

To:

**Cadent Gas Limited**  
**Northern Gas Networks Limited**  
**Scotland Gas Networks plc**  
**Southern Gas Networks plc**  
**Wales & West Utilities Limited**  
**National Grid Gas plc**

## **Notice of statutory consultation on a proposal pursuant to section 23 of the Gas Act 1986 to modify standard special condition A48 and standard condition 48 of the Gas Transporter licence.**

1. Each of the companies to whom this notice is addressed (the licensees) holds a gas transporter licence granted, or treated as granted, pursuant to section 7 of the Gas Act 1986 (the Act).
2. In accordance with section 23 of the Act, the Gas and Electricity Markets Authority (the Authority)<sup>1</sup> gives notice that it proposes to modify the standard special conditions (SSCs), or standard licence conditions (SLCs) of the licences granted to the licensees by amending SSC A48 and SLC 48 – Last Resort Supply: Payment Claims in the manner set out in the schedule to this notice and described in the consultation document accompanying this notice.
3. We are proposing this modification to support potential third party finance for supplier of last resort levy claims. A copy of this proposed modification has been published on our website (<https://www.ofgem.gov.uk>). Alternatively, it is available from [foi@ofgem.gov.uk](mailto:foi@ofgem.gov.uk).
4. The effect of the proposed modifications are described in the consultation document accompany this notice.
5. The envisaged text for the proposed modification is set out in the schedule to this Notice.
6. Any representations with respect to the proposed licence/modifications must be made on or before 27 January to: Andrew Ryan, Office of Gas and Electricity Markets, 10 South Colonnade, Canary Wharf, London, E14 4PU or by email to [RegFinance@ofgem.gov.uk](mailto:RegFinance@ofgem.gov.uk).
7. We normally publish all responses on our website. However, if you do not want your response to be made public, then please clearly mark it as not for publication. We prefer to receive responses in an electronic form so they can be placed easily on our website.
8. Subject to responses to the statutory consultation, if we decide to make the proposed modification it will take effect not less than 56 days after the decision is published.

Simon Wilde  
**Director Analysis and Assurance**

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<sup>1</sup> The terms “the Authority”, “we” and “us” are used interchangeably in this document.

## Schedule

The text of the proposed modification to SSC A48 and SLC 48 is set out below with text to be inserted underlined.

### Standard Special Condition A48: Last Resort Supply: Payment Claims

1. This condition sets out the circumstances in which the licensee shall increase its transportation charges in order to compensate any gas supplier or LRSP Permitted Assignee (a “**claimant**”) which claims for losses that it has incurred in complying with a last resort supply direction.
2. The following provisions apply where the licensee receives from a claimant a valid claim for a last resort supply payment.
3. Where the licensee receives a valid claim it shall, during the relevant year or other years (as specified in the valid claim), make a consequential increase to its transportation charges during that year or those years which relate to the conveyance of gas to premises (and secondary sub-deduct premises to which gas is conveyed as contemplated by sub-deduct arrangements) to such an extent as it reasonably estimates to be appropriate to secure that such consequential increase in its revenue equals the specified amount for that year together with any interest or adjustment payment notified to it by the Authority in accordance with paragraph 3A below.
- 3A Where the licensee receives a valid claim that contains provision for the payment of the specified amount over a period longer than a year, the amount by which the licensee makes a consequential increase in each subsequent year pursuant to paragraph 3 shall include an amount for interest and other adjustments directed by the Authority no later than [31 December] in the year prior to the start of the year in which the licensee will make a consequential increase in its charges.
4. The licensee shall, during, or as soon as practicable after the end of, the relevant year or other years (as specified in the valid claim), pay to the claimant, by quarterly or monthly instalments (as specified in the claim), the amount of that consequential increase in revenue mentioned in paragraph 3 to the extent that it does not exceed the specified amount for that year.
5. Subject to paragraph 7A, if the amount paid to the claimant under paragraph 4 is less than the specified amount, the licensee shall in the following financial year –
  - (a) pay to the claimant (in accordance with any directions given by the Authority) the shortfall together with 12 months’ interest thereon; and
  - (b) increase the charges referred to in paragraph 3 during the year following the relevant year to such extent as it reasonably estimates to be appropriate to secure that the consequential

increase in its revenue equals the amount of that shortfall together with 12 months' interest thereon.

6. Subject to paragraph 7A, if the amount of the consequential increase mentioned in paragraph 3 exceeds the specified amount, the licensee shall, during the year following the relevant year, decrease the charges referred to in paragraph 3 to the extent that it reasonably estimates to be necessary in order to reduce its transportation revenue for that year by an amount equal to the excess together with 12 months' interest thereon.
7. Any question whether any estimate for the purposes of paragraph 3, 5 or 6 is a reasonable one shall be determined by the Authority.
- 7A. Where the valid claim is to be subject to annual adjustment in accordance with paragraph 3A, the licensee shall notify the Authority of any difference between the specified amount for that year and the amount of the consequential increase made in respect of the same year in sufficient time for the Authority to take that difference into account in directing the specified amount to be paid by the licensee the following year pursuant to paragraph 3A. Paragraphs 5 and 6 will not apply where the Authority has taken into account such difference in its annual direction under paragraph 3A.
8. The licensee shall not enter into any transportation arrangements which do not permit variation of its transportation charges in pursuance of this condition.
9. The provisions of this condition shall have effect notwithstanding that the licensee has not provided any notice required by paragraph 2 of Standard Special Condition A4 (Charging – General).
10. In calculating the licensee's transportation revenue during any period for the purposes of a price control condition any increase or decrease in revenue attributable to the licensee's compliance with this condition shall be treated as if it had not occurred.
11. The licensee shall prepare, in respect of each year in which it increases or decreases charges in pursuance of paragraph 3, 5 or 6, a statement showing –
  - (a) the aggregate amount of its revenue derived from increases in charges in pursuance of paragraph 3;
  - (b) the aggregate amount of its revenue derived from increases in charges in pursuance of paragraph 5;
  - (c) the aggregate amount of the decrease in its revenue resulting from decreases in charges in pursuance of paragraph 6, and
  - (d) in the case of each last resort supply payment, the aggregate payments to the claimant made in respect of the year in question (whenever those payments were made).

12. The licensee shall give the statements referred to in paragraph 11 to the Authority within the first 4 months of the year following that to which they relate.
13. On giving the statement mentioned in paragraph 11(d) to the Authority, the licensee shall publish it in such manner as, in the reasonable opinion of the licensee, will secure adequate publicity for it.
14. Where the licensee receives more than one claim for a last resort payment, this condition (other than sub-paragraphs 11(a), (b) and (c)) shall apply separately as respects each separate claim but in so far as it results in changes to the licensee's transportation charges it shall have the cumulative effect of such separate applications.

15. (a) For the purposes of this condition –

**“last resort supply direction”** and **“last resort supply payment”** have the meaning given to them in standard condition 1 (Definitions for standard conditions) of the standard conditions of the gas suppliers licence;

**“LRSP Permitted Assignee”** means a person to whom the Authority has consented to a gas supplier assigning or otherwise disposing of all or any of its rights in relation to a Last Resort Supply Payment.

**“price control condition”** means any condition of the licence which places a monetary limitation on the transportation charges which may be levied or the transportation revenue which may be recovered by the licensee during a given period;

**“relevant year”** means, in relation to any valid claim –

- (i) where the claim was received by the licensee by the 31<sup>st</sup> [December] before the beginning of a year, that year; or
- (ii) where the claim was received by the licensee after the 31<sup>st</sup> [December] before the beginning of a year, the next year;

**“specified amount”** means the amount specified on a valid claim (or, where the context requires, the amount specified on a valid claim in respect of a particular year) together with interest calculated in accordance with paragraph 4 or directed by the Authority in accordance with paragraph 3A;

**“valid claim”** means a claim for which a claimant has been given a consent by the Authority pursuant to standard condition 9 (Claims for Last Resort Supply Payment) of the standard

conditions of the gas suppliers licence; and

“**year**” means a period of 12 months beginning on 1<sup>st</sup> April.

(b) The interest referred to in sub-paragraph (a) is simple interest for the period commencing with the date on which the claim was received by the licensee and ending with the date which is 61 days before the start of the relevant year, except where that period is of 30 days or less, in which case no interest shall be payable.

16. For the avoidance of doubt, the arrangements for administering increases to transportation charges in order to compensate any gas supplier which claims for losses that it has incurred in complying with a last resort supply direction, under the provisions of this condition, shall be administered by the Central Data Service Provider (as defined in Standard Special Condition A15 (Central Data Services Provider), unless the Authority otherwise consents in writing.

## Condition 48: Last Resort Supply: Payment Claims

1. This condition sets out the circumstances in which the licensee shall increase its transportation charges in order to compensate any gas supplier and/or LRSP Permitted Assignee (a “claimant”) which claims for losses that it has incurred in complying with a last resort supply direction.
2. The following provisions apply where the licensee receives from a claimant a valid claim for a last resort supply payment.
3. Where the licensee receives a valid claim it shall, during the relevant year or other years (as specified in the valid claim), make a consequential increase to its transportation charges during that year or those years which relate to the conveyance of gas to premises (and secondary sub-deduct premises to which gas is conveyed as contemplated by sub-deduct arrangements) to such an extent as it reasonably estimates to be appropriate to secure that such consequential increase in its revenue equals the specified amount for that year together with any interest or adjustment payment notified to it by the Authority in accordance with paragraph 3A below.
- 3A. Where the licensee receives a valid claim that contains provision for the payment of the specified amount over a period longer than a year, the amount by which the licensee makes a consequential increase in each subsequent year pursuant to paragraph 3 shall include an amount for interest and other adjustments directed by the Authority no later than 60 days prior to the start of the year in which the licensee will make a consequential increase in its charges.
4. The licensee shall, during, or as soon as practicable after the end of, the relevant year or other years (as specified in the valid claim), pay to the claimant, by quarterly or monthly instalments (as specified in the claim), the amount of that consequential increase in revenue mentioned in paragraph 3 to the extent that it does not exceed the specified amount for that year.
5. Subject to paragraph 7A, if the amount paid to the claimant under paragraph 4 is less than the specified amount, the licensee shall in the following financial year –
  - (a) pay to the claimant (in accordance with any directions given by the Authority) the shortfall together with 12 months’ interest thereon; and
  - (b) increase the charges referred to in paragraph 3 during the year following the relevant year to such extent as it reasonably estimates to be appropriate to secure that the consequential increase in its revenue equals the amount of that shortfall together with 12 months’ interest thereon.
6. Subject to paragraph 7A, if the amount of the consequential increase mentioned in paragraph 3 exceeds the specified amount, the licensee shall, during the year following the relevant year,

decrease the charges referred to in paragraph 3 to the extent that it reasonably estimates to be necessary in order to reduce its transportation revenue for that year by an amount equal to the excess together with 12 months' interest thereon.

7. Any question whether any estimate for the purposes of paragraph 3, 5 or 6 is a reasonable one shall be determined by the Authority.
- 7A Where the valid claim is to be subject to annual adjustment in accordance with paragraph 3A, the licensee shall notify the Authority of any difference between the specified amount for that year and the amount of the consequential increase made in respect of the same year in sufficient time for the Authority to take that difference into account in directing the specified amount to be paid by the licensee the following year pursuant to paragraph 3A. Paragraphs 5 and 6 will not apply where the Authority has taken into account such difference in its annual direction under paragraph 3A.
8. The licensee shall not enter into any transportation arrangements with a gas shipper which do not permit variation of its transportation charges in pursuance of this condition.
9. The provisions of this condition shall have effect notwithstanding that the licensee has not provided any notice required by paragraph 2 of standard condition 4 (Charging of Gas Shippers – General).
10. In calculating the licensee's transportation revenue during any period for the purposes of a price control condition any increase or decrease in revenue attributable to the licensee's compliance with this condition shall be treated as if it had not occurred.
11. The licensee shall prepare, in respect of each year in which it increases or decreases charges in pursuance of paragraph 3, 5 or 6, a statement showing -
  - (a) the aggregate amount of its revenue derived from increases in charges in pursuance of paragraph 3;
  - (b) the aggregate amount of its revenue derived from increases in charges in pursuance of paragraph 5;
  - (c) the aggregate amount of the decrease in its revenue resulting from decreases in charges in pursuance of paragraph 6, and
  - (d) in the case of each last resort supply payment, the aggregate payments to the claimant made in respect of the year in question (whenever those payments were made).

12. The licensee shall give the statements referred to in paragraph 11 to the Authority within the first 4 months of the year following that to which they relate.
13. On giving the statement mentioned in paragraph 11(d) to the Authority, the licensee shall publish it in such manner as, in the reasonable opinion of the licensee, will secure adequate publicity for it.
14. Where the licensee receives more than one claim for a last resort payment, this condition (other than sub-paragraphs 11(a), (b) and (c)) shall apply separately as respects each separate claim but in so far as it results in changes to the licensee's transportation charges it shall have the cumulative effect of such separate applications.
15. (a) For the purposes of this condition –

“last resort supply direction” and “last resort supply payment” have the meaning given to them in standard conditions 1 (Definitions for standard conditions) of the standard conditions of the gas suppliers licence.

**"LRSP Permitted Assignee"** means a person to whom the Authority has consented to a gas supplier assigning or otherwise disposing of all or any of its rights in relation to a Last Resort Supply Payment.

“price control condition” means any condition of the licence which places a monetary limitation on the transportation charges which may be levied or the transportation revenue which may be recovered by the licensee during a given period;

“relevant year” means, in relation to any valid claim -

- (i) where the claim was received by the licensee at least 60 days before the beginning of a year, that year; or
- (ii) where the claim was received by the licensee less than 60 days before the beginning of a year, the next year.

“specified amount” means the amount specified in a valid claim (or, where the context requires, the amount specified in a valid claim in respect of a particular year) together with interest calculated in accordance with paragraph 4 or directed by the Authority in accordance with paragraph 3A;

“valid claim” means a claim for which a claimant has been give a consent by the Authority pursuant to standard condition 9 (Claims for Last Resort Supply Payment) of the standard conditions of the gas suppliers licence; and



“year” means a period of 12 months beginning with 1<sup>st</sup> April.

- (b) The interest referred to in sub-paragraph (a) is simple interest for the period commencing with the date on which the claim was received by the licensee and ending with the date which is 61 days before the start of the relevant year, except where that period is of 30 days or less, in which case no interest shall be payable.