

Paul Heseltine
Ofgem
9 Millbank
London
SW1P 3GE

Kiran Jassal
Regulatory Analyst

kiran.jassal@nationalgrid.com
Direct tel +44 (0)1926 655624

www.nationalgrid.com

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Dear Paul,

RE: Notice under section 11A (2) of the Electricity Act 1989 and section 23(2) of the Gas Act 1986: Consultation on proposed licence modifications to the licence fee payment conditions in all gas and electricity licences and other consequential changes (reference 181/12)

National Grid owns and operates the high voltage electricity transmission system in England and Wales and, as National Electricity Transmission System Operator (NETSO), operates the Scottish high voltage and offshore transmission systems. National Grid also owns and operates the gas transmission system throughout Great Britain and through our low pressure gas distribution businesses we distribute gas in the heart of England to approximately eleven millions offices, schools and homes.

National Grid Gas Transmission welcomes the opportunity to respond to this consultation; our response is not confidential.

We appreciate and understand the challenges ahead in preparing licence fees and putting them into place and in doing so reflecting the key principal of protecting the interests of gas and electricity consumers.

The proposed modifications (as below) are welcomed and would bring the licence fee payment conditions up to date with current legislation.

- Remove any references to the payment to the Authority of the costs incurred by the Competition Commission in connection with any reference made to it;
- Replace any references to the "Office of Fair Trading" with "Citizens Advice" or "Citizens Advice Scotland"; and
- Replace any references to "Consumer Direct" with "any qualifying public consumer advice scheme"

It is important that Ofgem remain transparent with all their costs associated with licence fees. For consistency we consider Ofgem should continue to use the relevant cost control regime for the five years that commenced from April 2010. As changes within the industry occur (e.g. European, and UK government initiatives) any additional costs that are relevant to the licensee to support Ofgem's increased workload must be transparent and with a clear auditable basis for any licence fee change.

In light of the above the section titled 'Removal of references to the Competition Commission' creates some confusion. In the opening paragraph it indicates that references to the Competition Commission will be removed from the licence which we agree with. However later, the consultation indicates that Ofgem would continue to recover the Commission's costs through the licence fee cost recovery mechanism. Whilst the reference to the Competition Commission is removed will licensees still be required to fund such costs?

In the LFPD¹, section titled 'work undertaken on behalf of other government departments' Ofgem indicate that their administration costs will include fees for work related to existing and new legislation or European Directives that is not part of Ofgem's core responsibility and that these costs may be recovered from licensees. We do not think it is appropriate that licensee's costs should include costs that are not part of Ofgem's core responsibilities. If Ofgem carry out work on behalf of other departments (e.g. government) Ofgem should charge the relevant body directly for this work so as to impose some cost discipline on them.

We also notice in the LFPD that the Year-End Reserves (also know as Teem & Lade) has increased by £2 million to £5 million. Whilst the RPI-X regime has not changed it would be useful to have clarity over the reasons for this increase and an understanding of Ofgem's plans regarding the Year-End Reserves.

We have identified a number of concerns around the proposed licence amendments. Please refer to annex 1 for details of these.

If you wish to discuss any of the issues discussed in this response please contact Kiran Jassal on 01926 65 5624, or at kiran.jassal@nationalgrid.com, in the first instance.

Yours sincerely,

Kiran Jassal
Regulatory Analyst

¹ Licence Fee Principles Document

**Annex 1: Table for response on Licence Fee Consultation
January 2013**

	Reference (used the new references in the appendices containing the proposed amendments, dated 20 December 2012)	Comments / Suggested alternative drafting
1.	General comment	The statutory consultation does not accurately show the changes from the existing conditions (see for example removal of reference to section 17(7A) of the Gas Act 1986 in paragraph 2(g) of Condition 3 of the Gas Transporters Licence). We therefore question the validity of the notice to modify.
2.	Paragraph 1 of the gas transporter licence notice, line 2	The reference should be as follows: “paragraphs 3(2)(f) to (j) and 5...”
Gas Transporters Licence – Condition 3		
3.	Paragraph 2(f), first line	“ <i>relevant</i> ” should not be tracked as new. This brings into question the validity of the notice, per the general comment at 1 above.
4.	Paragraph 2(f), first line	Reference to the “ <i>relevant proportion of the expenses of the Citizens Advice or Citizens Advice Scotland</i> ” – For Wales and West, Southern, Northern and National Grid as distributors, presumably the relevant proportion for Citizens Advice Scotland will be £0; equally Scotland Gas Networks would presumably pay £0 for Citizens Advice. What is the relevant proportion for National Grid with regards to the NTS? We would be grateful for clarity on this point.
5.	Paragraph 2(f), first line	Reference is now made to “ <i>expenses</i> ” rather than estimated costs. We are unclear why this has changed. Will expenses be collected in advance or in arrears? If in advance, the word “ <i>estimated</i> ” must be inserted before “ <i>expenses</i> ”. If in arrears, then the text should read “ <i>actual expenses ... in the previous year</i> ” and make it clear whether the year in question is a financial year as defined in Condition 1, or the expenses as reported by Citizens Advice or Citizens Advice Scotland in their reports and accounts for the previous year.
6.	Paragraph 2(f), second line	Subject to your response to 4 above, we request that the “ <i>or</i> ” between Citizens Advice and Citizens Advice Scotland should read “ <i>and/or</i> ” as both may apply in the case of the licence in respect of the NTS as the NTS Operator has activities in both England and Wales and Scotland.

7.	Paragraph 2(f), last line	The paragraph should finish with a semi-colon not a full stop.
8.	Paragraph 2(g)(i)	Reference to section 17(7A) of the Gas Act 1986 does not appear in the paragraph. It is in the current Condition 3 but is not shown as deleted in the track changes. We are unclear as to why this reference has been removed and request that the reference to section 17(7A) of the Gas Act 1986 is retained.
9.	Paragraph 2(h)(aa) and (bb)	The track changes do not accurately reflect what the proposed changes are from the current Condition 3. The reference at line 2 of (aa) should refer to 2(h) not 2(ig). “ <i>the Secretary of State</i> ” is new wording but is not shown as such. This brings into question the validity of the notice, per the general comment at 1 above.
10	Paragraph 2(h)(bb)	This paragraph does not refer to the actual costs of the Citizens Advice or Citizens Advice Scotland. This comment follows our comment at 5 above requiring clarification as to why the reference is to “ <i>expenses</i> ” and not “ <i>estimated costs</i> ” and whether these expenses are to be collected in advance or in arrears. The omission here suggests that these expenses are to be collected in arrears, but greater clarity is needed.
11	Paragraph 5, definition of “ <i>estimated costs</i> ”	As a result of the proposed changes, the formatting of the definition of “ <i>estimated costs</i> ” should be amended as follows: “ <i>means costs estimated by the Authority as likely to be or have been the costs of –</i> a) <i>the Authority calculated in accordance with the principles determined by the Authority for the purpose of this condition generally (after consultation with the licensee and others likely to be affected by the application of such principles) and notified to the licensee; and</i> b) <i>the National Consumer Council; and</i> c) <i>the Secretary of State.</i> ”
12	Paragraph 5, definition of “ <i>estimated costs</i> ”	The track changes do not accurately reflect what the proposed changes are from the current Condition 3. “ <i>the</i> ” in the second line of (a)(i) is new and not tracked as such. “ <i>authority</i> ” in the third line of (a)(i) is capitalised in the current Condition, and must remain because “ <i>the Authority</i> ” is defined in capital letters in Condition 1 (Definitions and Interpretation) which applies to this Condition. “ <i>and</i> ” at the end of (a)(ii) is not new but is tracked as new. This brings into question the validity of the notice, per the general comment at 1 above.
13	Paragraph 5, definition of “ <i>estimated</i> ”	This definition does not refer to the costs of the Citizens Advice or Citizens Advice Scotland. This

	<i>costs</i>	comment follows our comment at 5 above requiring clarification as to why the reference is to “ <i>expenses</i> ” and not “ <i>estimated costs</i> ” for the two organisations. If these expenses are to be collected in arrears, then the omission of this reference appears correct. However, clarity is needed.
Electricity Transmission Licence – Condition A4		
14	Paragraph 3(f)	Reference is now made to “ <i>expenses</i> ” rather than estimated costs. We are unclear why this has changed. Will expenses be collected in advance or in arrears? If in advance, the word “ <i>estimated</i> ” must be inserted before “ <i>expenses</i> ”. If in arrears, then the text should read “ <i>actual expenses ... in the previous year</i> ” and make it clear whether the year in question is a financial year as defined in Condition 1, or the expenses as reported by Citizens Advice or Citizens Advice Scotland in their reports and accounts for the previous year.
15	Paragraph 3(f)	The track changes do not accurately reflect what the proposed changes are from the current Condition A4. “ <i>expenses</i> ” should be tracked as new, as should “ <i>Citizens Advice or Citizens Advice Scotland</i> ”. This brings into question the validity of the notice, per the general comment at 1 above.
16	Paragraph 3(h)(bb)	This paragraph does not refer to the actual costs of the Citizens Advice or Citizens Advice Scotland. This comment follows our comment at 13 above requiring clarification as to why the reference is to “ <i>expenses</i> ” and not “ <i>estimated costs</i> ” and whether these expenses are to be collected in advance or in arrears. The omission here suggests that these expenses are to be collected in arrears, but greater clarity is needed.
17	Paragraph 3(h)(bb)	The track changes do not accurately reflect what the proposed changes are from the current Condition A4. “ <i>the Secretary of State</i> ” is new wording but is not shown as such. This brings into question the validity of the notice, per the general comment at 1 above.
18	Paragraph 6, definition of “ <i>estimated costs</i> ”	The definition of “ <i>estimated costs</i> ”, unlike the gas transporter licence is not set out in full in the notice. We consider that the text should read: “ <i>means costs estimated by the Authority as likely to be or have been the costs of –</i> a) <i>the Authority calculated in accordance with the principles determined by the Authority for the purpose of this condition generally (after consultation with the licensee and others likely to be affected by the application of such principles) and notified to the licensee; and</i> b) <i>the National Consumer Council; and</i> c) <i>the Secretary of State.</i> ”

		The lack of this text and the want of clarity here, especially given that the drafting of the condition generally does not clarify whether the costs of the Citizens Advice or Citizens Advice Scotland are to be estimated brings the validity of this notice into question.
19	Paragraph 6, definition of “ <i>estimated costs</i> ”	This definition does not refer to the costs of the Citizens Advice or Citizens Advice Scotland. This comment follows our comment at 14 above requiring clarification as to why the reference is to “ <i>expenses</i> ” and not “ <i>estimated costs</i> ” for the two organisations. If these expenses are to be collected in arrears, then the omission of this reference appears correct. However, clarity is needed.
Licence Fee Cost Recovery Principles		
20	Paragraph 1.2, line 6	After “ <i>gas transportation</i> ” insert instead of the proposed wording, “ <i>paragraphs 3(a) to (g) of the electricity transmission SLCs and paragraphs 5.1(a) – 5.1(g) of the electricity distribution SLC</i> ” as paragraphs 2(a) – 2(g) is not the right reference for the electricity transmission SLCs following the proposed amendments.
21	Paragraph 1.2, line 8/9	Before “ <i>electricity transmission SLCs</i> ” insert “ <i>3(h) of the</i> ”.
22	Paragraph 2.4, first bullet, first paragraph, line 4	Reference should be to “ <i>paragraph 2.5</i> ” rather than “ <i>paragraph 2.6</i> ”.
23	Paragraph 2.7, line 3	Reference should be to “ <i>paragraph 2.3</i> ” rather than “ <i>paragraph 2.2</i> ”.
24	Paragraph 2.8, line 3	Reference should be to “ <i>paragraph 2.3</i> ” rather than “ <i>paragraph 2.2</i> ”.
25	Page 18, definition of a gas customer	Delete “ <i>A customer means</i> ” and start the definition with “ <i>Any person</i> ”.
26	Page 18, first paragraph under “ <i>Source</i> ”	Use the full title for the QoS RIGs.