 10 per cent. However, we have not yet determined whether to place these obligations in the special conditions in Part E or to include them in standard special condition D5 (Licensee procurement and use of system management services). As we have set out in paragraphs 3.38 and 3.39 of this document we intend to undertake a full review of D5 as part of the revenue reporting requirements. The rationale for the flex capacity obligation is set out in paragraphs 6.42 to 6.49 of the final proposals document.

SC E7 - Determination of any adjustment factor to be applied to MRt (previously SC E2B Part 1b paragraph 8 (6))

2.16. In the initial licence drafting consultation document we set out in some detail how we have extended the original provisions for an exit income adjusting event to include re-openers for costs associated with the Traffic Management Act 2004 (TMA), and the equivalent provisions of the Traffic (Scotland) Act 2004, and for certain specific changes to corporation tax liability. One of the respondents to the consultation queried why the provisions did not better reflect the income adjusting event provisions in the gas transmission licence condition.

2.17. While it is not possible for the licence drafting to exactly replicate the transmission licence because of the inclusion of TMA and tax liability re-openers we have revisited the drafting to make it more consistent with the transmission licence where possible. To keep better consistency with the transmission licence we have separated the different income adjusting events into different parts. Part A describes the overall income adjusting event provisions, Part B sets out the obligations for an exit income adjusting event, Part C sets out the TMA obligations, Part D sets out the tax liability provisions and Part E sets out the obligations common to all the different income adjusting events. Parts B and E have been drafted to be more consistent with the gas transmission licence.

2.18. In Part B we have amended the threshold amount which GDNs must meet to be able to raise an exit income adjusting event for the final year of the price control, from an absolute amount to 0.5 per cent of base revenue. This is consistent with paragraph 6.22 of the GDPCR final proposals document.

2.19. In Part C we have set out the categories of TMA costs that would be subject to the re-opener provisions. We have added a provision which would enable the Authority to determine any other categories of TMA costs which it may be appropriate to include in the re-opener provisions at the request of the GDNs. We have square bracketed this provision as it is not clear to us what categories of TMA costs are not already included. It would be helpful if respondents who support this additional provision could explain what other costs might be covered by the provision.

2.20. To qualify for a TMA reopener, a GDN must demonstrate that it has incurred cumulative qualifying costs of at least 1 per cent of base revenue (Z_t) for the year in which the reopener claim is made. The tax liability reopener is also set at 1 per cent of base revenue.

SC E8 - DN shrinkage incentive revenue (previously SC E2B Part 1b paragraph 8(7))

2.21. The Sh_t term set out in the shrinkage incentive revenue in paragraph 8.2 of SC E8 is largely unchanged from the current licence condition. However as set out in paragraph 7.19 of the final proposals document this formula will only apply for the first half of the year 2008-9.

2.22. The Sh_t term found in paragraphs 8.4 and 8.5 of SC E8 applies from 1 October 2008 and is consistent with paragraph 7.20 of the final proposals document. The uplift factor has been removed from the equation, and the reference gas price is now the day ahead prices. The shrinkage factor which was expressed as a percentage of demand has been removed from this licence and has been replaced by a fixed shrinkage volume allowance as this more accurately represents the actual leakage. The change to the fixed volume allowance and will be more cost reflective.

SC E9 - Distribution Network environmental emissions incentive

2.23. Special condition E9 is a new condition which has been added to provide a greater incentive for GDNs to minimise their environmental emissions. Our proposals for the environmental emissions incentive are set out in paragraph 7.23 of the final proposals document. The formula will compare the reported leakage volumes with the target leakage baselines and if reported leakage is lower than the baselines then the company will receive additional allowed revenue, but if the leakage volume is higher then allowed revenue will be reduced. The licence condition includes caps and collars. The caps and collars are set at 10 per cent of baseline leakage targets.

2.24. In this condition we have introduced a leakage model which describes the process used to determine reported leakage from the LDZ and we have introduced new governance arrangements for changing the leakage model. We intend to draft complementary Regulatory Instructions and Guidance by virtue of the licence condition, which, in combination with the licence condition, will allow the Authority, with the consent of the company, to direct changes to the leakage model and if appropriate direct commensurate changes to the leakage baselines.

SC E10 - Distribution Network discretionary reward scheme revenue

2.25. There are no substantive changes to SC E10 since the version we published as part of the initial licence drafting consultation.

SC E11 - Distribution Network innovation funding incentive for sustainable development

2.26. This condition sets out the calculation of the amount of qualifying research and development costs that are eligible for pass-through (the IFISDt term in the revenue restriction). The condition has been drafted in a manner consistent with the electricity distribution licence, where this incentive was first introduced, and gives effect to Ofgem's proposals for IFI/SD as set out in paragraphs 7.58-7.59 of final proposals.

SC E12 - Distribution Network loss of meter work revenue driver

2.27. This condition sets out the calculation of the loss of meter work revenue driver term in the revenue restriction (LMt) and sets out the definition of a meter job for the purposes of this condition. The condition gives effect to Ofgem's proposals for a

loss of meter work revenue driver as set out in paragraphs 6.66 to 6.79 of final proposals.

SC E13 to E15

2.28. These conditions are labelled as 'Not Used' so that additional revenue restriction terms can be added if appropriate.

SC E16 - Disapplication of the Distribution Network transportation activity revenue restriction (previously SC E2B Part 1b paragraph 8 (11))

2.29. There are no substantive changes to SC E16 since the version we published as part of the initial licence drafting consultation.

E17 - Allocation of revenues and costs for calculation under the price control in respect of the Distribution Network (previously SC E3)

2.30. This condition sets out the requirements for GDNs to allocate their revenues and costs between the transportation business and other businesses associated with the revenue restriction conditions, using a consistent methodology. In the initial licence drafting consultation we queried the value of this condition and considered that these provisions may be better placed in the cost reporting regulatory instructions and guidance (RIGs). In response to the consultation some of the GDNs indicated support for this approach. We intend to give this issue further thought as part of our work to develop cost and revenue reporting packs and RIGS.

E18 - Excluded Services (previously SC E4 Supplementary provisions for the Distribution Network transportation activity revenue restriction)

2.31. E18 is broadly unchanged from our initial licence drafting consultation with the exception of an additional excluded service for independent systems. We are proposing that the additional costs of operating independent systems should be funded by all GB consumers in line with BERR's decision with NGG NTS recovering these costs and making a payment to the relevant GDN (this is discussed in more detail in chapter 3). This revenue will be treated as an excluded service. Further detail on independent systems can be found in paragraphs 8.17 to 8.25 of our final proposals document.

2.32. GDNs have also raised Post Emergency Metering Services (PEMS) as a potential excluded service. We explained in our final proposals chapter 2 that we consider PEMS constitutes a metering activity and given that excluded services cover activities that are undertaken by GDNs as part of transportation activity but do not fall within the price control, PEMS does not need to be detailed as an excluded service activity.

E19 - Restriction of prices in respect of tariff capped metering activities

2.33. There are no substantive changes to SC E19 since the version we published as part of the initial licence drafting consultation.

E20 - Revenue reporting and associated information to be provided to the Authority in connection with the Distribution Network transportation activity revenue restriction

2.34. There are no substantive changes to SC E20 since the version we published as part of the initial licence drafting consultation. Unlike SSC A40, which sets out the cost reporting obligations and SSC D9 which sets out the quality of service reporting obligations we have included a provision for the Authority to make substantive changes to the revenue reporting provisions with the licensee's consent. We do not have similar requirement in SSCs A40 and D9 because any modifications to the reporting provisions in these two conditions will not have the effect of potentially changing the revenue that a licensee can earn.

2.35. We have not yet finalised the dates for reporting in E20, therefore the provisions in paragraphs 6 and 7 of E20 have been square bracketed. We intend to resolve this issue as part of the revenue reporting and RIGs work.

3. Other proposed modifications

Chapter Summary

This chapter sets out the proposed modifications to the Standard Special Conditions (SSC) in Part A and Part D and the corresponding licence conditions for IGTs where appropriate. It also sets out our proposals to amend Standard Licence Condition (SLC) 4B - Connection Charges.

Question box

Question 1: Are our proposals to consolidate obligations in relation to codes of practice and vulnerable customers appropriate? In particular, do our proposed changes maintain adequate protection for vulnerable customers? Please give reasons for your answers.

Question 2: Is it appropriate to move some or all of the conditions in SSC A19-22 to the Standard Special Conditions in Part D? If so why?

Question 3: Are our proposed changes outlined in this chapter and set out in detail in the appendices appropriate?

Quality of Service

SSC A19 to 22 and SLC 17 to 20

3.1. Our proposed licence drafting changes to A19-22 are set out in Appendix 12 while our proposed licence drafting changes to the IGT SLC 17-20 are set out in Appendix 13.

Codes of practice and vulnerable customers

3.2. The current licence includes a series of obligations that relate to the interaction between licensees and customers, particularly vulnerable customers. For example, standard special conditions (SSCs) A19 to A20 and A22 to A25 of the GDN licence and standard licence conditions (SLCs) 17 to 19 and 21 to 23 of the IGT licence. These licence conditions require the licensee to prepare codes of practice which describe how they will discharge obligations in relation to services for vulnerable customers, complaint handling procedures and site access. The proposals in relation to complaint handling procedures are discussed more fully in paragraphs 3.12 to 3.14.

3.3. In addition to the conditions mentioned above, for both licences, there are associated guidance notes that currently describe in more detail what is expected of licensees¹. In some instances these guidance notes require the licensee to include certain provisions in their codes of practice which are not specified in the licence.

3.4. Prior to the recent supply licence review (SLR)², the supply licence contained similar provisions to the distribution licence. As a consequence of the SLR, those provisions were simplified so that all obligations can now be found more concisely within the conditions of the standard supply licence. As part of the electricity distribution licence review³ and the gas distribution price control review we consulted on whether to adopt a similar format to the SLR, whereby all obligations in relation to codes of practice (including those currently found in guidance notes) would be consolidated. As a result of these consultations we concluded that the current regime requiring the approval of codes of practice by Ofgem was overly bureaucratic. Our proposals, which we consider should apply to both the GDNs and IGTs, will rationalise the administrative requirements and ensure that obligations are clear, focused and targeted. They will also ensure, in the main, that existing levels of protection, particularly for vulnerable customers, are retained.

3.5. Below is a more detailed summary of the changes we propose to the current SSCs A19 to A20 and A22 to A25 of the GDN licence and SLCs 17 to 19 and 21 to 23 of the IGT licence.

3.6. Previous requirements for gas transporters to produce codes of practice for regulatory approval have been replaced with obligations to produce statements in plain and intelligible language which clearly set out their arrangements for complying with its obligations. We propose that for SSCs A19, A20 and A21 and SLCs 17, 18 and 19, licensees must ensure adequate publicity for these statements, publish them on their website, take reasonable steps to inform domestic customers connected to the licensee's network of these statements once a year and how to obtain them, and provide a copy on request free of charge.

3.7. These statements must also be provided, on request, in a manner or format that is suitable and accessible to blind, partially sighted, deaf or hearing impaired customers. Our proposal reflects our view that it is necessary to ensure customers with special communication needs are able to access the information in these statements, to ensure they have appropriate protection. Our proposals also require that under SSCs A19, A20 and A21 and SLCs 17, 18 and 19, upon request,

¹ Please go to <http://www.ofgem.gov.uk/Sustainability/SocAction/NetwrkOps/Documents1/258-10oct01a.pdf>

² Please go to the link below for further information
<http://www.ofgem.gov.uk/Markets/RetMkts/Compl/SLR/Pages/SLR.aspx>

³ Please go to
<http://www.ofgem.gov.uk/Networks/ElecDist/Policy/Documents1/DLR%20Proposals%20consultation.pdf>

assistance must be provided to enable a person whose first language is not English to understand the contents of these statements. Previously, published guidance required that codes of practice should be made available in alternative languages that were predominant in a licensee's transportation service area and licensees should provide translation facilities for customers to make enquiries and complaints in a language other than English. We are mindful that, in this respect the current obligation (which requires documents to be made available in different languages) may not be proportionate. In our view our proposed drafting is a proportional means of ensuring that customers who have trouble communicating in English are able to effectively access these statements.

3.8. In relation to a licensee's duties for accessing premises (SSC A20 and SLC 18), we have amended the drafting to require a licensee to take all reasonable steps to ensure that each representative of the licensee is a fit and proper person to visit and enter the customer's premises. Currently licensees comply with this for representatives accessing premises under warrant and would have to have systems in place to ensure they comply. The codes of practice guidance also set out that all representatives should be fit and proper. All GDNs codes currently state that representatives are fit and proper and many IGTs' codes refer to appropriate or suitable persons. We believe this is an important addition which is not onerous, practised by electricity distributors, and already carried out by transporters as good business practice.

3.9. In removing the requirement for licensees to produce codes of practice, some obligations and provisions are being removed from the licence. It is considered that such requirements may be more appropriately provided for through encouraging best practice or are already provided for in legislation. For example, we have removed several requirements from the current licences relating to Authorisation of Officers which covers ensuring that identity card, uniforms etc which confirm a person is authorised to enter premises are not misused, and ensuring that representatives comply with the Rights of Entry (Gas and Gas Boards) Act 1954. Also licensees no longer have to provide a translation service for customers to complain or enquire about a service if their first language is not English. This is something we expect to see delivered by transporters as part of good business practice and customer service.

3.10. We have also redrafted the requirements for reporting on performance (SSC A22 and SLC 20) so that licensees' obligations are clearer.

3.11. We are conscious that the changes proposed in relation to codes of practice and vulnerable customers may at first be considered as material changes to those conditions. However, we emphasise that while the content of the licence may have changed, in the main, licensees' obligations and overall policy have not changed. We welcome comments on our proposals.

Complaint handling

3.12. The current licence condition related to Complaint Handling Procedure (SSC A23 of the GDN licence and SLC 21 of the IGT's licence) requires the licensee to

prepare a code of practice⁴ explaining the procedure for handling complaints from domestic customers about the manner in which the licensee conducts its transportation business. It also requires the licensee to specify the periods within which it is intended that different types of complaint should be processed and resolved.

3.13. In relation to the GDN and IGT licences, we have followed a similar approach to that adopted in the supply licence and electricity distribution licence review and removed the requirement to include the periods in which different descriptions of complaint will be processed and resolved⁵. In light of ongoing policy development in this area, we consider that the complaint handling consultation is the most appropriate vehicle for determining the overall approach to setting complaint handling standards for network companies. As such we intend to address the issue within that remit. As a consequence, it should be noted that there may be future changes to provisions in relation to complaint handling as a result of the complaint handling consultation⁶. This may be necessary to ensure consistency with any regulations made under the Consumers, Estate Agents and Redress Act 2007. The recently introduced Consumers, Estate Agents and Redress Act 2007 places a statutory requirement on Ofgem to make regulations which set complaint handling standards for gas and electricity customers. We have recently consulted on the approach to setting standards and in particular whether network companies should be included within the scope of the regulations⁷.

3.14. One respondent queried whether A19 to A22 should be moved from the Standard Special Conditions in Part A (which apply to GDNs and NGG NTS) to the Standard Special Conditions in Part D (which apply to GDNs only) as it considered that the obligations apply to GDNs only and not to NGG NTS. We currently consider that there is a rationale for moving SSC A19 and A22 to Part D as these provisions apply to domestic customers only but are seeking respondents' views on whether it is appropriate to move some or all of the conditions in A19 to A22 to Part D.

SSC D9 - Distribution Network transportation activity incentive scheme

3.15. Our proposed licence drafting changes to SSC D9 are set out in Appendix 14. SSC D9 sets out requirements for GDNs to report on certain key areas of service.

⁴ The proposals in relation to obligations currently contained in the codes of practice conditions (17 to 19 and 21 to 23 of the IG licence and A19 to A20 and A22 to A25 of the GDN licence) are discussed more fully under 'Codes of practice and vulnerable customers'

⁵ The requirement to provide translation facilities for customers to make complaints in a language other than English has also been removed. The requirement is found in the associated guidance notes and is currently reflected in gas transporters' codes of practice

⁶ http://www.ofgem.gov.uk/Markets/RetMkts/Compl/ConsRep/Documents1/Ofgem_Complaint%20Handling%20Report.pdf

⁷ See footnote 6 above

The purpose of this information is to enable Ofgem to monitor and publish information on GDNs' performance in these areas.

3.16. The main changes we set out in our updated proposals and first licence drafting consultation were to amend this condition to:

- extend the Customer Satisfaction Surveys (CSS) to cover the emergency service and connections activities;
- require GDNs to report their performance relating to the accuracy of their pipeline records; and
- to rationalise the existing reporting requirements where there is a duplication with cost or revenue reporting.

3.17. We also proposed an amendment to the mechanism for changing the RIGs so that Ofgem could introduce a new output measure or revise the accuracy requirements for an existing measure subject to a 28 day consultation with the licensee and Ofgem taking due consideration of the responses.

3.18. The GDNs and other respondents raised a number of key issues with the proposed amendments. They suggested that the emergency and repair customer surveys should be combined as a significant proportion of customers who call out the emergency service will then experience repair work being carried out by a GDN to address an unplanned interruption.

3.19. A number of respondents questioned the value of reporting information on the accuracy of pipeline records as they already consider that there are sufficient incentives on GDNs to improve these records. Other respondents were supportive of this new requirement.

3.20. A number of respondents suggested that paragraph 12 of the existing SLC9 should be reinserted. Further details of the responses and how these have been addressed are set out in the log of responses for Part D of the licence.

3.21. We propose to combine the customer satisfaction surveys for both emergencies and repair and increase the target sample size to 200 surveys per quarter per GDN.

3.22. We consider that maintaining accurate pipeline records is a key part of GDNs' normal business as prudent asset managers. Collecting and publishing information about the accuracy of pipeline records will strengthen incentives on GDNs to improve this area of performance. We have not amended our drafting in this area.

3.23. We consider that our proposed drafting for paragraph 12 of SLC9 provides sufficient protection to GDNs for changes in these RIGs. Ofgem has to consult licensees on the proposed changes and give due consideration to the responses. This would include consideration of any potential cost impact. We consider that the further protection of a licence modification process is only needed in those cases

where a change in the reporting requirements would have an impact on licensees' allowed revenue. This is not the case for the quality of service reporting set out in D9.

SSC D10 - Quality of services standards (previously provision of connections information)

3.24. Our proposed licence drafting changes to SSC D10 are set out in Appendix 14. In the initial licence drafting consultation we proposed to extend D10 to include three new performance requirements. The new performance obligations are intended to replace the overall standards of performance relating to answering telephone calls within 30 seconds and attending reported uncontrolled and controlled gas escapes within 1 and 2 hours respectively. The intention of including these within the licence is to enable the Authority to take more appropriate enforcement action against the licensee in the event of a failure to meet a prescribed level of performance.

3.25. The GDNs and other respondents raised a number of key issues with the proposed amendments. The GDNs were concerned about our proposal to move the overall standard for gas emergencies into the licence without any exemptions. They consider that this could result in them breaching their licence as a result of unforeseen factors beyond their control. They suggest that the obligation should be relaxed, for instance through an exemption for exceptional circumstances or the use of wording that replicates the current requirement for OSOPs set out in the Gas Act, namely that the GDN will have satisfied the licence requirement if it has conducted its business in such a way that it can reasonably be expected to meet the prescribed performance levels.

3.26. The GDNs also raised concerns that an absolute requirement for the emergency service standard could conflict with the provision of mutual support between GDNs for major events. Further details of the responses and how these have been addressed are set out in the log of responses for Part D of the licence.

3.27. As set out in paragraphs 5.26 to 5.28 of the final proposals document we do not propose to introduce an exemption for the emergency response standard in D10. The proposed approach will allow us to protect the interests of consumers more effectively because the current status of the obligation makes enforcement extremely problematic. Contrary to concerns expressed by some GDNs, Ofgem is not obliged to pursue enforcement action in circumstances where the licensee is taking appropriate steps to meet the standards or the breach is trivial. The criteria that Ofgem applies when deciding whether or not to open an investigation are set out in our enforcement guidelines which derive from the statutory provisions⁸. In deciding whether it would be appropriate to take any action for breach of these standard and if so what the nature of any such action should be we would take account of any

⁸ Ofgem, Enforcement guidelines on complaints and investigations (Ref. 232/07), 28 September 2007, Chapter 3.

relevant circumstances including; whether the HSE were taking any steps in relation to the failure; whether any exceptional circumstances had occurred during the year that had an adverse impact on the GDN's performance; and the action taken during the course of the year by the GDN to prevent or minimise the failure.

3.28. We do not consider that the proposed emergency service provisions in D10 conflict with the provision of mutual support between GDNs. We would expect GDNs to have appropriate arrangements with each other for mutual support. In considering the nature of any breach of the standard and whether it is appropriate to take action we would consider whether there were appropriate support arrangements in place and whether the GDN's performance had been impacted by the need to provide such support due to a major event taking place on another GDN's network.

Removal of the overall standards of performance

3.29. We are proposing to remove the overall standards of performance (OSOPs) for GTs and migrate a number of the obligations to either guaranteed standards of performance (GSOPs) or licence conditions. These changes will provide improved protection for consumers. Where existing obligations in OSOPs are migrated to a licence condition, the Authority will be more able to take appropriate enforcement action against a licensee in the event of a failure to meet the prescribed level of performance. Where they become GSOPs individual consumers will receive compensation in the event that a standard is not met.

3.30. We are proposing to migrate the OSOPs on answering telephone calls and responding to gas emergencies to SLC D10. We are proposing to convert the OSOPs on notification of planned supply interruptions and complaints into GSOPs.

3.31. We consider that the OSOP for provision of information to consumers during unplanned interruptions is no longer required for GDNs as this area of performance is addressed by GDN consumer satisfaction surveys. However, we propose to migrate this obligation into a new licence condition for IGTs, set out in Appendix 13, as they have no equivalent consumer satisfaction surveys.

3.32. A draft revocation notice for the overall standards of performance for GTs is set out in Appendix 8 which we intend to issue following the inclusion of these conditions in the relevant licences.

Financial ring fencing and independence of the distribution business

3.33. In the initial licence drafting consultation, we consulted on changes to SSC A34, A35, A37 and A38. Certain of these changes are applicable to IGTs, too, the relevant licence conditions being SLC 44 and 46.

3.34. There are no substantive changes to these conditions since the versions we published as part of the initial licence drafting consultation. The proposed changes

to licence conditions A34, A35, A37 and A38 are set out in Appendix 12 while the changes to the IGT licence conditions SLC 44 and 46 are set out in Appendix 13.

Regulatory accounts and price control information

3.35. In the initial licence drafting consultation, we consulted on changes to SSC A30 and A40. We also consulted on how we might be able to change A40 to ensure that we could collect the appropriate level of cost reporting information in cases where substantial elements of the licensee's operations were subcontracted to a party that was not necessarily an affiliate or related party as defined in the licence.

3.36. We have inserted an additional paragraph consistent with the transmission licence requiring GDNs to prepare information in a way which is fair and complete and to keep under review all such systems of control and other governance arrangements to ensure they remain effective.

3.37. There are no other substantive changes to these conditions since the versions we published as part of the initial licence drafting consultation. We have made some minor changes to A30 to ensure the licence is still drafted appropriately in the event that there are changes to accounting standards. We are still considering the further changes to A40. Our updated drafting for the proposed changes to SSC A30 and A40 are set out in Appendix 12.

System operation

SSC D5 - Licensee procurement and use of system management services and SSC D7 - Exit code statement

3.38. In the initial licence drafting we consulted on whether to amend SSC D5 and D7. The majority of GDNs considered that the obligations set out in D5 could be removed or at least simplified and reduced. One respondent considered that the reporting obligations for the shrinkage incentive should not be removed in order for interested parties to satisfy themselves of the efficiency of GDN procurement actions. The majority of GDNs also supported the removal of SSC D7. One GDN suggested that any necessary data required as part of SSC D7 could be obtained from the cost reporting pack instead.

3.39. We have not included updated drafting on SSC D5 and D7 in this consultation document as we consider that it is appropriate to consider the provisions in SSC D5 and D7 in light of the cost and revenue reporting requirements to minimise duplication of reporting obligations.

Agency services

3.40. Our updated drafting for the proposed changes to SSC A15 are set out in Appendix 12. There are no substantive changes to A15 since the version we published

as part of the initial licence drafting consultation. We have redrafted the proposed condition to include some minor changes proposed by respondents and also to include a requirement on the transporters to consult with the industry in preparing the charging methodology statement following consultation responses.

Independent systems

3.41. We did not include proposed changes in the initial licence drafting consultation as the Department of Business, Enterprise and Regulatory Reform (BERR) were still consulting on the requirement for and the nature of the cross subsidy arrangements for independent systems.

3.42. At the end of November 2007 BERR published its decision document which concluded that the arrangements should continue in a similar form and asked Ofgem to consider how these arrangements should be given effect. Further information can be found in BERR's decision document⁹. In their decision, BERR recommended a number of changes to the form of the current arrangements. Further information can be found in paragraphs 8.17 to 8.25 of our final proposals document on the detail of the proposals.

3.43. New licence conditions are required to give effect to the cross subsidy arrangements directed by BERR which will apply to both the GDNs and the NTS. At this time we are still considering where these conditions should be located within the gas transporter's licence and would welcome respondents' views on this matter.

3.44. In addition we have amended E18 (Excluded services) to allow the income received from the NTS to be treated as an excluded service. We also propose to amend the pass through term in the NTS licence to allow the cross subsidy costs to be recovered from GB consumers.

3.45. It should be noted that although BERR has made a decision, the Secretary of State has yet to issue its Direction. We recognise that the proposed licence drafting, which is set out in Appendix 9 may need amendment following the publication of this direction.

⁹ BERR response document: "Proposal to continue cross-subsidy arrangements for independent systems"
<http://www.berr.gov.uk/consultations/closedwithresponse/index.html>

Standard Licence Condition (SLC) 4B - Connection charging methodology (previously Connection charges)

3.46. In the first Initial licence consultation document, we stated that the proposed changes to SLC 4B were not associated with GDPCR. We have reconsidered the merits of this statement following further consideration of the interaction between SLC 4B and Networks Extensions, a new incentive scheme introduced as part of GDPCR. Our updated drafting for the proposed changes to SLC 4B are set out in Appendix 7.

3.47. GDNs will be expected to come forward with proposals to amend their existing connection charging methodology statements under SLC 4B to reflect the new provisions of Network Extensions. On this basis, and in order to make Network Extensions more effective, we consider that the proposal to amend SLC 4B should be associated as part of GDPCR.

3.48. A number of respondents expressed concern that the deadline for having an approved connection charging methodology in place by 1 April 2008 could prove a challenge, and would result in a breach of licence if it failed to meet that date. We consider that the deadline for methodology approval could be extended by the Authority if we consider that the licensee was taking the appropriate steps to comply. As such, while it would technically be in breach of its licence we would not be required to take any action.

3.49. Following further thinking, we have decided to retain the version of paragraph 6 as contained in the initial licence consultation document, so that a licensee would be required to undertake a consultation on any proposed changes to its connection charging methodology prior to submitting the proposal to the Authority. In keeping with this version, we recognise that unlike electricity distribution, where the equivalent licence condition does not contain the requirement to consult, there are sections of the gas connections market that are less competitive than its electricity counterpart, and as such it is this area of the market that this particular requirement is designed to capture. We consider the need to consult should not represent an onerous requirement for licensees given that methodological changes are likely to be relatively infrequent, and changes to actual charges within an existing methodology do not require consultation.

3.50. With regard to paragraph 9 (b), some respondents considered that it would not be possible to provide a detailed breakdown of how charges are derived for bespoke connection. Further, it was deemed impractical and uneconomic and could potentially put licensees at an unfair competitive disadvantage if they had to reveal pricing strategies in the non-domestic market.

3.51. In view of these comments, we have reviewed paragraph 9 (b) and amended the requirement such that licensees would only need to provide examples of indicative connection charges.

4. Next Steps

Chapter Summary

This chapter sets out the timetable for the licence drafting and revenue reporting consultations.

Question box

There are no specific questions in this chapter.

4.1. This document is the final licence drafting consultation before we issue the statutory licence consultation. IGTs and NGG NTS are requested to indicate, as part of this consultation, whether they are minded to accept the relevant draft licence conditions. GDNs have already been asked to indicate whether they are minded to accept our proposals as part of the final proposals document.

Licence drafting and statutory instrument timetable

4.2. The main milestones for the licence drafting and statutory instrument timetable is set out in table 4.1 below. We have brought forward the deadline for responses from 25 January 2008, as set out in the initial licence drafting consultation document, to 14 January 2008 to ensure that there is sufficient time to hold further licence drafting working group meetings with the GDNs and where appropriate NGG NTS and the IGTs before we issue the statutory licence consultation in February 2008.

Table 4.1 Licence drafting and statutory instrument milestones January to March 2008

| | |
|----------------------------|--|
| 16 January 2008 | Second Licence Drafting consultation responses |
| 17 January 2008 | Statutory SI consultation |
| Late Jan to Early Feb 2008 | Working group meetings with GTs |
| 14 February 2008 | Responses to the statutory SI consultation |
| 15 February 2008 | Statutory licence consultation |
| 4 March 2008 | SI signed and sealed by the Authority |
| 11 March 2008 | Consent to SI granted by Secretary of State and sent to HMSO for publication |
| 14 March 2008 | Responses to the statutory licence consultation |
| 28 March 2008 | Publication of the licence modifications and SI implementation notice |
| 1 April 2008 | Licence modifications and SI take effect |

Development of the RIGs for cost reporting, revenue reporting and quality of service reporting

4.3. We have already consulted on the cost reporting template¹⁰ and will develop the template and the RIGs further in the first quarter of 2008 in conjunction with the GDNs. We intend to send out a draft of the revenue and quality of service reporting RIGs and templates to the GDNs towards the end of December 2007 and will arrange working group meetings with the GDNs to develop these further. We intend to consult on all three sets of RIGs and associated templates in the first quarter of 2008.

¹⁰ Gas Distribution Price Control Review Cost Reporting Consultation, July 2007 (Ref. 185/07)

Appendices

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Appendix 1 - Consultation Response and Questions

1.1. Ofgem would like to hear the views of interested parties in relation to any of the issues set out in this document. In particular, we would like to hear from gas consumers and their representatives, gas distribution networks, independent gas transporters and any other interested parties.

1.2. We would especially welcome responses to the specific questions which we have set out at the beginning of each chapter heading and which are replicated below.

1.3. Responses should be received by 16 January 2008 and should be sent to:

- GDPCR responses
- Ofgem
- 9 Millbank
- London SW1P 3GE
- Email: GDPCR@ofgem.gov.uk

1.4. Unless marked confidential, all responses will be published by placing them in Ofgem's library and on its website www.ofgem.gov.uk. Respondents may request that their response is kept confidential. Ofgem shall respect this request, subject to any obligations to disclose information, for example, under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.

1.5. Respondents who wish to have their responses remain confidential should clearly mark the document/s to that effect and include the reasons for confidentiality. It would be helpful if responses could be submitted both electronically and in writing. Respondents are asked to put any confidential material in the appendices to their responses.

1.6. Next steps: Having considered the responses to this consultation, Ofgem intends to publish a statutory licence consultation in February 2008. Any questions on this document should, in the first instance, be directed to:

- Ayesha Uvais
- Gas Distribution
- Ofgem, 9 Millbank, London, SW1P 3GE
- Tel: 020 7901 7307
- Email: ayesha.uvais@ofgem.gov.uk

CHAPTER: One

There are no specific questions in this chapter

CHAPTER: Two

Question 1: Is it appropriate to include a provision in SC E7 which enables the Authority to determine on TMA costs that are not already covered by the provisions of the re-opener?

Question 2: Are our proposed changes to SC Part E appropriate?

CHAPTER: Three

Question 1: Are our proposals to consolidate obligations in relation to codes of practice and vulnerable customers appropriate? In particular, do our proposed changes maintain adequate protection for vulnerable customers? Please give reasons for your answers.

Question 2: Is it appropriate to move some or all of the conditions in SSC A19-22 to the Standard Special Conditions in Part D? If so why?

Question 3: Are our proposed changes outlined in this chapter and set out in detail in the appendices appropriate?

CHAPTER: Four

There are no specific questions in this chapter

Appendix 2 – The Authority's Powers and Duties

1.1. Ofgem is the Office of Gas and Electricity Markets which supports the Gas and Electricity Markets Authority ("the Authority"), the regulator of the gas and electricity industries in Great Britain. This Appendix summarises the primary powers and duties of the Authority. It is not comprehensive and is not a substitute to reference to the relevant legal instruments (including, but not limited to, those referred to below).

1.2. The Authority's powers and duties are largely provided for in statute, principally the Gas Act 1986, the Electricity Act 1989, the Utilities Act 2000, the Competition Act 1998, the Enterprise Act 2002 and the Energy Act 2004, as well as arising from directly effective European Community legislation. The Authority also has other statutory duties in respect of the environment, as set out in various other Acts¹¹. References to the Gas Act and the Electricity Act in this Appendix are to Part 1 of each of those Acts.¹²

1.3. Duties and functions relating to gas are set out in the Gas Act and those relating to electricity are set out in the Electricity Act. This Appendix must be read accordingly¹³.

1.4. The Authority's principal objective when carrying out certain of its functions under each of the Gas Act and the Electricity Act is to protect the interests of consumers, present and future, wherever appropriate by promoting effective competition between persons engaged in, or in commercial activities connected with, the shipping, transportation or supply of gas conveyed through pipes, and the generation, transmission, distribution or supply of electricity or the provision or use of electricity interconnectors.

1.5. The Authority must when carrying out those functions have regard to:

- The need to secure that, so far as it is economical to meet them, all reasonable demands in Great Britain for gas conveyed through pipes are met;
- The need to secure that all reasonable demands for electricity are met;
- The need to secure that licence holders are able to finance the activities which are the subject of obligations on them¹⁴; and

¹¹ For example, the Environmental Act 1995 and the Countryside and Rights of Way Act 2000.

¹² entitled "Gas Supply" and "Electricity Supply" respectively.

¹³ However, in exercising a function under the Electricity Act the Authority may have regard to the interests of consumers in relation to gas conveyed through pipes and vice versa in the case of it exercising a function under the Gas Act.

¹⁴ under the Gas Act and the Utilities Act, in the case of Gas Act functions, or the Electricity Act, the Utilities Act and certain parts of the Energy Act in the case of Electricity Act functions.

- The interests of individuals who are disabled or chronically sick, of pensionable age, with low incomes, or residing in rural areas.¹⁵

1.6. Subject to the above, the Authority is required to carry out the functions referred to in the manner which it considers is best calculated to:

- Promote efficiency and economy on the part of those licensed¹⁶ under the relevant Act and the efficient use of gas conveyed through pipes and electricity conveyed by distribution systems or transmission systems;
- Protect the public from dangers arising from the conveyance of gas through pipes or the use of gas conveyed through pipes and from the generation, transmission, distribution or supply of electricity;
- Contribute to the achievement of sustainable development; and
- Secure a diverse and viable long-term energy supply.

1.7. In carrying out the functions referred to, the Authority must also have regard, to:

- The effect on the environment of activities connected with the conveyance of gas through pipes or with the generation, transmission, distribution or supply of electricity;
- The principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed and any other principles that appear to it to represent the best regulatory practice; and
- Certain statutory guidance on social and environmental matters issued by the Secretary of State.

1.8. The Authority has powers under the Competition Act to investigate suspected anti-competitive activity and take action for breaches of the prohibitions in the legislation in respect of the gas and electricity sectors in Great Britain and is a designated National Competition Authority under the EC Modernisation Regulation¹⁷ and therefore part of the European Competition Network. The Authority also has concurrent powers with the Office of Fair Trading in respect of market investigation references to the Competition Commission.

1.9. The Authority has regard to all of its duties when carrying out its functions.

¹⁵ The Authority may have regard to other descriptions of consumers.

¹⁶ or persons authorised by exemptions to carry on any activity.

¹⁷ Council Regulation (EC) 1/2003

Appendix 3 - Glossary

C

Capacity (Gas)

The amount of natural gas that can be produced, transported, stored, distributed or utilized in a given period of time under design conditions.

F

Formula year

The formula year is the 1 April to 31 March for any given year

G

Gas Distribution Network (GDN)

GDNs transport gas from the NTS to final consumers and to connected system exit points. There are currently eight GDNs in Great Britain which comprise twelve LDZs.

Gas Distribution Price Control Review (GDPCR)

The review of the price control applying to gas distribution networks. The review extended the existing price control for the year 2007-8 and reset the control for the period commencing 1 April 2008.

Gas Transporter (GT)

The holder of a Gas Transporter's licence in accordance with the provisions of the Gas Act 1986.

Guaranteed Standards of Performance (GSOP)

Guaranteed standards of performance set service levels that must be met in each individual case. If a gas transporter fails to provide the level of service required, it must make a payment to the consumer affected, subject to certain exemptions.

H

Health and Safety Executive (HSE)

The Health and Safety Commission is responsible for health and safety regulation in Great Britain. The Health and Safety Executive and local government are the enforcing authorities who work in support of the Commission.

I

Independent Gas Transporter (IGT)

IGTs are GT licence holders that own and operate small local gas networks and levy distribution charges on shippers.

L

[Local Distribution Zones \(LDZs\)](#)

LDZs are low pressure pipeline systems which deliver gas to final users and Independent Gas Transporters. There are twelve LDZs which take gas from the high pressure transmission system for onward distribution at lower pressures.

N

[National Grid Gas \(NGG\)](#)

The GT licence holder for the North West, West Midlands, East England and London GDNs. NGG also hold the GT licence for the gas national transmission system (NTS). Prior to 10 October 2005, NGG was known as Transco.

[National Transmission System \(NTS\)](#)

National Grid's high pressure gas transmission system. It consists of more than 6,400 km of pipe carrying gas at pressures of up to 85 bar (85 times normal atmospheric pressure).

[NTS offtake capacity](#)

Built to ensure sufficient pipeline capacity is available to convey gas from the NTS to the GDNs and NTS direct connects at the required rate and quantities.

[Northern Gas Networks \(NGN\)](#)

The GT licence holder for Northern GDN.

O

[Overall Standard of Performance \(OSOP\)](#)

Overall standards of performance set minimum average levels of performance in areas where it is not necessarily appropriate to put in place guarantees for individual consumers. These are determined separately for each gas transporter by the Authority.

R

[RIGs](#)

Regulatory Instructions and Guidance. These are documents that set out the detailed reporting requirements for cost, revenue and quality of service reporting.

RPI-X

The form of price control currently applied to network monopolies. Each company is given a revenue allowance in the first year of each control period. The price control then specifies that in each subsequent year the allowance will move by 'X' per cent in real terms.

S

Scotia Gas Networks (SGN)

The GT licence holder for Southern GDN and Scotland GDN.

Shrinkage

Shrinkage gas is gas lost from the network through leakage, theft or own use gas.

T

Therm

A unit of heating value equivalent to 100,000 British thermal units (Btu) (0.1 MMBtu).

Third party damage or water ingress (TPWI)

Third party damage occurs when a gas supply interruption is caused by a third party. Water ingress is an incident whereby water has escaped from pipes vested in water companies and entered pipes operated by public gas transporters. From there, water has then sometimes penetrated into domestic premises, causing damage to the customers' gas appliances¹⁸.

Traffic Management Act (TMA)

The Traffic Management Act is intended to provide better conditions for all road users through proactive management of the national and local road network¹⁹.

Transco plc (see National Grid Gas)

Transco plc changed its name to National Grid Gas on 10 October 2005.

Transmission Price Control Review (TPCR)

The TPCR established the price controls for the transmission licensees which took effect in April 2007 for a 5-year period. The review applies to the three electricity

¹⁸ <http://www.ofwat.gov.uk/aptrix/ofwat/publish.nsf/Content/rd032001>

¹⁹ Department for Transport:

http://www.dft.gov.uk/stellent/groups/dft_roads/documents/divisionhomepage/032064.hcsp

transmission licensees, National Grid Electricity Transmission, Scottish Power Transmission Limited, Scottish Hydro-Electric Transmission Limited and to the licensed gas transporter responsible for the gas transmission system, NGG.

U

[Uniform Network Code \(UNC\)](#)

As of 1 May 2005, the UNC replaced National Grid Gas' Network Code as the contractual framework for the NTS, GDNs and system users.

W

[Wales & West Utilities \(WWU\)](#)

The GT licence holder for Wales & West GDN.

[Water ingress](#)

An incident where water enters gas pipes resulting in a loss of gas supply.

X

[xoserve](#)

A transporter agency which provides a single, uniform interface between the IT systems of relevant GTs and shippers.

Appendix 4 - Feedback Questionnaire

1.1. Ofgem considers that consultation is at the heart of good policy development. We are keen to consider any comments or complaints about the manner in which this consultation has been conducted. In any case we would be keen to get your answers to the following questions:

1. Do you have any comments about the overall process that was adopted for this consultation?
2. Do you have any comments about the overall tone and content of the report?
3. Was the report easy to read and understand? Could it have been better written?
4. Please add any further comments.

Please send your comments to:

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