

GDPCR: Initial Licence Drafting Consultation



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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 initial views on the changes to the gas transporters' licence conditions and the Gas (Standards of Performance) Regulations that are necessary to make our proposals for the Gas Distribution Price Control Review (GDPCR) effective. The proposed modifications are consistent with our initial proposals for GDPCR and further consultations will be necessary to review the licence conditions in light of final proposals for GDPCR and comments on this document.

Contact name and details: Joanna Whittington, Director - Gas Distribution

Tel: 020 7901 7046

Email: GDPCR@ofgem.gov.uk

Team: Gas Distribution

Context

Part of the gas distribution price control review is to ensure that the gas transporters' licence conditions reflect our final proposals. Consulting on the licence conditions at this stage in the process enables us to highlight potential changes to the licence conditions which may not be apparent from the price control consultation documents.

The licence drafting consultation also provides us with the opportunity to review the gas transporters' licences and to seek out improvements, not associated with GDPCR, where appropriate.

Although GDPCR primarily affects the GDNs there are a number of licence drafting proposals in this document that will affect IGTs and NGG NTS. These areas are summarised in the Introduction chapter and are also highlighted in each of the relevant chapters.

Associated Documents

- GDPCR Initial Proposals, May 2007 (Ref. 125/07);
- GDPCR Fourth consultation, March 2007 (Ref. 49/07);
- GDPCR Third consultation, November 2006 (Ref. 203/06); and
- GDPCR One Year Control, Final Proposals, December 2006 (Ref. 205/06).

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Summary

The gas distribution price control review will reset the price control for a five year period from 1 April 2008 for the eight gas distribution networks (GDNs), owned by National Grid Gas, Northern Gas Networks, Scotia Gas Networks and Wales & West Utilities. We are currently developing our proposals for the price control, in consultation with interested parties. We will be publishing our updated proposals towards the end of this month and our final proposals in December 2007.

This document sets out our preliminary views on the modifications to the gas distribution network licences which will be required in order to implement the price control. The document explains our rationale for the proposed changes and the appendices document sets out the drafting for our proposed changes. As we are still developing and consulting on our price control proposals our proposed licence conditions are early drafts and are subject to change.

The document includes our initial views on more general improvements that can be made to the licence conditions and seeks views on whether these changes are desirable. We have also reviewed the conditions in light of electricity distribution and transmission licence conditions and have sought to ensure consistency where appropriate.

Some of our proposed modifications will also need to apply to independent gas transporters to ensure that consumers have the same protections regardless of whether they are connected to a gas distribution network or independent gas transporter's network. Some other conditions will apply to the national transmission system as well as to gas distribution networks due to the structure of the licence conditions.

1. Introduction

Chapter Summary

This chapter sets out the purpose of the document, summarises the 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. The GDPCR will reset the revenue allowances for the eight GDNs for the next price control period, 1 April 2008 to 31 March 2013.

1.2. In May 2007 we published our initial proposals for the GDPCR on the revenue allowances for the GDNs as well as on a range of incentives and quality of service outputs. This consultation document considers how to make these proposals effective through modifications to the gas transporters' licence conditions and the Gas (Standards of Performance) Regulations.

1.3. In our May 2007 document we noted that there were a number of areas where our policy was incomplete. Consequently, we have left the relevant licence conditions unchanged and intend to issue further licence drafting consultations consistent with our final proposals.

1.4. The Consumers, Estate Agents and Redress Act 2007 places a statutory requirement on Ofgem to make regulations which set standards of performance for complaint handling for gas and electricity customers. We will be reviewing the changes we have proposed regarding complaint handling as part of GDPCR, under both the licence and standards of performance regulations, to ensure that these reflect the new requirements under this Act.

1.5. Although GDPCR primarily affects GDNs there are some issues, such as the quality of service arrangements, which we consider should apply to the IGTs as well as GDNs to ensure that consumers have the same level of protection regardless of whether they are connected to the GDN's or IGT's network. These areas are summarised in paragraphs 1.9 and 1.10 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 the NTS and GDNs. These conditions are summarised in paragraph 1.11 below.

1.6. We are currently at an early stage of the licence drafting process. There will be a number of iterations of the conditions before the drafting is finalised. Therefore, in reviewing the drafts of the licence conditions and the Gas (Standards of Performance) Regulations parties should be mindful that these conditions are drafts and so are not legally binding and are subject to change.

1.7. Over the summer we held a series of working group meetings with the GDNs to discuss the proposed changes to the licence conditions. NGG NTS and the IGTs were also invited to join in these discussions. We intend to publish a second licence drafting consultation in December after the publication of final proposals and expect to carry out a statutory consultation in February 2008. We intend to hold further working group meetings with the gas transporters until the licence modifications have been finalised.

1.8. The purpose of this consultation is to seek comments on early drafts of the amendments to the licence conditions and Gas (Standards of Performance) Regulations. It would be helpful if any comments associated with our policy proposals are raised in responses to the GDPCR consultation documents.

Impact of the modifications on the IGTs' licence conditions

1.9. As discussed above, some of the proposed licence modifications will apply to IGTs as well as GDNs. We intend to come forward with the proposed changes to the IGT licences in our second licence drafting consultation but the modifications to the IGT licences are likely to be consistent with those set out in:

- Part D SSC D10 and Part A SSCs A19-A25 which set out the quality of service obligations;
- the financial ring-fencing provisions in Part A SSCs A37 and A38; and
- standard licence condition (SLC) 4B, which sets out changes to the connection charging methodology.

1.10. In addition the amendments to the Gas (Standards of Performance) Regulations will also apply to the IGTs.

Impact of the modifications on NGG's NTS licence conditions

1.11. The standard licence conditions and the Part A Standard Special Conditions in the GDN licences are shared by the NTS licence. So NGG NTS will be a party to the required collective modification process and proposed changes to these conditions will apply equally to them. The exceptions to these are the quality of service conditions (A19-A25), which do not in practice apply to the NTS. We are also considering whether the proposed changes to SSC A15 - Agency services, should be extended to the NTS.

Structure of this document

1.12. 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 sets out the next steps;
- Appendix 1 explains the response process and summarises the questions raised;
- Appendix 2 summarises the procedures for modifying the licence conditions and the Gas (Standards of Performance) Regulations;
- Appendix 3 sets out the Authority's powers and duties;
- Appendix 4 is a glossary of the key technical terms used in this consultation; and
- Appendix 5 is the feedback questionnaire.

2. Proposed modifications to the Special Conditions in Part E

Chapter Summary

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

Question box

Question 1: Should shippers continue to raise Income Adjusting events to the exit incentive?

Question 2: How should an IAE associated with TMA costs be constrained without limiting costs to permit costs?

Question 3: Are there any other changes to SC Part E that are necessary to make the GDPCR effective?

Question 4: Are there any changes to SC Part E that are inappropriate?

Question 5: Are there any other changes to SC Part E that are desirable but not necessarily associated with GDPCR?

Overview of the changes to SC E

2.1. Appendix 6 (in the appendices document) sets out our initial drafting for the proposed changes to the Special Conditions in Part E (SC E). This chapter explains the rationale for these changes. Under the current arrangements each licensee has a separate SC E however for ease of consultation the SC E in Appendix 6 are drafted on the basis of a generic Independent Distribution Network (IDN) and in particular Retained Distribution Networks (RDNs) have additional licence obligations which are not included in Appendix 6. One of our proposed changes to SC E is to place all GDN specific data in annexes to the relevant licence condition. Consequently, it may be possible to apply the same SC E licence to all the IDNs and for another SC E to apply for the NGG RDN licence, which will also contain the licence obligations specific to NGG.

2.2. The draft licence conditions in Appendix 6 do not include the data specific to each of the GDNs. We intend to include this data in the second licence consultation. The data will be in 2005/6 prices and where possible will be directly identifiable from the figures in the final proposals document.

2.3. We have removed the prefix DN from each of the terms in the licence to make them less unwieldy¹. We have moved all the definitions in SC E to SC E1 (which was

¹ All references to terms common to both the existing licence and our proposed version use this convention - to relate back to the existing version, simply add "DN" to the front of the

previously 'not used'). SC E2 contains the principal formula for calculating the price control allowed revenue and SC E has been modified so that every term in the principal formula is defined in a separate licence condition. This should make it easier to navigate through SC E.

2.4. We considered that there were two options for re-numbering the licence conditions. The first option was to number the conditions associated with the principal revenue restriction as E2A, E2B, E2C etc so that, as is currently the case, the conditions that are not associated with the principal revenue restriction commence at E3. However, in consultation with the GDNs we have proposed that the revenue restriction conditions should take the form of E3, E4, E5 etc for ease of reference.

2.5. New terms could either be added before the conditions not associated with the revenue restriction (in which case the latter conditions will need to be renumbered) or at the end of Part E in which case the revenue restriction terms may be separated. To mitigate these concerns we intend to add some 'not used' conditions after the revenue restriction conditions to allow for additional conditions without the need for re-numbering the conditions not associated with the revenue restriction. We intend to add the 'not used' conditions as part of the second consultation once the number of terms associated with the revenue restriction are more certain.

2.6. In each condition of SC E paragraph 1 is now an explanatory paragraph summarising the purpose of the condition.

Specific changes to SC E

SC E1 - Revenue restriction definitions in respect of the DN

2.7. Some definitions have been added to SC E1 as a result of changes to the rest of Part E. We intend to review whether any of the definitions are redundant as part of the second licence drafting consultation. We have also moved definitions which were within other licence conditions to SC E1.

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

2.8. The Z_t term is the principal term for the RPI-X element. We propose that the Z_t term will reflect the allowances in the December 2007 final proposals document to make it easier to reference and will include a forecast of some of the cost pass through elements.

term, so for example, references to "Zt" relate to "DNZt" in the current version of the licence.

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

2.9. The F_t term sets out the pass through items. The F_t term currently includes DN prescribed rates, licence fee and pension deficit charge. As set out in paragraphs 2.11, 2.12 and 5.46 of the initial proposals document we propose adding a term for the costs incurred by shippers for gas illegally taken, third party water ingress (TPWI) costs and a miscellaneous term to capture any other pass through costs. As discussed above the Z_t term will include a forecast of prescribed rates, licence fee and pensions deficit charge. Therefore these terms have been drafted to allow the pass through of adjustments to the forecast in the Z_t term.

2.10. We propose that the TPWI adjustment is based on each GDN's costs in the year preceding the adjustment. So any additional costs incurred by the GDN in one formula year are collected in the following year.

2.11. It is noted that initial proposals detailed that the payment claims associated with last resort supply were to be included within SC E3 as a pass through item. For simplicity it is now proposed that the supply of last resort condition (SC A48) should remain a standalone provision and as this already includes the provision to exclude any revenue increases or decreases due to supply of last resort payments from the price control calculations there is no requirement for the term to be included within SC E3.

2.12. It should also be noted that the form of the RDNs' prescribed rates will be slightly different to the IDNs' rates (The proposed drafting in Appendix 6 is consistent with the IDNs' prescribed rates). NGG is subject to a single rates bill for the four RDNs. We will need to set out a table in one of the annexes to SC E3 on the methodology for apportioning the costs between the RDNs.

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

2.13. The K_t term is the K factor adjustment which adjusts the price control for any previous over or under recovery against allowed revenues. We have not made any significant changes to this term although we have added definitions for R_{t-1} and MR_{t-1} to make the term clearer. As set out in paragraph 2.27 of the initial proposals document we are still considering whether to apply larger dead bands and as such the K_t term may need to be further amended.

SC E5 - Mains and services replacement expenditure adjustment (previously SC E2B Part 1b paragraph 8 (2) and (3))

2.14. The $MSRA_t$ term sets the incentive arrangements for mains and services replacement. As set out in paragraphs 6.17 - 6.21 of the initial proposals document the mains incentive has been redrafted to incorporate services, include unit costs for larger diameter pipes and to align the mains replacement incentive with capex incentives.

2.15. The principal term has been changed so that the incentive adjustment is an addition rather than a subtraction from the principal formula in E2. We have also removed the reporting obligations in this condition to avoid duplication with E14 - revenue reporting and associated information to be provided to the Authority in connection with the transportation system revenue restriction in respect of the DN, (previously SC E6) and will ensure that these obligations are captured in the revenue reporting RIGs.

2.16. The draft condition also includes the five year cap that forms part of the incentive but was not included in the licence drafting as part of the 2002 Transco price control review. We intend to consult on the form of the cap in the September updated proposals document but have included it here to show how the cap would have worked based on the 2002 price control proposals.

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

2.17. The Ex_t term sets out the exit capacity costs and incentive arrangements for exit capacity. We have brought the Ex_t term in SC E2B paragraph 8(1) and the $ExCP_t$ term in SC E2B paragraph 8 (5) together into one condition but the drafting remains broadly unchanged. It will need to be reviewed once we consult on the capacity outputs incentive as part of the September updated proposals document. We have amended the date in paragraph 2 from 1 October 2008 to 1 October 2011 so that the payment flows change² from the commencement of enduring offtake arrangements. We may need to review this date in light of developments to the proposals for offtake reform.

2.18. We have removed the obligations to provide a statement of actual interruption from this condition and intend to capture one of the information provision conditions for example in the D5 - licensee's procurement and use of system management services.

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

2.19. The IAE_t term sets out the obligations in respect of an income adjusting event (IAE) associated with the exit performance measure $ExCP_t$. We propose to extend this condition to allow a re-opener for specific costs associated with the Traffic Management Act 2004 and the Traffic (Scotland) Act 2004 (TMA) and certain specific changes to corporation tax liability as proposed in paragraphs 2.18 to 2.20 of initial proposals.

² In Transmission Price Control Review: Initial proposals, 26 June 2006, Ref: 104c/06 we determined that the shippers should not pay the NTS directly for NTS exit charges from the introduction of the enduring offtake regime but that GDNs should be the intermediary.

2.20. We intend to consult on the material amount of additional TMA and tax costs that will trigger the re-opener in the September 2007 updated proposals document but for the purposes of this consultation we have set it to 1 per cent of base revenue which is broadly consistent with electricity distribution price control arrangements. We have previously determined the material amount of the exit performance measure for the years $t=1$ (2008/9) to the first six months of $t=4$ (2011/12)³. We intend to consult on the appropriate material amount of the exit performance measure for the final six months of the formula year $t=4$ and for $t=5$ (2012/13) in the September 2007 updated proposals document.

2.21. The licence condition currently enables shippers to raise IAEs in respect of the exit incentive. If the GDNs' costs associated with the exit incentive increased materially due to an external factor we envisage that the GDN would request an IAE. However, if the costs associated with the exit performance measure reduced materially due to an external factor it is unlikely that the GDNs would approach us for an IAE. Consequently, shippers are able to raise an IAE if they consider that the GDNs' costs had reduced materially.

2.22. We are currently considering whether gas shippers should continue to have this ability. Therefore we are seeking views on whether to remove the ability for shippers to raise IAEs. Alternatively, if respondents consider that there is a possibility that the exit performance measure could reduce materially due to an external factor we could consider expanding the Authority's scope regarding IAEs: shippers or other interested parties could notify us if they considered that an IAE had occurred.

2.23. GDNs have also raised concern that the scope of costs associated with TMA could be wider than just costs associated with permit costs. We are therefore also seeking views on how to limit the scope of TMA related costs while extending its scope beyond permit costs.

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

2.24. The Sh_t term sets out the shrinkage incentive revenue. This condition remains broadly unchanged. However, as set out in paragraphs 7.4 to 7.6 of the initial proposals document we considered that the methodology for the uplift factor, which takes account of short term fluctuations in gas price, should be reviewed. We also stated that we would consider whether the incentives to reduce leakage should be strengthened and intend to come forward with proposals in the September 2007 updated proposals document. We will therefore review the licence condition for

³ The material amounts were determined in:

Final proposals on transitional incentive schemes and formal licence consultation under section 23 of the Gas Act 1986 and paragraph 3(a) of Standard Special Condition A2, November 2005, Ref: 252/05; and

Final proposals on extended transitional NTS exit capacity and interruption incentive and formal licence consultation under section 23 of the Gas Act 1986, 18 June 2007, open letter.

shrinkage incentive revenue once we have consulted on the methodology for the uplift factor and the incentives for minimising shrinkage losses, in the September 2007 updated proposals document.

SC E9 - The discretionary reward scheme revenue (DRS)

2.25. In paragraphs 7.17 to 7.24 of the initial proposals document we set out our proposals for the DRS. In the draft licence conditions we have added a new term, DRS_t , which will enable us to review the schemes and reward GDNs through an adjustment to their allowances where appropriate. This scheme is broadly consistent with the DRS in the electricity distribution licence drafting albeit that it has more focus on environmental issues.

2.26. We propose that the DRS adjustment is based on the GDN's performance two years preceding the adjustment. We envisage undertaking a review of GDN performance under the scheme in the months following the end of the formula year. Applying the adjustment two years after the relevant year of performance would give us sufficient time to undertake the review, notify the successful GDNs and give them sufficient time to consult on changes to their charges before they are able to recover their additional allowance.

SC E10 - Dis-application of the DN transportation activity revenue restriction (previously SC E2B Part 1b paragraph 8 (11))

2.27. This condition sets out the procedures under which the GDN can apply for a dis-application to the revenue restriction. If the Authority wishes to challenge the dis-application request it must refer the issue to the Competition Commission. If the Authority does not challenge the dis-application request or if the Competition Commission rules in favour of the GDN then the maximum DN transportation activity revenue would be based on the previous year's revenue but adjusted for inflation.

2.28. This condition remains broadly unchanged, although we have extended the timeframe for the Authority to refer a dis-application request to the Competition Commission from 15 months before the dis-application takes effect to 6 months. These timescales are now in line with that agreed for the NTS licence. There are similar dis-application provisions for the tariff caps on metering activities in SC E13 - Restriction of prices in respect of tariff capped metering activities, therefore any substantive changes that are made to SC E10 may need to be consistently applied to SC E13.

SC E11 - Allocation of revenues and costs for calculation under the price control in respect of the DN (previously SC E3)

2.29. 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 using a consistent methodology. The value of this condition is under consideration. We may find that we can obtain an equivalent insight into the way GDNs allocate costs from the cost reporting process. We may propose changes

to this condition (or even to remove it) in due course, but only if we are satisfied that the cost reporting process will cover this issue adequately.

SC E12 - Supplementary provisions of the revenue restrictions in respect of the DN (previously SC E4)

2.30. This condition specifies those services which will be treated as excluded services. Our proposed changes to this condition are consistent with our proposals in paragraphs 2.9 to 2.12 of the initial proposals document. It includes agency costs and excludes last resort supply and gas illegally taken.

SC E13 - Restriction of prices in respect of tariff capped metering activities (previously SC E5)

2.31. This condition specifies the tariff caps that GDNs can charge on certain metering activities, sets out the provisions by which the GDN can apply to the Authority to depart from the tariff caps and sets out the provisions under which the GDN can request to dis-apply the tariff caps. These dis-application provisions are similar to those in SC E10.

2.32. As discussed in chapter 3 we are not proposing to amend the metering related obligations as part of GDPCR, as these conditions will be reviewed in due course once the Competition Act investigation into National Grid's domestic gas metering services agreements concludes⁴. We intend to update the tariff caps based on 2005/6 prices as part of the second licence consultation.

2.33. Also, currently the Authority must make a dis-application reference to the Competition Commission 12 months before the dis-application takes effect. In SC E10 we are proposing to change this to 6 months to be consistent with the transmission provisions and we are proposing the same change to this condition.

SC E14 - Revenue reporting and associated information to be provided to the Authority in connection with the transportation system revenue restriction in respect of the DN (previously SC E6)

2.34. This condition sets out the requirements for the provision of information associated with the transportation revenue restriction. Under the current arrangements this information is specified in within the condition. Our proposal is that the specific cost and revenue reporting requirements are set out in supporting regulatory instructions and guidance (RIGs).

⁴ Ofgem's Decision on the Future of the Gas and Electricity Metering Price Controls, October 2006, Ref: 187/06

2.35. The proposed draft condition sets out the requirement for the GDNs to comply with the RIGs, the timescales for providing the RIGs, the audit requirements and the procedures for modifying the RIGs. This will enable us to change the information required under SC E14, without necessitating a change to the licence but subject to the procedures for modifying the RIGs, which protects the GDNs from having arbitrary and onerous demands for information imposed upon them. The proposed condition is broadly consistent with the relevant electricity distribution and transmission licence condition.

2.36. The information to be provided to the Authority, as set out in paragraph 7 of the draft SC E14 has been square bracketed as we need to give further consideration to the information that GDNs are required to provide (i.e. whether we need separate forecast, actual and audited reports) and the dates by which they need to provide the information.

Calculation of quantities (previously SC E2B Part 1b paragraph 8 (9))

2.37. We have proposed removing the obligation for the GDNs to determine loads attributable to small interruptible user quantity, commercial user quantity and very large user quantity. We consider that this information was required for the purposes of the volume driver which we have proposed not to include as part of the next price control. Our rationale for excluding the volume driver is set out in paragraph 2.3 of the initial proposals document.

3. Other proposed modifications

Chapter Summary

This chapter sets out the proposed modifications to the Standard Special Conditions in Part A and Part D. It also sets out our proposals to amend Standard Licence Condition (SLC) 4B - Connection Charges and the Gas (Standards of Performance) Regulations.

Question box

Question 1: Are our proposed changes to SSC in Part A and D appropriate?

Question 2: Is the information provided by the GDNs under SSC D5 - licensee's procurement and use of system management services, useful? Is there any specific additional information that GDNs can provide to increase transparency in the use of their constraint management tools?

Question 3: Is it appropriate to remove D7 - exit code statement? If so why?

Question 4: How should the scope of A40 - Price Control information, be defined to capture information from GDN affiliates or related undertakings?

Question 5: Do respondents believe that the powers of the Authority should be similar to those that exist in respect of connection charges on other categories of gas and electricity network?

Question 6: Do respondents believe that the need to consult prior to amending the charging methodology is unduly onerous?

Quality of service

Standard Special Conditions (SSCs) in Part A

3.1. Our initial drafting for the proposed changes to SSC Part A are set out in Appendix 7 (in the appendices document) and are consistent with paragraphs 5.1 - 5.88 of our initial proposals document. We are proposing a number of changes to SSCs A19-25 and the equivalent standard conditions in the IGTs' licence to rationalise the administrative requirements and to ensure that obligations are clear, focused and targeted. These conditions are intended to apply to both the GDNs and the IGTs. The changes proposed are consistent with the Supply Licence Review and the on-going Electricity Distribution Licence Review. The changes also ensure, in the main, that existing levels of protection, particularly for vulnerable customers, are retained.

3.2. Previous requirements for GDNs to produce Codes of Practice for regulatory approval have been replaced, within each relevant condition, with obligations to:

- prepare statements or procedures;
- publish these on their website;

- take reasonable steps to inform domestic customers of these statements once a year and how to obtain them; and
- provide a copy on request free of charge.

3.3. Currently licensees are required to be consistent with the guidance⁵ published by Ofgem setting out what is expected to be included in their codes of practice in order for these codes to be approved. In removing the requirement for licensees to produce codes of practice for approval, some obligations are being rationalised and not included in the licence. For example, the obligation to make statements available in alternative languages which are predominant in the licensee's area and translation facilities for customers to make enquiries and complaints in a language other than English.

3.4. SSCs A19 - Provision of Services for Persons who are of Pensionable Age or Disabled or Chronically Sick: Arrangements in Respect of Meters, and A20 - Provision of Services for Persons who are Blind or Deaf, have been merged into a single condition SSC A19 - Provision of Services for specific domestic customers groups, in line with the Supply Licence Review. We have moved some guidance, from the codes of practice guidance into the licence as a licence obligation, for GDNs to agree a password when accessing the premises of a vulnerable customer. This obligation is included within both the electricity distribution and supply licences and reflects a service that GDNs already provide through their Codes of Practice⁶. GDNs have raised some concerns and suggested that the password scheme should be limited to correspondence relating to specific jobs and planned works rather than an enduring register of passwords for vulnerable customers due to the costs of maintaining a database of such passwords. We intend to consult further on this issue in the updated proposals document. As outlined above, the requirements relating to Codes of Practice for both conditions have been replaced with statement obligations.

3.5. SSCs A22, A22A and A22B have been merged into a single condition - Arrangements for access to premises, and has been renumbered as SSC A20. This condition, in line with the electricity distribution licence drafting, includes a requirement for the use of any password agreed with a vulnerable customer under SSC A19. Again the requirements relating to Codes of Practice have been replaced with statement obligations. A reference to entry by the authority of a warrant under the Rights of Entry (Gas and Electricity Boards) Act 1954 has been included for clarity and to be consistent with the electricity distribution licence.

3.6. SSC A23 - Procedure for dealing with complaints has been renumbered and is now SSC A21. It should be noted that there may be further changes to this condition to ensure consistency with the Consumers, Estate Agents and Redress Act as highlighted earlier in this document.

⁵ <http://www.ofgem.gov.uk/Sustainability/SocAction/NetwrkOps/Documents1/258-10oct01a.pdf>

⁶ The guidance sets out that as a minimum a password scheme should be in place for visiting customers' premises for persons who may be uneasy about allowing access to their homes.

3.7. SSC A24 - Reporting on Performance, has been renumbered and is now SSC A22. We propose to require GDNs to report on the number of customers covered by the password scheme outlined in SSC A19 and to report on the number of failures, and both number and value of payments made, under the Gas (Standards of Performance) Regulations 2005. This has been amended to reflect the new obligation proposed for SSC A19 and to be consistent with the electricity distribution licence conditions.

SSC D9 - Distribution Network transportation activity incentive scheme and performance reporting

3.8. Our initial drafting for the proposed changes to SSC Part D are set out in Appendix 8 (in the appendices document). SSC D9 - Distribution Network transportation activity incentive scheme and performance reporting, is proposed to be amended to extend the Customer Satisfaction Surveys (CSS) to cover emergency services and connections and to require GDNs to report on their performance relating to the accuracy of their pipe-line records. The inclusion of two new CSS to cover emergency services and connections is to provide clarity on how satisfied customers are with the service provided to them by their GDN.

3.9. GDNs have raised concerns with the samples to be used for the emergency services and connections CSS. For emergencies we believe it is appropriate to limit the sample to those persons who called the gas emergency helpline in order to report a gas emergency. All parties who do so should be included in the sample, and this should cover all categories of escape, including those where no trace is found. For connections it is intended that the CSS sample will include all customers who have requested a quotation from the GDN. This may include applicants who choose not to accept their quotation. We believe that it is important to capture the views of these applicants on the process and service that they received, and so do not believe that the sample should be restricted only to those who have accepted quotations and experienced substantial completion of connections works.

3.10. With regards to the accuracy of pipeline records, it is proposed that GDNs report on:

- the number of asset error correction reports submitted per year;
- the number of pipe-line records digitised per year;
- the number of pipe-line records awaiting digitisation; and
- the date of the oldest pipe-line record awaiting digitisation.

3.11. The intention of these additional reporting requirements is to provide further information on each GDN's performance in relation to this important area of their business. This is an area that will need to be discussed further and we will be seeking further views from GDNs and other interested parties at a quality of service workshop.

3.12. Reporting requirements that appear to fit better within other sections of the licence are proposed to be moved as appropriate to avoid duplication in reporting

obligations. For example reporting on mains replacement will be required under the RIGs associated with SSC E14 - Revenue reporting and associated information to be provided to the Authority in connection with the transportation system revenue restriction in respect of the DN. We would also remove the environmental performance reporting obligations if we implemented an incentive which meant that we collected this information under the revenue reporting RIGs.

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

3.13. SSC D10 (previously entitled Provision of connections information) is proposed to be extended to include three new performance requirements. As a result, we propose to amend the title of the condition to SSC D10 - Quality of service standards. 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 emergencies within 1 hour and 2 hours respectively. The intention of including these within the licence condition is to ensure that appropriate enforcement action can be taken in the event of a breach of the relevant performance standard and that customers are suitably protected.

3.14. GDNs have raised concerns with the introduction of an absolute obligation to attend controlled and uncontrolled reported gas emergencies within specified timescales. Previously, these obligations were overall standards of performance and so were not absolute. GDNs proposed that SSC D10 be re-drafted to allow for exemptions in the event of an exceptional event that could cause them to breach their obligations. Our intention in replacing the overall standards of performance with obligations in the licence condition is to strengthen our position in the event of a breach and so enable us to take appropriate action to protect customers. We will discuss this issue further with the GDNs and will consult on this issue as part of the updated proposals document.

Gas (Standards of Performance) Regulations

3.15. The Gas Act 1986 (as amended) empowers the Authority to make regulations for guaranteed standards of performance, with the consent of the Secretary of State.

3.16. Guaranteed standards of performance (GSOPs) set performance levels that must be met in each individual case. Currently the GSOPs for gas transporters cover areas such as restoring supplies after an unplanned interruption, reinstating premises after work and providing connections quotations. If a GDN (or IGT) fails to provide the level of service required then it must make a payment or payments to the consumer affected, subject to certain exemptions.

3.17. In initial proposals we set out a number of changes to the GSOPs to address gaps in the existing arrangements and to provide an appropriate level of protection to consumers. These proposals have been informed by a programme of consumer research as required under section 33BAA(1)(a) of the Gas Act prior to making any

changes to the standards. We are now proposing amendments to the Regulations to give effect to these changes.

Supply restoration standard (Regulation 7)

3.18. The existing supply restoration standard requires GTs to make a fixed compensation payment of £30 to domestic consumers where they fail to restore their gas supply within 24 hours following an unplanned interruption on their networks. Further compensation must be paid for each additional period of 24 hours until supply is restored subject to a £1,000 cap. The standard does not apply to business consumers, where the event originated on another GT's network, was due to third party damage or water ingress or where the interruption affects more than 50,000 consumers.

3.19. Compensation for business consumers is set out in the Uniform Network Code (UNC). Ofgem has agreed compensation arrangements for third party damage and water ingress interruptions with the GDNs in a letter of understanding which expires on 31 March 2008⁷.

3.20. We are proposing to amend the supply restoration Regulation to include small non-domestic customers consuming not more than 73,200 kWh per annum, remove the exemption for third-party and water ingress interruptions and exclude interruptions where more than 30,000 consumers are affected.

3.21. Non-domestic consumers would receive a payment of £50 for each 24 hours period until their supply is restored. We would expect larger non-domestic consumers (consuming greater than 73,200 kWh per annum) to continue to receive at least the same overall levels of payments for supply interruptions through the UNC provisions.

3.22. We also propose to amend the Regulation to include instances where an interruption originating on one network affects consumers connected to another GDN or IGT network. The GT to whose network the consumer is directly connected will initially be responsible for making payments to that consumer for any failure to restore supplies. However, this GT will be able to claim an exemption if the interruption originated on another GT's network. Where the GT to whose network the consumer is directly connected wishes to claim an exemption on this basis, it has to notify the other GT and provide appropriate information. The other GT then becomes liable.

3.23. The GDNs have raised the issue of what happens if a supply interruption originated on their network, they restore supplies to the boundary of their network

⁷ <http://www.ofgem.gov.uk/Networks/GasDistr/GDPCR7-13/Documents1/17064-20070202%20TPWI%200708%20LoU%20NGG.pdf>.

before compensation becomes due, but the other GDN or IGT fails to take the appropriate steps to restore the consumer supplies. They are concerned that they may still be liable to pay the full compensation. We consider that in such instances the consumer should be paid the compensation by the GT on whose network the supply failure occurred, but there should be a mechanism for some or all of the compensation to be recovered from the other GT if they are wholly responsible for the failure under the standard.

3.24. We are considering whether a new standard licence condition for GTs should be introduced consistent with standard condition 20 of the electricity distribution licence which enables distributors who are liable to make payments under the supply restoration standards to recover all or part of those payments (including financing costs) from another distributor where that distributor is fully or partially responsible for failure to meet the standards.

Reinstatement of consumers' premises (Regulation 8)

3.25. We are proposing to amend Regulation 8 to shorten the allowed period for reinstatement of consumers' premises following work initiated by the GTs to 5 working days.

Provision of alternative heating and cooking facilities to priority domestic consumers (Regulation 9)

3.26. Following feedback from the GDNs in the working groups, we are proposing to amend Regulation 9 so that GTs are not required to provide alternative cooking and heating facilities to a priority domestic consumer where that consumer declines the offer of such facilities. We are also proposing to amend the standard so that compensation is only payable where the consumer makes a claim within 3 months.

3.27. In initial proposals we set out that we intended to extend this standard to other consumers. Following further discussion we intend to include this in the best practice guidance.

Notice of Connections (Regulation 10)

3.28. We are proposing a number of minor changes to clarify the drafting of this Regulation.

Notice of Planned Interruptions (Regulation 10A)

3.29. We are proposing to introduce a new Regulation 10A to put in place a guaranteed standard to notify consumers of planned interruptions. We propose that consumers should be notified at least 5 working days in advance of a planned supply interruption. The notification should state the period of 7 days in which the interruption is expected to commence. If the GT fails to provide this notice or the interruption commences on a day outside the notified period the GT will be required

to pay the consumer compensation. However, the Regulation provides for an exemption where the interruption cannot commence in the period notified due to matters such as severe weather conditions, industrial action by employees or other circumstances of an exceptional nature, provided that the GTs give at least one working day's notice. The compensation is proposed to be £20 for domestic consumers and £50 for non-domestic consumers.

3.30. The GDNs have raised concerns that this obligation is tighter than the existing overall standard and therefore goes beyond what was stated in initial proposals. They note it reduces flexibility in the way they can carry out their work. We intend to consult on this further in the September update paper. We also intend to consult on whether any notification of a change should include a revised period during which the interruption is expected to occur.

Responding to Complaints (Regulation 10B)

3.31. We are proposing to introduce a new Regulation 10B to put in place a guaranteed standard for responding to written consumer complaints and verbal complaints that are made on a pre-specified consumer contact line. GTs would be required to respond to a complaint within 10 or 20 working days depending on whether a site visit is required. In addition where a site visit is required the GT will be required to notify the consumer of the delayed response and the reason for the delay. Where the GT fails any of these obligations it will be required to pay the consumer £20 compensation.

3.32. The GT will be required to pay additional compensation of £20 for each additional period of 5 working days until the substantive response is provided, subject to a cap of £100. The proposed Regulation also makes provision for frivolous or vexatious complaints.

3.33. We are considering whether it is necessary to include further clarification of what is meant by a substantive response and would welcome view in this area.

Payments (Regulation 12)

3.34. We are proposing amendments to this Regulation to create a mechanism for GTs to make payments to consumers on other GTs' networks including where an interruption on one network affects consumers connected to another network. These changes are consistent with the proposed revisions to Regulation 7.

3.35. The GTs would be required to make the payments within 20 working days either directly to the appropriate consumers, to their GT or their shipper or supplier. The period of 20 days would only start once the GT has received notification from the other GT that the supply failure has caused a consumer(s) to be interrupted on their network. We are proposing to give effect to this through an amendment to the definition of applicable date in Regulation 3(1).

3.36. The GDNs have noted that in practice they typically make payments through a shipper's bank account and that the SI should be amended to achieve this. This change is not necessary as standard condition 20 of the GT licence already allows for this.

Information to be given to consumers about overall performance (Part III, Regulation 16)

3.37. We are proposing to delete paragraphs (2) and (5) of Regulation 16 as we have proposed to remove the overall standards of performance for GTs and transfer a number of the obligations into the gas distribution licence. A minor amendment is also made to paragraph (4) to reflect the changes to this Regulation.

Other

3.38. We are proposing a number of other minor amendments to clarify the drafting of the Regulations.

Financial ring-fencing and independence of the distribution business

3.39. Our proposed changes to the licence conditions in this section, which are associated with financial ring-fencing and independence of the distribution business, are not associated with GDPCR. In Appendix 13 of our initial proposals document we considered that these conditions should be reviewed.

SSC A34 - Appointment of compliance officer

3.40. We are proposing to make a small change to this condition such that the Authority is able to consent to allow a GDN to derogate from this condition. The purpose of requiring the GDNs to appoint a compliance officer and specifying their minimum duties and responsibilities is to ensure the GDNs are complying with SSC A33 - Restriction on use of certain information and independence of the transportation business, and SSC A35 - Prohibition of cross-subsidies. This is in response to claims by some GDNs that as stand-alone businesses, the scope for failing to maintain independence, for sharing information, or for having cross-subsidies is extremely limited, and it may be unnecessary to have a specific compliance officer to monitor such issues. A derogation from this condition would not release the GDN from the obligations of those two conditions. However, we would not wish to remove the condition from any GDN's licence, because circumstances could change and a previously stand-alone GDN may find itself with relevant related-party businesses.

SSC A35 - Prohibition of cross-subsidies

3.41. We are proposing to move the requirement for GDNs to procure an audit to demonstrate compliance with the obligation to avoid discrimination and cross-subsidies specified in EC Directive 2003/55⁸, Article 17 into this condition. It was previously contained in SSC A30 - Regulatory accounts, as the intention was for the GDNs' statutory auditors to opine on this matter as part of their opinion on the regulatory accounts. However, the audit firms have pointed out to us that under international audit guidelines, it is not appropriate for them to offer an opinion on this type of information. We have therefore agreed a set of specific procedures for them to carry out and report the results of those procedures to the authority as a separate exercise. There is now no rationale for linking this requirement to the regulatory accounts and we believe it is more appropriate to include it in this condition, which specifically relates to the avoidance of cross-subsidies. We have also changed the drafting to reflect the type of audit that is actually being carried out.

SSC A37 - Availability of resources

3.42. We have changed paragraph 3 to be more specific regarding the evidence we wish the licensee to submit with its availability of resources certificate. This is consistent with the latest version of the electricity transmission licences. The amendments to SSC A37 may also apply to IGTs as well as the GDNs.

SSC A38 - Credit rating of the licensee

3.43. We have made a minor update to this condition to reflect the correct term for one of the credit ratings that is acceptable for the purposes of confirming that the GDN holds an investment grade issuer credit rating. This is consistent with the latest version of the electricity transmission licences. The amendments to SSC A38 may also apply to IGTs as well as the GDNs.

Regulatory accounts and price control information

3.44. Our proposed changes to the licence conditions in this section, which are associated with regulatory accounts and price control information, are not associated with GDPCR. In Appendix 13 of our initial proposals document we considered that these conditions should be reviewed.

⁸ Of the European Parliament and the Council concerning common rules for the internal market in natural gas and repealing Directive 98/30/EC

SSCA30 - Regulatory accounts

3.45. We are proposing two changes to this condition. The first is to remove the requirement for GDNs to procure an audit to demonstrate compliance with the obligation to avoid discrimination and cross-subsidies specified in EC Directive 2003/55, Article 17. This has been moved to SSC A35 - Prohibition of Cross-Subsidies, as detailed in paragraph 3.41 above.

3.46. The other is to embed the prescribed contents and format of the operating and financial review that is required to be included in the regulatory accounts in the licence condition itself (new Part F). Previously, the condition referenced a section of the Companies Act that now stands repealed. The actual requirements have not changed materially.

SSC A40 - Price control review information

3.47. We are proposing to insert a corporate governance requirement into this condition in line with that inserted into the equivalent condition in the electricity transmission licences.

3.48. We are also considering changes to paragraph 2(a) of this condition. There are certain key service providers to some of the GDNs who may not fall within the definition of "affiliate or related undertaking" currently used in this condition. These potentially includes xoserve (from the point of view of NGN and WWU), for example. It would also include any service provider to whom a GDN had outsourced the majority of its operations, but where there was little or no element of common ownership. We need to ensure we can obtain detailed cost information in respect of the activities these service providers carry out for the GDNs. However, we do not wish to extend the scope of the condition in such a way that all contractors' underlying cost information should be collected by the GDNs. We would welcome views on how to define the scope of this condition appropriately.

System operation

3.49. Our proposed changes to the licence conditions in this section, which are associated with system operation, are not associated with GDPCR. As discussed in Appendix 13 of our initial proposals document we consider that the licence drafting consultation provides us with an opportunity to review the usefulness of these conditions and to remove redundant conditions where appropriate.

SSC D5 - Licensee's procurement and use of system management services

3.50. SSC D5 - licensee's procurement and use of system management services (SMS), requires the GDN to operate the pipeline system in an economic and co-ordinated manner and to ensure that the GDN does not discriminate in the procurement of SMS.

3.51. GDNs have a number of reporting obligations associated with SSC D5 in terms of how they intend to procure SMS and the principles under which they determine which SMS they will use to operate their pipeline systems. They are required to report on the extent to which they complied with the principles and whether a modification to the principles is necessary as a result of the report. They are required to consult with interested parties on the principles statement and provide an auditor's report to confirm that the licensee complied with the principles statement.

3.52. These obligations were put in place as part of the 2002 Transco price control to ensure that Transco contracts for SMS in a transparent and non-discriminatory way. It recognised that Transco was being given greater commercial freedom and discretion, for example in being able to contract forward to relieve constraints. SSC D5 recognises that with the implementation of interruption and offtake reform the GDNs would become more active in the management of network constraints.

3.53. The GDNs have raised a number of concerns about this condition. They have argued that the reporting obligations are onerous and do not necessarily achieve the objective of transparency. They note that SMS includes the procurement of shrinkage gas as well as constraint management services and consider that the inclusion of shrinkage gas is inappropriate.

3.54. We consider that there should be transparency and non-discrimination in the GDNs' procurement of SMS. However, there is merit in reviewing some of the obligations in SSC D5 and whether individual GDNs should have different obligations depending on their group structure.

3.55. We intend to review the reporting obligations to determine whether it would be possible to reduce the number of reports that the GDNs produce without materially reducing transparency. We are also consulting on whether the information that the GDNs provide is appropriate and useful to interested parties. Moreover, we have proposed changes to D5 to give the Authority discretion to consent to a derogation from the audit requirements.

3.56. We do not consider that it is appropriate at this time to include the procurement of shrinkage gas in the licence obligation. In particular we consider that this obligation is only relevant for the NGG NTS. As the system operator the procurement of shrinkage could provide NGG NTS with perverse incentives. However, as the GDNs do not have a system balancing role we have removed the obligation to provide information on their procurement of shrinkage gas.

SSC D7 - Exit code statement

3.57. The exit code statement requires the GDNs to submit a report setting out a description of the services they have provided to the NTS and the revenue they

received or charges they made for these services. SSC C7 sets out similar obligations for NGG NTS. As part of the DN sales licence consultation⁹ we considered that this condition would cease to be necessary once enduring NTS exit arrangements had been implemented as there would be a transparent external NTS-DN interface that would remove the need for publication of a such a statement. Consequently, we have proposed that SSC D7 expires on 1 October 2011 or such other date as the Authority may direct in writing to take account of our proposals to implement enduring offtake arrangements. The drafting also accommodates changes to the implementation date of offtake arrangements. This drafting is consistent with the transmission licence condition, SSC C7.

3.58. Further to comments from the GDNs we also intend to review the usefulness of SSC D7.

SSC A55 - Enduring offtake reform

3.59. SSC A55 requires the GDNs to use their best endeavours to implement the enduring offtake arrangements by 1 September 2005. On 24 June 2005 we issued an open letter delaying the implementation of enduring offtake arrangements. In this letter we noted that we did not intend to enforce compliance with SSC A55 as currently drafted. We noted that we would give consideration as to whether this licence condition should be replaced or modified. Having considered the issue further we have determined that SSC A55 should be removed.

SSC D8 - Reform of Distribution Network interruption arrangements

3.60. SSC D8 requires the GDNs to use reasonable endeavours to review and develop proposals for the reform of interruption. As the new interruption arrangements have been approved by the Authority and are due to take effect on 1 October 2011 we consider that this condition is redundant and should be removed.

Agency services

3.61. SSC A15 - Agency, sets out the requirement for the gas transporters to jointly have an agency for the common provision of services and systems as required in the uniform network code. We are proposing to change the funding of the agency and as part of initial proposals we set out a core plus 'user pays' model where a number of services provided by the agency would be directly funded by only those parties who took the service. Revenue from these services would then be excluded from the price control (see paragraph 2.30). These proposals are consistent with paragraphs 8.12 to 8.18 of our initial proposals document.

⁹ NGT Potential sale of gas distribution network businesses Formal consultation under section 23 and section 8AA of the Gas Act 1986, February 2005, Ref: 45/05

3.62. In order to provide the framework for this approach changes are also required to SSC A15. This includes a requirement on the gas transporters to jointly prepare a charging statement, detailing the basis and level of user pays charges, and the process for its amendment.

3.63. It is expected that the GDNs, xoserve and the industry will develop governance arrangements that are fit for purpose to manage these revised arrangements. The licence drafting will develop once there is further visibility of the proposals.

Metering obligations

3.64. In Appendix 13 - Licence drafting of our initial proposals document, we considered that the metering related obligations as set out in SSC A10, A43 and A46 may need to be reviewed in light of metering competition. However, as indicated in Ofgem's October 2006 decision document on the metering price controls, we do not believe it is appropriate to make or invite comment on the state of gas metering competition while the Competition Act investigation against National Grid in the market for the provision of domestic-sized gas meters is ongoing. We therefore intend to leave the existing price controls on gas metering services in place and review them once the investigation has been concluded.

3.65. Independently of the GDPCR, Ofgem has also been considering the licence arrangements around gas post-emergency metering services (PEMS), and we will shortly issue an open letter setting out a proposed approach for consideration by the industry. If this view changes following industry feedback then any modifications to the licence could be consulted on as part of the next GDPCR licence drafting consultation.

Other issues

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

3.66. Our proposed changes to SLC 4B are not associated with GDPCR. In Appendix 13 - Licence drafting, of our initial proposals document we considered that SLC 4B should reviewed, in particular to ensure that the approval process for the connection charging methodology is consistent with other charging methodologies.

3.67. Our initial drafting for the proposed changes to SLC 4B are set out in Appendix 9 (in the appendices document). Amendments to SLC 4B are aimed at both simplification of the condition and bringing the powers of the Authority into line with those that exist in respect of connection charges in other categories of gas and electricity networks. These amendments would apply to both the GDNs and IGTs.

3.68. We have proposed amending paragraph 3 of SLC 4B to require the licensee to put in place a charging methodology approved by the Authority by 1 April 2008. We recognise that some sectors of the gas connections market may be regarded as

being fully contestable, for example connections to new build domestic properties. However this is not the case in other sectors such as one off connections and network reinforcement. In applying the terms of the condition to licensees charging methodologies the Authority would expect to take account of these differences.

3.69. Paragraph 5 of the condition sets out the relevant objectives of a charging methodology. These are similar to the relevant objectives for a licensee's transportation charging statement, including the facilitation of competition, cost reflectivity and taking account of developments within the industry. Sub paragraph 5(c) of the condition specifies that where permitted by the Gas Act 1986 the licensee may include within charges an element for the earning of reasonable profits.

3.70. Paragraph 6 of the condition sets out a consultation process that must be followed prior to the licensee approaching the Authority for permission to amend its charging methodology. However in recognition of the contestable nature of certain sections of the connections market this consultation process can be circumvented on consent from the Authority.

3.71. Paragraph 9 of the condition requires the licensee to publish a connection charging statement that is in accordance with its charging methodology.

3.72. The current condition deals with charges for upstream reinforcement and pipe work downstream of the relevant main in separate paragraphs. This led to a large degree of duplication and greatly extended the length of the condition. The need for this duplication has been removed through insertion into paragraph 3 of sub-paragraphs 3(e) and 3(f) that simply state that the charging methodology should refer to charges for both upstream reinforcement and pipe work downstream of the relevant main.

4. Next Steps

Chapter Summary

This chapter sets out the timetable for the licence drafting consultation

Question box

Question 1: Is the timetable set out in this chapter appropriate?

Licence drafting timetable

4.1. We intend to hold a series of licence drafting working group meetings with GDNs over October and November 2007 to further refine the draft licence conditions. IGTs and NGG NTS are welcome to join in these discussions. We also plan to hold a quality of service workshop in October.

4.2. We intend to have a further consultation on the licence conditions after the publication of the final proposals in December 2007 and this will include draft licence conditions for the IGTs as well as the GDNs and where appropriate NGG NTS. We intend to commence the formal consultation in February 2008. The main milestones are set out in table 4.1 below.

Table 4.1 Licence drafting milestones October 2007 to March 2008

22 October 2007	Initial licence drafting consultation responses
7 December 2007	Second licence drafting consultation
25 January 2008	Second licence drafting consultation responses
15 February 2008	Statutory licence and statutory instrument consultation
14 March 2008	Responses to the statutory consultations
28 March 2008	Publication of licence and statutory instrument modifications

Appendices

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Supplementary Appendices

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7	Proposed Standard Special Conditions in Part A
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9	Proposed Standard Licence Condition 4B
10	Proposed Gas (Standards of Performance) Regulations
11	Proposed Gas (Standards of Performance) (Amendment) Regulations
12	Original Special Conditions in Part E
13	Original Standard Special Conditions in Part A
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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 22 October 2007 and should be sent to:

- Ayesha Uvais
- Gas Distribution
- Ofgem 9 Millbank, London SW1P 3GE
- Tel: 020 7901 7307
- Email: ayesha.uvais@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, we will publish a second licence consultation on the licence drafting in December 2007 and a formal consultation on the licence conditions 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: Should shippers continue to raise Income Adjusting events to the exit incentive?

Question 2: How should an IAE associated with TMA costs be constrained without limiting costs to permit costs?

Question 3: Are there any other changes to SC Part E that are necessary to make the GDPCR effective?

Question 4: Are there any changes to SC Part E that are inappropriate?

Question 5: Are there any other changes to SC Part E that are desirable but not necessarily associated with GDPCR?

CHAPTER: Three

Question 1: Are our proposed changes to SSC in Part A and D appropriate?

Question 2: Is the information provided by the GDNs under SSC D5 - licensee's procurement and use of system management services, useful? Is there any specific additional information that GDNs can provide to increase transparency in the use of their constraint management tools?

Question 3: Is it appropriate to remove D7 - exit code statement? If so why?

Question 4: How should the scope of A40 - Price Control information, be defined to capture information from GDN affiliates or related undertakings?

Question 5: Do respondents believe that the powers of the Authority should be similar to those that exist in respect of connection charges on other categories of gas and electricity network?

Question 6: Do respondents believe that the need to consult prior to amending the charging methodology is unduly onerous?

CHAPTER: Four

Question 1: Is the timetable set out in this chapter appropriate?

Appendix 2 - Modifying the licence conditions and the Gas (Standards of Performance) Regulations

Modifying the licence conditions

1.1. The current GDN licence obligations are set out in:

- Standard Conditions - which apply to all gas transporters (i.e. IGTs, GDNs and NTS);
- Standard Special Conditions - these conditions were introduced as part of DN sales. Part A applies to both the NTS and GDNs and part D to the GDNs only; and
- Special Conditions - these conditions are specific to each GDN licensee.

1.2. Special conditions and standard conditions of a particular licensee can be modified under section 23 of the Gas Act 1986 with the agreement of the licensee. If the licensee does not give consent then Ofgem can make a reference to the Competition Commission.

1.3. Standard Conditions and Standard Special Conditions can be modified through collective modifications to licences of a particular type. For standard conditions this "statutory" collective licence modification (CLM) is made under section 23 of the Gas Act. Standard Special Conditions are modified through the "private" CLM procedure set out for the relevant Standard Special Condition.

1.4. Under the CLM procedures if 20 per cent of the relevant licence holders (either based on number or weighted by market share) register a formal objection to the licence modifications a reference would need to be made to the Competition Commission to determine whether the licence modifications should be implemented.

1.5. Before initiating a formal licence consultation we can carry out informal consultations, such as this consultation, of the licence modifications. The informal consultations enable us to seek comments from the GDNs, IGTs, NTS and interested parties on the modification proposals and on early drafts of the licence text.

1.6. Before making a modification to the licences we must carry out a formal consultation on the proposals under the relevant Gas Act or licence provisions. As part of this process we will publish a modification notice on our website. The modification notice will set out the modifications we propose to make and the effects of the proposed modification, the reasons for the modification and the period within which representations or objections can be made. This period cannot be less than 28 days. We are required to serve copies of the modification notice to the relevant licence holders, the Secretary of State for Trade and Industry, energywatch and the HSE. We also serve copies to other parties with an interest. During the consultation period the Secretary of State has the power to veto the licence modifications.

1.7. Once the consultation period has closed we will review any representations and objections and determine whether to proceed with the licence modifications. If appropriate, we will make the licence modifications; specifying when they will take effect and our reasons for making them.

Amending the Gas (Standards of Performance) Regulations

1.8. The Gas (Standards of Performance) Regulations 2005 set out the standards of performance that the GDNs and IGTs should meet and the compensation payments associated with failing certain standards. These regulations will need to be modified to take account of our quality of service proposals through an amendment to the Statutory Instrument and as with the licence modifications we will be required to formally consult on these proposed changes before making an amendment.

1.9. We will be carrying out informal consultations of the amendments to the Gas (Standards of Performance) Regulations (including this consultation). The informal consultations enable us to seek comments from the GDNs, IGTs, the DTI and interested parties on early drafts of the regulations.

1.10. An amendment to the Statutory Instrument can only be made with the consent of the Secretary of State for Trade and Industry. Before making the modification we are required to undertake appropriate research to discover the views of a sample of persons likely to be affected and publish a notice of our proposals under section 33BAA of the Gas Act and consider any representations made in respect of the proposals. We must also consult with energywatch, gas transporters, gas suppliers and persons likely to be affected by the changes. The notice must state that the Authority proposes to prescribe or determine standards of performance and set out the standards of performance proposed; state the reasons why it proposes to prescribe or determine those standards of performance and specify the period of time within which representations can be made. The period of consultation cannot be less than 28 days.

Appendix 3 – 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 Acts¹⁰. References to the Gas Act and the Electricity Act in this Appendix are to Part 1 of each of those Acts.¹¹

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 accordingly¹².

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 them¹³; and

¹⁰ For example, the Environment Act 1995 and the Countryside and Rights of Way Act 2000.

¹¹ entitled "Gas Supply" and "Electricity Supply" respectively.

¹² 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.

¹³ 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.¹⁴

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 licensed¹⁵ 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 Regulation¹⁶ 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.

¹⁴ The Authority may have regard to other descriptions of consumers.

¹⁵ or persons authorised by exemptions to carry on any activity.

¹⁶ Council Regulation (EC) 1/2003

Appendix 4 - 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 will extend 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

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 appliances¹⁷.

[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 network¹⁸.

[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 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.

¹⁷ <http://www.ofwat.gov.uk/aptrix/ofwat/publish.nsf/Content/rd032001>

¹⁸ Department for Transport:
http://www.dft.gov.uk/stellent/groups/dft_roads/documents/divisionhomepage/032064.hcsp

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 5 - 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, which 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. To what extent did the report's conclusions provide a balanced view?
5. To what extent did the report make reasoned recommendations for improvement?
6. Please add any further comments?

1.2. Please send your comments to:

Andrew MacFaul
Consultation Co-ordinator
Ofgem
9 Millbank
London
SW1P 3GE
andrew.macfaul@ofgem.gov.uk