

St Lawrence House
Station Approach
Horley
Surrey

Andrew Ryan
Ofgem
10 Southern Colonnade
Canary Wharf
London, E14 4PU

27 January 2022

Dear Andrew,

Re: 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.

We are writing to you in response to the above titled consultation. The consultation was originally published on 30 December 2021 and set out Ofgem's intention to enable the last resort supply payment to be made to a financial intermediary, that is not the licenced supplier making the supplier of last resort claim.

SGN recognise that the proposed licence changes facilitate the introduction of a financial intermediary between the supplier of last resort provider and the charges being added to the end customers' transportation charges. As such SGN recognise the potential customer benefits from deferring this component of a significant price increase to future years.

We have worked with Ofgem as set out above, on the basis that this is a unique set of circumstances that needs to be responded to. Accordingly, we consider these licence changes to be unique to these specific circumstances. As such we do not think that they can be assumed to be appropriate for future circumstances or alternative third-party financial structures. We would also suggest that these structures should be updated to enable the recovery of cost across all domestic consumers – those served by Gas Transporters and Independent Gas Transporters.

This constructive engagement between Ofgem and the gas distribution networks have led to a couple of iterations of the licence. It is SGN's view that the last iteration is able to effectively support the financing intermediary and the financing structure that is currently close to agreement. As such we support the licence modification as attached to this response, with one minor amendment regarding paragraph references.

We note that the closing date for the statutory consultation is prior to final agreement by all parties on the necessary financial structures. If for any reason final agreement is not achieved, or Ofgem determine that the proposed financial structures are not in customers' interest, then it is our view that this licence change should be withdrawn.

In addition, we would note the following points of process that we consider to be important principles for these changes to the licence to have their intended effect.

- 1) Network companies need to be kept in a cashflow neutral position. The timing of recovery of charges from customers and the payment of SOLR claims to a third-party intermediary must be aligned.
- 2) That any valid SOLR claim presented by a third-party intermediary or revised claim by a SOLR provider must amend and supersede any previous claims that have been authorised by Ofgem on an earlier date for the same claim.
- 3) The SOLR charges that we will need to reflect in our 2022/23 transportation charges will need to be adjusted to account for the number of SOLR providers utilising this financial structure. For networks to reflect these updated SOLR charges we need to be informed by Ofgem, and receive

revised valid claims from the SOLR providers, by 28th January so that we can publish our tariffs on the 31st of January in line with our licence.

- 4) Should for any reason the conditions precedent necessary to support the finance structure not be delivered, then any adjustments to the SOLR claim by the existing SOLR providers could only come into effect after networks have implemented a matching adjustment to our network charges.

Whilst we accept that some of these principles may not be explicitly stated in the licence, they are the principles that have supported the discussion to date and should be reflected in the supporting policy statements. If there are any questions regarding this submission, then please contact us.

Yours Sincerely



David Handley
Head of Regulation, SGN

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

[Note: This is an interim draft of proposed amendments to licences on which there is an ongoing consultation. These have been provided for the purposes of sharing emerging thinking following some early comments from consultees and do not reflect a decision by Ofgem to make modifications on these or any other terms.]

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 pay any gas supplier (a "**claimant**") or LRSP Permitted Assignee a last resort supply payment in accordance with the terms of a valid claim.
2. The following provisions apply where the licensee receives 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 subsequent 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 each year as set out in the valid claim.
- 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 to its charges in each subsequent year pursuant to paragraph 3, shall be 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 or where no direction is made, shall be the amount specified for the year in the valid claim.
4. The licensee shall, during, or as soon as practicable after the end of, the relevant year or other subsequent years (as specified in the valid claim), pay to the claimant or LRSP Permitted Assignee in accordance with the valid claim by quarterly or monthly instalments (as specified in the valid claim), the amount of that consequential increase in revenue mentioned in paragraph 3 and paragraph 3A where relevant to the extent that it does not exceed the specified amount for that year. Any payment of an amount to an LRSP Permitted Assignee shall discharge any requirement to pay that amount to the claimant.
5. Subject to paragraph 7A, if the amount paid under paragraph 4 is less than the specified amount for that year, the licensee shall in the following year –
 - (a) pay (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 for that year, the licensee shall, during the following 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 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 subparagraphs 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 a gas supplier has assigned or otherwise disposed of all or any of its rights in relation to or arising from a Last Resort Supply Payment with the Authority's consent.

"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 31st [December], the following year after the valid claim was received; or
- (ii) where the claim was received by the licensee after the 31st [December] the second year after the valid claim was received;

So, for example, if a valid claim was received before 31 December in year 1, the relevant year would be year 2. If a valid claim was received after 31 December in year 1, the relevant year would be year 3.

"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 any adjustment made by the Authority in accordance with paragraph 3A for that year;

"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 1st April.

- (b) The interest referred to in Paragraphs 5 and 6 ~~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.