

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.
- 3B Where the licensee, in a current year, receives a valid claim, that contains provision for the licensee to adjust the payment of the specified amount for the remainder of that year, the amount by which the licensee shall make a consequential increase to its transportation charges for the remainder of that year pursuant to paragraph 3, shall be directed by the Authority no later than 31st July.

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 or 3B 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 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 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 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 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.