

**To: CNG Services Ltd (company registration number 04683805)
Gas Act 1986**

Notice under Section 7(5) and Section 8(4)

Notice of statutory consultation on a proposal to modify the standard conditions of the Gas Transporter licence that we are minded to grant to CNG Services Ltd

1. On 13 April 2022 the Gas and Electricity Markets Authority ('the Authority')¹ received an application from CNG Services Ltd (company number 04683805) for a gas transporter licence ('the Licence') under section 7(2) of the Gas Act 1986 ('the Act').
2. The Licence, if awarded will authorise the Company to:
 - a. Convey gas through pipes to any premises in Great Britain; and
 - b. Convey gas through pipes to any pipe-line system operated by another gas transporter in Great Britain.
3. The reasons why the Authority proposes to grant the Licence are:
 - a. To secure that the reasonable demands for gas in Great Britain are met; and
 - b. To secure effective competition in the supply of gas through pipes.
4. Under section 8(3) of the Act, we propose to modify the standard conditions of the Licence, which we are minded to grant to CNG Services Limited by:
 - i) inserting into the licence a Special Condition C1 (Charging of Gas Shippers – Relative Price Control) ("SpC1") as set out in Appendix 1 to this notice; and
 - ii) amending Standard Licence Condition 4A (Obligations as Regards Charging Methodology) ("SLC 4A") as set out in Appendix 2 to this notice.
5. The Authority's reasons for proposing to make these licence modifications are to protect the interests of consumers by:
 - a) regulating the Licensee's charges for the use of its pipeline system; and
 - b) ensuring that the charging methodology adopted by the licensee serves to exclude revenue derived from charges controlled by SpC1 from the reasonable profit objective set out in paragraph 6 of SLC4A.
6. The effect of the proposed modifications will be to ensure that the transportation charges made by the Licensee to gas shippers are broadly equivalent to the transportation charges administered by the incumbent Gas Distribution Network (DN) operator to whose pipe-line system the Licensee's pipe-line system is connected.
7. The proposed SpC1 is set out in Appendix 1 to this notice and the proposed amendments to SLC4A are set out in marked-up text in Appendix 2 to this notice.

8. A copy of the proposed modifications and other documents referred to in this Notice have been published on our website (www.ofgem.gov.uk). Alternatively they are available from foi@ofgem.gov.uk.
9. Any representations must be made on or before ~~31~~²⁴ ~~August~~^{May} 2023 as per s7(5) of Gas Act 1986 to: Industry Codes and Licensing, Office of Gas and Electricity Markets, 10 South Colonnade, Canary Wharf, London, E14 4PU or by email to licensing@ofgem.gov.uk.
10. We normally publish all responses on our website. However, if you do not wish 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.

A handwritten signature in black ink that reads "Carmel Golden".

Carmel Golden

**Duly authorised on behalf of the
Gas and Electricity Markets Authority**

06 July 2023

Appendix 1 Special Condition 1. Charging of Gas Shippers – Relative Price Control

1. Subject to paragraph 2, where the licensee makes charges in accordance with paragraph 1 (a) of standard condition 4 (Charging of Gas Shippers – General) after the 31 December 2003 and where,
 - (a) the licensee provides transportation arrangements to a premises,
 - (b) the premises are not defined as legacy sites as defined within paragraph 3 of this condition; and
 - (c) charges, or revenues derived from them, are, in the main, not controlled or limited in pursuance of any condition of this licence other than standard condition 4 (Charging of Gas Shippers – General) or standard condition 4C (Charging of Gas Shippers – Supplemental Connection Charges).

then paragraph 5 of standard condition 4 (Charging of Gas Shippers – General) shall cease to have effect in relation to the premises.
2. For premises subject to paragraph 1 above or paragraph 3 (4) of this condition the licensee shall for all such premises, unless the Authority consents otherwise in writing, charge no more than TC_t :
 - (1)
 - (a) Where RC_t is less than C_t and greater than F_t , then

$$TC_t = RC_t$$
 - (b) Where RC_t is greater than or equal to C_t , then

$$TC_t = C_t$$
 - (c) Where RC_t is less than or equal to F_t , then

$$TC_t = F_t$$

Subject to this condition at Entry-point, then RC_t shall be calculated as follows:

$$RC_t = SSP - CSEP$$

Where t is greater than 1, RC_t shall be calculated as follows:

$$RC_t = RC_{t-1} \times \left(1 + \frac{wSSP_r}{100}\right)$$

- (2) The licensee shall adjust charges on 1 January each year in accordance with this condition. Where the Entry-point is in the immediately preceding period of 1 October to 31 December, the licensee shall not adjust charges in accordance with paragraph 2 above but shall modify the charges in accordance with this condition each 1 January thereafter.
- (3) To determine the level of charges the licensee shall apply Annual Quantity in relation to domestic premises in accordance with standard Annual Quantity as accepted by the Authority, and for other premises as reasonably estimated and agreed between the licensee and any relevant shipper, unless the Authority directs otherwise for those other premises. In this paragraph 2 (3) domestic premises excludes any domestic premises where a surcharge is made pursuant to paragraph 5 of this condition.

(4) At Entry-point, C_t and F_t shall be calculated as follows:

$$C_t = TC_t \times (1 + 0.05)$$

$$F_t = TC_t \times (1 - 0.05)$$

Where t is greater than 1, C_t and F_t shall be calculated as follows:

$$C_t = C_{t-1} \times \left(1 - \frac{\Delta_r}{100}\right) \times \left(1 + \frac{RPI}{100}\right)$$

$$F_t = F_{t-1} \times \left(1 - \frac{\Delta_r}{100}\right) \times \left(1 + \frac{RPI}{100}\right)$$

- (5) Charges made or which fall to be made to premises under paragraph 1 of this condition shall be determined in accordance with this condition for a period of no less than 10 years from Entry-point.

- (6) Where the Authority reviews charges made, or which may be made, under this condition and implements any such review after 2014, the Authority shall, in the course of conducting its review, have regard to previous efficiently incurred capital expenditure made by the licensee in the course of carrying on activities required by or permitted under the Gas Act and the licence.

Definitions:

Annual	means the annual quantity of gas off-taken, or which may be reasonably
Quantity	likely to be off-taken, by a single supply point or connected system exit point;
Ct	means the charge ceiling as determined in accordance with paragraph 2 (4) of this condition;
CSEP	means the relevant licenced gas transporter's connected system exit point charges calculated at the prevailing charge in accordance with the prevailing methodology statement for Network Region r at Entry-point; excepting charges for metering arrangements, meter reading, CSEP administration charges, NTS entry capacity charges where determined by auction, or other charges determined in writing by the Authority;
Entry-point	means the date at which $t=1$ and, with the exception of premises subject to paragraph 3 (4) of this condition, shall be determined as either the date of connection of a premises to the licensee's pipe-line system, and where gas has entered the premises' service pipe, or the date the licensee is contractually bound to provide a connection to the person requiring that connection. The licensee shall select the entry-point date within 60 days of the contract to connect, unless the Authority otherwise directs the date of the Entry-point;
Ft	means the charge floor as determined in accordance with paragraph 2 (4) of this condition;
RPI	means the value published in October of each year by the Authority and calculated as the percentage change (whether of a positive or a negative value) in the arithmetic average of the retail price index determined in respect of April to September (both inclusive) of the current calendar year and the arithmetic average of the retail price index determined with respect to April to September of the previous calendar year;

- RC_t means the relative charge for each premises in year 't' as determined in paragraph 2 of this condition.
- RC_{t-1} means the relative charge for each premises in the year preceding year 't' as determined in paragraph 2 of this condition.
- SSP means the relevant licenced gas transporter's single supply point charges for premises calculated at the prevailing charge in accordance with the prevailing methodology statement for Network Region r at the Entry-point; excepting charges for metering arrangements, meter reading, CSEP administration charges, NTS entry capacity charges where determined by auction, or other charges determined in writing by the Authority;
- TC_t means the maximum charge the licensee may charge for each premises subject to paragraph 2 of this condition in year 't';
- $wSSP_r$ means the change in the average of the relevant licenced gas transporter's single supply point charge from year t-1 to year t for each Network Region r. Networks Regions r comprise: r_1 Scotland, comprising LDZ exit zones SC; r_2 North and Yorkshire, comprising LDZ exit zones NO, NE; r_3 North West, comprising LDZ exit zones NW; r_4 East England, comprising LDZ exit zones EM, EA; r_5 West Midlands, comprising LDZ exist zones WM; r_6 Wales and South West, comprising LDZ exit zones WA, SW; r_7 North London, comprising LDZ exit zones NT; and r_8 South and South East, comprising LDZ exit zones SO, SE. The values for $wSSP_r$ in respect of each region shall be determined and published in October of each year by the Authority; and
- Δ_r means the annual percentage change in respect of the Network Region r in which the premises are located, and has a value according to the schedule below:

Region	Annual percentage change
r_1 Scotland	0.42
r_2 North and Yorkshire	1.13
r_3 North West	1.40
r_4 East England	1.64
r_5 West Midlands	1.57

r ₆ Wales and South West	0.36
r ₇ North London	1.23
r ₈ South and South East	1.51

3. In respect of legacy sites the licensee shall, within 60 days of 1 January 2004, calculate and notify to the Authority a date by which all such premises shall be charged according to paragraph 2 above, and the Authority shall then direct a date (the "migration date") as soon as reasonably practicable within six months of the notification.
 - (1) In calculating the above date the licensee shall use its best endeavours to take into account the following factors:
 - (a) the migration date shall be calculated on a revenue neutral basis and the notification by the licensee shall include, or the licensee shall otherwise provide as required by the Authority, all necessary information for the Authority to determine the reasonableness of such calculation; and
 - (b) from the migration date, charges determined pursuant to paragraph 5 of standard condition 4 (Charging of Gas Shippers - General) or paragraph 4 of standard condition 4C (Charging of Gas Shippers – Supplemental Connection Charges) shall cease to have effect for legacy sites.
 - (2) Where the Authority directs a migration date or conducts a review pursuant to paragraph 2 (6) of this condition, the Authority shall, in each case and where necessary, direct a migration date so as to achieve the objective of revenue neutrality.
 - (3) From the beginning of the calendar year immediately following the migration date, charges determined pursuant to paragraph 5 of standard condition 4 (Charging of Gas Shippers - General) or paragraph 4 of standard condition 4C (Charging of Gas Shippers – Supplemental Connection Charges) shall cease to have effect for legacy sites.
 - (4) From the beginning of the calendar year immediately following the migration date, the charges to shippers in respect of legacy sites shall thereafter be made in conformity with paragraph 2 of this condition subject to charges calculated on the basis of an Entry-point of 1 January 2004, and inclusive of all relevant adjustments to charges specified in this condition since 1 January 2004 up to the migration date.

Definitions:

Legacy site(s) means existing or future premises in respect of which

- a) the licensee has had a methodology accepted by the Authority pursuant to paragraph 4 of standard condition 4C (Charging of Gas Shippers – Supplemental Connection Charges); or
 - b) the licensee makes, or shall make, charges to shippers under standard condition 4 (Charging of Gas Shippers – General) and at least one premises that forms part of the same clearly identifiable site or project was connected to the licensee’s pipe-line system and gas had entered the premises’ service pipe before 1 January 2004.

- 4. The Authority may, on written application by the licensee within 60 days of this condition being implemented, consent to charging arrangements other than those required by paragraphs 1, 2 and 3 of this condition. The Authority’s written consent may contain such terms and conditions as the Authority determines necessary.

- 5. Where charges are made in accordance with paragraph 2, they may include a surcharge subject to the following conditions,
 - (a) a maximum surcharge of 0.3412 pence per kWh of gas transported adjusted on 1 January of each year by a factor of $\left(1 + \frac{RPI}{100}\right)$ starting from 1 January 2004. RPI has the same meaning as given in paragraph 2 of this condition;
 - (b) the surcharge has a maximum duration of 20 years from the entry point (when the surcharge to the relevant shipper first falls due). For the avoidance of doubt, the surcharge period is not restarted in the event that another shipper takes control of the supply of gas to that premises.
 - (c) the surcharge may only apply to existing domestic premises which were in existence for not less than 6 months prior to the provision of the gas main extended specifically for connection of those premises, and which have not previously received a supply of natural gas;
 - (d) the licensee has, on request to provide a connection by the owner or occupier of the premises, extended a gas main to specifically connect the premises;
 - (e) the licensee must notify the Authority of the specified amount and specified duration as soon as reasonably practicable but in any event no later than 28 days prior to any such charge falling due; and

- (f) the Authority may direct the licensee not to make the surcharge within 28 days of the notification in (e) above.
6. The licensee shall furnish the Authority with a statement of charges determined in respect of paragraph 2 in a form approved by the Authority. The licensee shall
- (a) publish a statement, or revision or amendment of a statement, furnished, or notice given, under paragraph 2 in such manner as will, in its reasonable opinion, secure adequate publicity for it;
 - (b) send a copy of any such statement, revision, amendment or notice so published to any person who asks for one; and
 - (c) the licensee shall furnish the Authority with specified information in respect of its charges in a specified form as requested from time to time.
7. References in paragraphs 2 of special condition 1 (Charging of Gas Shippers - Relative Price Control) to charges do not include references to -
- (a) charges related to the acquisition or disposal of gas for purposes connected with the balancing of the licensee's pipe-line system;
 - (b) to the extent (if any) to which the Authority has accepted that they should, as respects certain matters, be so determined, to charges determined by reference to provisions in that behalf set out in the Network Code; or
 - (c) charges related to the provision of meters or reading of meters.

Conditions are to continue subject to disapplication

8. The charging arrangements in paragraph 2 and in paragraph 5 of this condition apply so long as this licence continues in force but shall cease to have effect (in whole or in part) if the licensee makes a Disapplication Request to the Authority in accordance with paragraphs 9 to 20 of this condition and:

- (a) the Authority agrees in Writing to the Disapplication Request; or
- (b) the provisions that are the subject of the Disapplication Request are disapplied by a Disapplication Notice given by the licensee in accordance with the provisions of this condition.

Date from which a disapplication may take effect

9. Except where the Authority otherwise consents, a disapplication following the service of a Disapplication Request may not have effect until a date that is no earlier than 18 months after service on the Authority of the Disapplication Request.

Procedure for making a Disapplication Request

10. The licensee may ask the Authority to consent to the disapplication of paragraphs 2 and 5 of this condition (in whole or in part) by serving a Disapplication Request on the Authority.
11. A Disapplication Request must:
 - (a) be in Writing and addressed to the Authority;
 - (b) specify the paragraphs of this condition (or any part or parts thereof) to which the request relates;
 - (c) provide a full statement of the licensee's reasons for making the Disapplication Request;
 - (d) contain such other information or analysis as the licensee considers necessary to enable the Authority to fully assess the Disapplication Request; and
 - (e) state the date that is proposed by the licensee (which must not be earlier than the appropriate date that is mentioned in paragraph 9) on and after which the specified paragraphs (or any part or parts thereof) would cease to have effect (the "Disapplication Date").
12. A Disapplication Request may be served in respect of a specified geographic area.
13. If, within 28 working days of receipt of a Disapplication Request, the Authority gives notice to the licensee:
 - (a) specifying further information or analysis that it reasonably considers is required in order to fully assess the Disapplication Request, and
 - (b) requesting the licensee to provide that information or analysis,

the Disapplication Request shall be treated for the purposes of this condition as not delivered to the Authority until that further information or analysis is provided. If in consequence the Disapplication Date set out in the Disapplication Request no longer complies with paragraph 9, the Disapplication Date shall be treated as being the earliest date that would comply with that paragraph.
14. The giving of notice under paragraph 13 shall not preclude the Authority from making such further requests for information or analysis, or for the reformatting of information or analysis already provided, as it may consider it requires to assess the Disapplication Request.

15. The licensee may withdraw a Disapplication Request at any time.

Licensee's right to disapply under a Disapplication Request

16. If the licensee has made a Disapplication Request that complies with the requirements of paragraphs 9 and 11 of this condition, and the circumstances described in paragraphs 17 or 19 of this condition apply, it may subsequently serve a Disapplication Notice on the Authority disapplying some or all the provisions that are subject to the Disapplication Request.

Disapplication without involvement of the Competition and Markets Authority

17. The licensee may serve a Disapplication Notice on the Authority if, by the Disapplication Date specified in the relevant Disapplication Request, the Authority has not responded to the request by publishing a decision under section 23 of the Act to modify this condition in either of the ways described in paragraph 18.

18. The ways referred to in paragraph 17 are:

- (a) modify any of the provisions referred to in the Disapplication Request; or
- (b) modify this condition so as to remove the licensee's right to serve a Disapplication Notice on the Authority in respect of the relevant Disapplication Request.

Disapplication after involvement of the Competition and Markets Authority

19. The licensee may also serve a Disapplication Notice on the Authority if the Authority has published a decision described in paragraph 18 of this condition but:

- (a) the licensee has exercised its right to appeal to the Competition and Markets Authority against that decision of the Authority as provided for by section 23B of the Act;
- (b) the Competition and Markets Authority has quashed the Authority's decision, and has included in its direction to the Authority a provision relating to the right for the licensee to serve a Disapplication Notice on the Authority; and
- (c) no more than 20 working days have elapsed since the date from which the licensee may serve a Disapplication Notice on the Authority under the Competition and Markets Authority's direction.

20. A Disapplication Notice under paragraph 17 and 19 must also comply with any terms and conditions specified in the Competition and Markets Authority's direction.

Interpretation

21. For the purposes of this condition:

(a) **Disapplication Notice** means a notice served on the Authority in accordance with paragraphs 17 or 19 of this condition disapplying some or all of the provisions the subject of a Disapplication Request.

(b) **Disapplication Request** means a request made to the Authority in accordance with paragraph 10 of this condition to disapply some or all of the provisions of paragraphs 2 and 5 of this condition.

(c) **Writing** includes writing that is sent or received by Electronic Communication.

Definitions:

"Networks regions" r comprise: Scotland, comprising LDZ exit zones SC; North and Yorkshire, comprising LDZ exit zones NO, NE; North West, comprising LDZ exit zones NW; East England, comprising LDZ exit zones EM, EA; West Midlands, comprising LDZ exist zones WM; Wales and South West, comprising LDZ exit zones WA, SW; North London, comprising LDZ exit zones NT; and South and South East, comprising LDZ exit zones SO, SE. Where LDZ exit zones has the meaning given in the relevant licenced gas transporters Network Code.

Appendix 2

Condition 4A: Obligations as Regards Charging Methodology

1. Except in so far as the Authority consents to the licensee not doing so, the licensee shall, subject to paragraphs 2 and 3, from time to time make such modifications of the methodology established in pursuance of paragraph 5 of standard condition 4 (Charging of Gas Shippers – General) (“the charging methodology”) as may be requisite for the purpose of achieving the relevant methodology objectives.
2. Except in so far as the Authority otherwise approves, the licensee shall not make a modification of the charging methodology unless it has -
 - (a) consulted the relevant shippers on the proposed modification and allowed them a period of not less than 28 days within which to make written representations; and
 - (b) furnished the Authority with a report setting out -
 - (i) the terms originally proposed for the modification;
 - (ii) the representations (if any) made by relevant shippers; and
 - (iii) any change in the terms of the modification intended in consequence of such representations,and unless 28 days have elapsed since the said report was furnished without the Authority having given the licensee a direction requiring that the modification be not made.
3. Subject to paragraph 4, the licensee shall in each calendar year furnish the Authority with a report on the application of the charging methodology during the 12 months preceding 1st October in that year including a statement as to -
 - (a) the extent to which, in the licensee’s opinion, the relevant methodology objectives have been achieved during the period to which it relates;

- (b) whether those objectives could more closely be achieved by modification of the charging methodology; and
 - (c) if so, the modifications which should be made for that purpose.
- 4. As respects the calendar year in which this licence came into force:
 - (a) if it came into force on or after 1st October in that year, paragraph 3 shall not apply; or
 - (b) if it came into force before that date, paragraph 3 shall have effect as if for the reference to the 12 months preceding that date there were substituted a reference to the period preceding that date beginning with the date on which the licence came into force.
- 5. In paragraphs 1 and 3 “the relevant methodology objectives” means, subject to paragraph 6, the following objectives -
 - (a) that compliance with the charging methodology results in charges which reflect the costs incurred by the licensee in its transportation business;
 - (b) that, so far as is consistent with sub-paragraph (a), the charging methodology properly takes account of developments in the transportation business;
 - (c) that, so far as is so consistent, compliance with the charging methodology facilitates effective competition between gas shippers and between gas suppliers; and
 - (d) compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators
- 6. Where -
 - (a) the charging methodology results in charges which, or the revenue derived from which, are, in the main, not controlled or limited in

pursuance of any standard condition of this licence

other than standard condition 4 (Charging of Gas Shippers – General)

; and

- (b) the Authority has not accepted that, for a specified period, this paragraph should not apply or has so accepted subject to standard conditions which are not satisfied,

“the relevant methodology objectives” shall include the following objective, namely, that the charging methodology results in charges which, taking one charge with another and one year with another, permit the licensee to make a reasonable profit, and no more, from its transportation business so, however, that, for the purposes of this paragraph, there shall be disregarded -

- (i) costs incurred for the purposes of that business in connection with the construction of pipe-lines for the benefit of an area for the time being designated for the purposes of standard condition 4C (Charging of Gas Shippers – Supplemental Connection Charges);
- (ii) revenue derived from that business by way of charges (within the meaning of standard condition 4B (Connection Charges etc)) to which any provisions of that standard condition have effect and which are in respect of premises within an area for the time being so designated;
- (iii) revenue derived from that business by way of supplemental charges (within the meaning of standard condition 4C (Charging of Gas Shippers – Supplemental Connection Charges)); and

(iv) revenue derived from that business by way of charges established under paragraph 2 of special condition 1 (Charging of Gas Shippers – Relative Price Control); and

- ~~(iv)~~(v) any payments made by the licensee in connection with the proposed development of an area for the time being not so designated to a person who has an interest in land in that area, other than by way of reasonable consideration for an interest in land or for goods or services with which the licensee is provided,

and, for the purposes of this paragraph, “costs” and “revenue” mean costs and revenue determined on an accrual basis.

7. The licensee shall comply with any direction given from time to time by the Authority requiring the licensee -
 - (a) subject to paragraphs 8 and 9 to publish such information as may be specified or described in the direction-
 - (i) as to any of the costs incurred by the licensee in its transportation business, or
 - (ii) relating to the charging methodology as modified from time to time in accordance with paragraph 1; and
 - (b) to do so in such form and manner and with such frequency as may be so specified.
8. The licensee shall not be required by paragraph 7 to publish any information or any document -
 - (a) which it could not be compelled to give in evidence or produce in civil proceedings before the court; or
 - (b) so far as it comprises information relating to costs incurred in connection with the construction of pipe-lines for the benefit of an area for the time being designated for the purposes of standard condition 4C (Charging of Gas Shippers – Supplemental Connection Charges) or so incurred in preparation for the area becoming so designated.
9. In publishing any information in pursuance of paragraph 7 the licensee shall have regard to the need for excluding, so far as is practicable, any matter which relates to the affairs of any person where the publication of that matter would or might seriously and prejudicially affect his interests.
10. Any question arising under paragraph 9, as to whether the publication of some matter which relate to the affairs of a person would or might seriously and prejudicially affect his interests, shall be determined by the Authority.

11. In this condition "transportation business" includes activities connected with the storage of gas in pursuance of storage arrangements which relate to the utilisation of -
 - (a) an offshore gas storage installation;
 - (b) storage cavities in natural strata; or
 - (c) containers for the storage of gas in a liquid state.

12. If the Authority, having regard, in particular, to any representations made to it by the licensee and other persons as to the extent to which there is competition in relation to the storage of gas in particular categories of the facilities mentioned in paragraph 11(a), (b) or (c) and its view on that question, considers it appropriate that paragraph 11 should be modified by the omission of sub-paragraph (a), (b) or (c), then the sub-paragraph in question shall be omitted with effect from a date specified in a notice relating thereto published by the Authority for the purposes of this condition generally; and, if all three sub-paragraphs come to be omitted, paragraph 11 and the reference thereto in the definition of "transportation business" in standard condition 1 (Definitions and Interpretation) shall cease to have effect.