

The Calculation of Annual
Licence Fees
Licence Modifications

Issued June 1999

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1. Introduction

1.1 In January 1999, the Director General of Gas Supply (the Director) issued an informal consultation document about possible changes to licence fee arrangements. The Director is grateful for the high level of response to the various proposals. A summary of the original proposals and the comments received on them is at Appendix 1. He has now had an opportunity to consider the replies and to formulate his proposals which are set out in this formal consultation paper.

1.2 This paper describes those proposals on which the Director has decided to proceed, including a decision to propose licence modifications. The paper includes the formal Section 23 notices required by the Gas Act 1986 (the Gas Act) that are required to put the proposals into effect. It sets out the proposed modifications to the current licences and the reasons for the decision to proceed, taking account of the replies to the informal consultation paper.

1.3 Formal comments and representations on the proposed decisions, which must be received by **30 July 1999**, should be addressed to:

Mr Roy Field
Director, Finance
Office of Gas and Electricity Markets
Stockley House
130, Wilton Road
London
SW1V 1LQ

1.4 If you have any queries concerning this consultation you should contact **Richard Fawssett on 0171 932 1676**.

1.5 Responses to this formal consultation will be filed in the Office of Gas and Electricity Markets (Ofgas) library and will therefore be open to public inspection. Respondents should take care to ensure that any information of a commercially sensitive nature is clearly marked as such and that the response is structured so that it can be easily removed (e.g. by using a separate page for sensitive information).

2. Background

2.1 Much of the background to the proposals was set out in detail in the informal consultation paper issued in January 1999. The following relevant background papers are attached for ease of reference:

- Appendix 2 - The Regulatory Framework
- Appendix 3 - The Current Licence Fee Arrangements
- Appendix 4 - Section 23 of the Gas Act 1986 (As Amended)
- Appendix 5 - The Consent of Licence Holders

2.2 There have been several factors which have led to the need for some modification to licence conditions considered in the informal consultation paper. In the period since 1st March 1996 it has proved more difficult to run Ofgas within the financial constraints implied by the cap on licence fees contained in Gas Act licences than was anticipated when the standard conditions of licence were framed. The following are some of the reasons why this has been the case:

- (i) instead of dealing with one major authorised entity as was the case before the introduction of competition in the gas market, Ofgas now deals with in excess of 100 licence holders, which involves additional administrative expense;
- (ii) the introduction of domestic competition has given rise to the need to establish consumer support facilities, including an enquiry line to handle tens of thousands of calls, that were not anticipated at the time the present licence fee cap was put in place;
- (iii) compliance with licence obligations has proved to be something that cannot be left to the forces of competition; significant expenses have had to be incurred to conduct investigations and to take enforcement action;
- (iv) the market has moved on and has raised new issues such as "dual fuel" (the sale of gas and electricity under a single contract) and the establishment of new businesses (related credit card joint ventures for example) that require significant resources to keep under review.

2.3 In the period since the last general election, the Government has introduced the Competition Act 1998. This Act makes available to the Director, concurrently with the Director General of Fair Trading, new powers, in respect of matters that previously were dealt with under the Restrictive Trade Practices Act 1976 and reformulated powers in respect of matters that previously were dealt with by the Competition Act 1980. These new and amended powers are accompanied by new provisions requiring the Director to be able to give guidance and take decisions on questions arising under the Act. The exercise of these functions requires additional resources although it may be that some fees can be recovered separately under the provisions of the Act.

2.4 In addition, the Government's review concludes that Ofgas should be merged with Offer, the regulatory body for electricity, in order to ensure that regulation can respond effectively to the convergence of the gas and electricity markets. The Government has appointed Callum McCarthy as Director of both regulatory offices. He proposes to bring together gas and electricity staff into a single HQ organisation in London, using his existing power under the Gas and Electricity Acts. In due course, it is the Government's intention that new primary legislation will replace the present separate statutory appointments of the Directors General of Gas and of Electricity Supply with a single appointment, and to make other changes to implement the outcome of the review of utility regulation.

2.5 The co-location of Offer and Ofgas in a single HQ in London will bring substantial benefits in terms of increased regulatory effectiveness in the converging gas and electricity markets. There will also be some benefits from the sharing of common services, and in terms of efficient use of senior management time. The decision to bring the two offices together has been widely welcomed by both the gas and electricity industries, customer groups and other interested parties.

2.6 The single location will however give rise to significant short-term expenditure as staff will need to be relocated, those who cannot relocate will need to be made redundant, new premises will need to be acquired and the leases of existing premises will need to be disposed of. New Staff will need to be recruited and new systems developed for the effective management and organisation of the co-located offices. The Government has indicated to Offer and Ofgas that it intends that the costs of co-locating and integrating the two offices, and the ongoing costs of gas and electricity regulation, should be recovered from gas and electricity licensees through licence fees.

3. Proposed Licence Modifications

3.1 After due consideration of all the facts including the responses to the initial informal consultation, the Director has decided to proceed to formal consultation on the following two issues:-

- Modifications to the method of determining the base units for allocating costs between licence holders;
- Raising the licence fee cap;

3.2 The Director also gives formal notice of his decision to amend the “relevant percentages” used for dividing recoverable costs between shippers, public gas transporters and suppliers to achieve a more equitable distribution.

3.3 The formal proposals and the considerations leading to their adoption are dealt with below.

3.4 *Cost Allocation between Licence Holders*

3.4.1 *Proposed Decision*

- (i) It is proposed that the base unit for allocating costs between individual licence holders should continue to be the number of premises served but that the relevant number should not be the number determined in relation to a single day (i.e. 1st April – the “Accounting Day”) but as an average of the number of premises served on four days, 1st January, 1stApril, 1stJuly and 1st October.
- (ii) It is further proposed that 75% of licence fees should be paid at the beginning of the relevant year with the balance paid in the December following its commencement.
- (iii) A revised form of words to be used in each licence in place of the current conditions to achieve these changes is set out in the licence conditions appended to the three notices under section 23 of the Gas Act reproduced in Appendix 6.

3.4.2 Considerations

- (i) The original proposals set out in the earlier consultation document considered three areas for change, to respectively, the Accounting Day, the Base Unit of Measurement and the Minimum Fee/Premises Threshold. The proposals and comments received on them are summarised at Appendix 1.
- (ii) The Director was persuaded by the responses that there was no case at present for making any change to the Base Unit of Measurement or the Minimum Fee/Premises Threshold. He does not propose to take any further action on them at this time.
- (iii) Respondents to the earlier consultation had differing views on the proposal to change the method for assessing the number of premises from one based on a single accounting day to one based on an average over the accounting period. However, the Director has taken the view that there is a strong case to proceed with his original proposal. He considers that the continuing welcome growth in competition is leading to increased customer switching and that this trend is likely to continue. The number of customers served by any individual licence may therefore increase or decrease significantly over the course of a year. A new assessment system would be appropriate based on a measure of average customer numbers of gas licensees over the year rather than the number at the beginning of the year. Although there were some respondents who pointed out disadvantages in moving to an average system the Director was not convinced that these arguments outweighed the broader benefits of a change which would allow licence fees more closely to reflect market developments. In particular, the additional complexity of the averaging method proposed is not great; and it is not clear that the increase in licence fees for suppliers where market share is expanding would in practice constitute a disincentive to new market entry.

3.5 Raising the Licence Fee Cap

3.5.1 Proposed Decision

- (i) It is proposed to raise the Licence Fee Cap to £20m from 1st April 1999 and for the cap to be adjusted in line with inflation in future years.
- (ii) The revised amount has been included by amendment to the paragraph in each licence dealing with "total recoverable costs". The definition of total recoverable costs is set out in the proposed conditions attached to the notices in Appendix 6.

3.5.2 Considerations

- (i) Most respondents to the informal consultation supported retention of the Licence Fee Cap. The responses are summarised at Appendix 1. There was particular concern to retain the financial discipline imposed on Ofgas by the cap. The Director has taken account of these concerns and has decided not to proceed with the proposal to remove the cap altogether at this time. The Government may, however, wish to include provisions relating to the cap in its proposed Utilities Bill.
- (ii) However, it remains necessary to raise the level of the existing cap to ensure that both the ongoing cost of gas regulation, and the appropriate proportion of integration related costs can be recovered. If this is not done, then the financial resources available to Ofgas are likely to be heavily constrained, which would adversely affect both ongoing work, and the ability to proceed with the co-location. This would delay the benefits of more effective regulation that co-location under a single Director General is intended to achieve.
- (iii) The Director considers that there would be advantage in making the minimum charge necessary to enable proper recovery of Ofgas' costs from licensees. It is therefore proposed to set a revised cap of £20m, which reflects our best estimate of the annual amount that is likely to be necessary to meet our known commitments in the next two years. The situation beyond two years is necessarily less certain.

3.6 Equitable Division of Recoverable Costs

3.6.1 Proposed Decision

- (i) The Director has decided to amend the proportion of total recoverable costs which will be charged to the three licensing groups in 1999/2000. The revised allocations will be:

Licensing Group	1999/2000 Allocation	1998/99 Allocation
Gas Suppliers	40%	50%
Public Gas Transporters	50%	45%
Gas Shippers	10%	5%

3.6.2 Considerations

As part of the recent informal consultation, the Director sought views on his proposal to change the cost allocation between groups of licensees for 1999/2000 and to institute a process of regular annual review. This reflects the intention of the legislation and ensures a distribution of costs between the various groups of licensees which is based on the most recent available data. The changes proposed for 1999/2000 reflect current best estimates of the apportionment of Ofgas costs between different groups of licensees, and are based on more recent data than that available at the time of the informal consultation. They also benefit from the start of a continuous process of improvement to financial data quality, collection and associated controls which form part of the process of integrating the two offices.

4 *Conclusions*

4.1 *Summary of proposed modifications and their effects*

The Director has concluded that modifications need to be made to the standard conditions of licence of gas shippers, of public gas transporters and of gas supplies in order to achieve the following effects:

- (a) to increase the limit that currently applies to the total amount of the costs incurred by the Director that may be recovered through amounts paid to the Director by holders of all types of licence granted or treated as granted under the Act so that there are adequate resources for effective regulation;
- (b) to alter the proportions in which the total amount of such costs are shared between holders of different types of such licences to give fairer proportions than those which currently apply, and
- (c) to alter the basis on which the share of such costs that is recovered from holders of licences of each type is apportioned within that type to give greater fairness between every holder of each type of licence.

The way in which it is proposed to modify these licences to achieve these effects is set out in detail in the modified licence conditions that are attached as schedules to the three formal notices under section 23 to the Gas Act that are reproduced in Appendix 6 to this document.

4.2 *Reasons for the proposed modifications*

The Director has concluded that, in order to exercise the functions assigned to him under the Gas Act in the manner required by the Act, he needs additional resources. The Act provides that the expenses incurred by the Director in consequence of the provisions of the Act are to be paid out of money provided by Parliament. However, the Government is prepared for such money to be made available only if it is recoverable in due course from holders of licences granted under the Act.

The Director is conscious that the exercise of his function under section 23 to the Act to increase the amounts that are required to be rendered to him by licence holders, in order to trigger the availability of resources to him, will increase the costs of licence holders. It is to be

expected that licence holders may, in due course, seek to recover these costs from gas consumers. However, the Director is firmly of the view that the balance of his duties lies in favour of making the modifications now proposed: they will lead to a more effective regulatory framework than otherwise would be available. This more effective framework will more effectively secure the competition that will ensure that licence holders strive to keep down their overall costs, thereby ensuring that they can more readily finance their operations, meet the demand for gas and provide improved service and value for money for consumers. Alteration of the sharing of the costs being recovered by the Director between and within holders of licences of different types will bring greater equity among them. The retention of an overall cap will ensure that the Director and his staff also remain subject to a considerable incentive to efficiency.

Appendix 1

Summary of Original Proposals in Informal Consultation and Related Comments by Licensees

The following summarises the main proposals made in the informal consultation document and the views and comments expressed in the responses from various licensees. For simplicity, it does not reflect every view but puts various similar comments together.

1. *The Basis for Determining Individual Licence Fees*

Proposal

To change the method of calculating the licence fees from setting fees based upon the number of premises supplied on one Accounting Day (1st April) to the adoption of a measure of an average number of premises supplied throughout the year.

Comments

Nine respondents indicated approval for the proposal to use an averaged number of premises as a basis for the calculation of the annual licence fee. Contrary arguments were made to the effect that:

- whilst the proposal is sound in principle, the administrative complications would be a major obstacle;
- there should be an opportunity for the "review" of individual licence fees if these were deemed inequitable in retrospect;
- the proposals should not apply to Public Gas Transporters, since for them customer transfer is not an issue;
- the current methodology supports new entrants to the market;
- customer premises numbers are not necessarily the correct basis for apportionment, different types of customer cause different workloads; weighting of individual fees to reflect the make-up of customer portfolios should be considered.

Proposal

To change the base unit of measurement from the number of premises to the annual quantity of gas transported, shipped and supplied by licensees.

Comments

While some respondents thought this might be a fairer basis for determining measurement others considered the existing method satisfactory and there was no clear consensus for change.

Proposal

To abolish minimum licence fees with all licence fees being calculated in future on a pro-rata basis depending on the average quantity of gas or number of premises served.

Comments

Only a small number of respondents indicated that the minimum fee should be abolished. Most indicated that the existing provision should remain.

2 The Licence Fee Cap

Proposal

To remove or raise the present licence fee cap.

Comments

Only three of the companies consulted in the informal exercise indicated that they were in favour of the removal of the licence fee cap. Those respondents opposed to removal of the cap argued that:

- the cap is an incentive for efficiency and cost reduction;
- there must be regulatory plans and justification for expenditure and resource allocation, which should be published;
- OFGAS' role will reduce in the medium term, and costs should be decreasing.
- increased fees would lead to increased bills for the consumer;
- the cap could be modified if it were to be replaced with another efficiency driver e.g. RPI-X;
- costs associated with the domestic market should be outside the cap, since it is that market which triggers the majority of regulatory expenditure;
- the fee cap should be supported by a work plan, with exceptional costs being recovered by special supplementary fees;
- functions should be formally split, and costs estimated separately, for OFGAS (which would be capped) and the GCC;
- the cap should be maintained but supplementary charges should be levied upon companies generating a high number of complaints.

3 Cost Allocation Between Groups of Licensees

Proposal

To introduce revised allocations of fees between holders of different types of licences from 1999 - 2000, and to adopt revisions thereafter.

Comments

A large majority of respondents expressed agreement, either fully or in principle, with the proposal to introduce revised allocations in 1999 – 2000. Some felt it important that the accounting systems should be improved to ensure clear activity-based costing.

Appendix 2

The Regulatory Framework

Section 7B (4)(a) of the Gas Act 1986 (the Gas Act) allows for the inclusion in all licences granted under it of a condition requiring the payment of amounts to the Director, such as may be determined by or under the licence. The Director has used this power to recover the costs of Ofgas the costs of the Gas Consumer Council and costs associated with references by the Director to the Competition Commission.

The requirement for a licensee to pay the licence fee is set out in the conditions of the licence as follows:

- Standard condition 32 of Gas Suppliers' Licences;
- Standard condition 26 of Public Gas Transporters' Licences;
- Standard condition 17 of Gas Shippers' Licences.

In accordance with paragraph 4 (b) of each of the standard conditions, the overall amount which can be recovered collectively from licensees, is capped at £14m (in April 1996 prices). This cap can be adjusted each year for inflation, based on the movements in the Retail Price Index ('RPI') from December 1995 to the following December each year.

Section 23 of the Gas Act sets out (inter alia) the basis on which the Director may modify for general application the standard conditions of licences. Under Section 23 the Director may not make such a modification unless 90% of the licence holders in the category affected by the proposed change have consented to the modification. The power of the Director to amend licences under Section 23 is subject to veto by the Secretary of State. If a licence condition cannot be introduced by agreement under Section 23, the Director may make a reference to the Competition Commission under Section 24 if he remains minded to press for the introduction of a modification.

The Current Licence Fee Arrangements

(a) *Cost Allocation Between Groups of Licensees*

The current arrangements seek for payments of amounts to the Director to recover from licensees a proportionate share of the Ofgas and Gas Consumer Council (GCC) costs which are both reasonable and represent the costs of the regulatory resource consumed in regulating in the three licensing groups (i.e. suppliers, shippers, and public gas transporters). Any Competition Commission costs resulting from a reference by the Director are shared on a proportionate basis amongst the type of licensee involved.

The proportion of total recoverable costs to be paid by each group of licence holder, which forms the basis for what is commonly referred to as the licence fee (i.e. how much of the costs each licensee group should bear), is based on an estimate made at the time the Gas Act 1995 was passed of the resources committed to regulating each group of licensees. The current proportions are as follows:

- | | |
|---------------------------|-----|
| • Gas Suppliers | 50% |
| • Public Gas Transporters | 45% |
| • Gas Shippers | 5% |

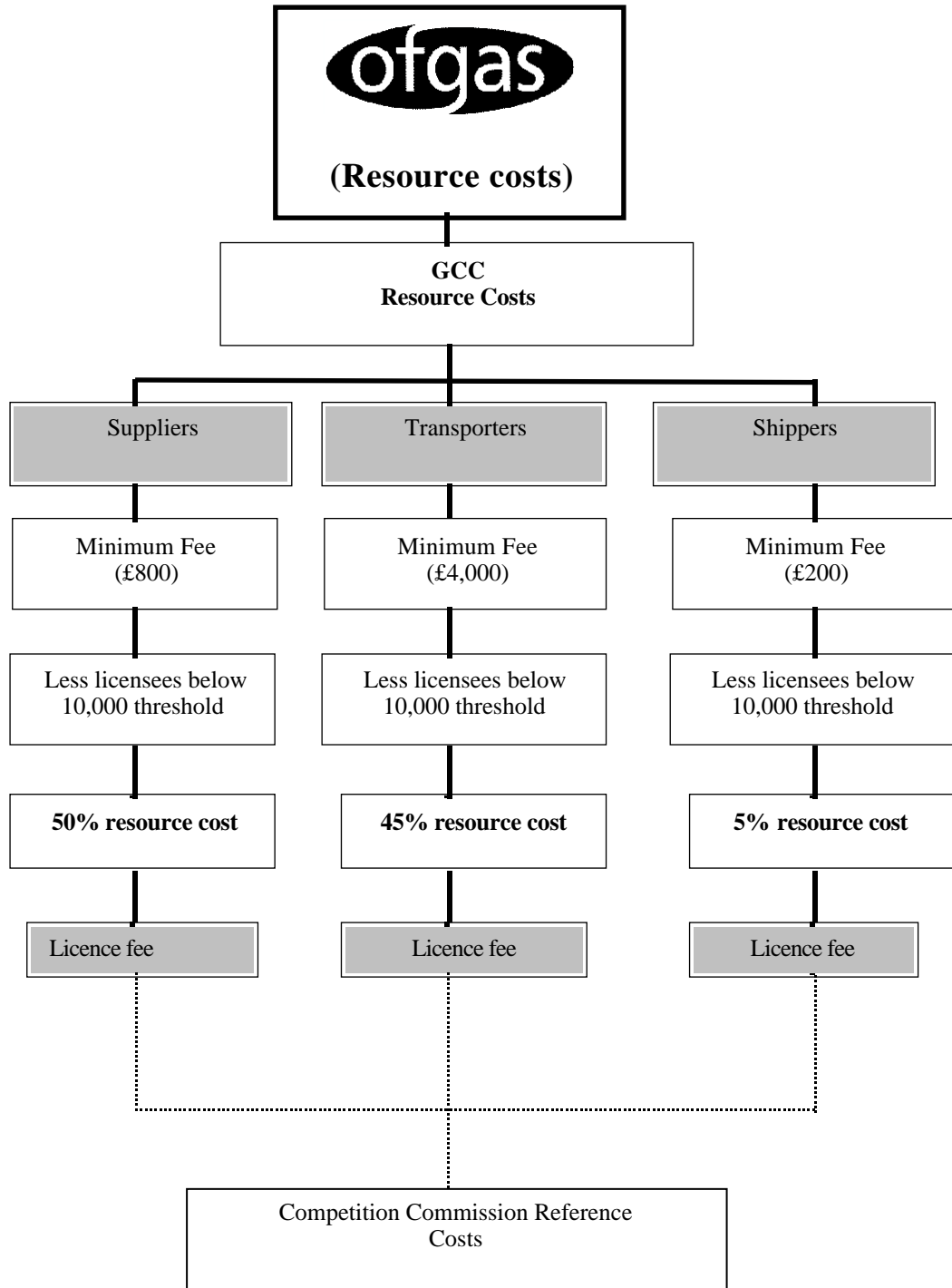
(b) *The Basis for Determining Individual Licence Fees*

The licence fees charged to individual licensees are based on 'in-year' costs. All licensees are "allocated" a minimum fee, which is then deducted from the overall licence fee paid by each group. This procedure identifies the sum to be shared proportionately by that group of licensees. Accordingly:

- licensees who serve up to 10,000 premises are required to pay the minimum fee only; and
- licensees who serve above 10,000 premises are the required to pay a proportionate share of the group costs (plus their minimum fees), based on number of premises being served by the licensee on the "accounting day".

The accounting day is determined, in each of the standard conditions mentioned above, to be the 1st April each year.

The following provides a diagrammatic guide to the fee regime:



Modification of licences

Modification by agreement¹

- 23.– (1) Subject to the following provisions of this section, the Director may–
- (a) modify the conditions of a particular licence; or
 - (b) modify the standard conditions of licences under section 7 above, licences under sub-section (1) of section 7A above or licences under sub-section (2) of that section.
- (2) Where at any time the Director modifies under sub-section (1)(b) above the standard conditions of licences under section 7 above, licences under sub-section (1) of section 7A above or licences under sub-section (2) of that section, he–
- (a) shall also make (as nearly as may be) the same modifications of those conditions for the purposes of their incorporation in licences under that section or, as the case may be, that sub-section granted after that time; and
 - (b) may make such incidental or consequential modifications as he considers necessary or expedient of any conditions of licences under that provision granted before that time.
- (3) Before making modifications under this section, the Director shall give notice–
- (a) stating that he proposes to make the modifications and setting out their effect;
 - (b) stating the reasons why he proposes to make the modifications; and
 - (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made,
- and shall consider any representations or objections which are duly made and not withdrawn.
- (4) A notice under sub-section (3) above shall be given–
- (a) by publishing the notice in such manner as the Director considers appropriate for the purpose of bringing the notice to the attention of persons likely to be affected by the making of the modifications; and
 - (b) by sending a copy of the notice to the holder of the licence or, as the case may be, the relevant licence holders, to the Secretary of State, to the Health and Safety Executive and to the Council.
- (5) If, within the time specified in the notice under sub-section (3) above, the Secretary of State directs the Director not to make any modification, the Director shall comply with the direction.
- (6) The Director shall not make any modifications under sub-section (1)(a) above unless–
- (a) the holder of the licence has consented to the modifications; and
 - (b) in the case of standard conditions of a licence under sub-section (1) or (2) of section 7A above, the Director is of the opinion that the modifications–
 - (i) are requisite to meet the circumstances of the particular case; and

¹ This section substituted by Gas Act 1995 Schedule 3 paragraph 21.

(ii) are such that no other holder of such a licence would be unduly disadvantaged in competing with other holders of such licences (including the holder of the licence).

- (7) The Director shall not make any modifications under sub-section (1)(b) above unless—
- (a) the percentage given by each of sub-sections (8) and (9) below is not less than 90 per cent;
 - (b) the percentage given by sub-section (8) below is not less than 90 per cent and no relevant activities have been carried on by relevant licence holders; or
 - (c) sub-section (10) below applies.

(8) The percentage given by this sub-section is the fraction given by the following formula expressed as a percentage, namely—

$$\frac{C}{C + N}$$

where—

C = the number of consenting holders;

N = the number of non-consenting holders.

(9) The percentage given by this sub-section is the fraction given by the following formula expressed as a percentage, namely—

$$\frac{C}{C + N}$$

where—

C = the volume of gas to which relevant activities carried on by consenting holders relate;

N = the volume of gas to which relevant activities carried on by non-consenting holders relate, as estimated (in each case) by the Director on the basis of the information available to him.

(10) This sub-section applies where the Director is of the opinion—

- (a) that the effect of the standard conditions is such as to impose a burden affecting relevant licence holders in the carrying on of activities to which the modifications relate;
- (b) that the modifications would remove or reduce the burden without removing any necessary protection; and
- (c) in the case of a licence under sub-section (1) or (2) of section 7A above, that the modifications are such that no holder of such a licence would be unduly disadvantaged in competing with other holders of such licences.

(11) Where at any time the Director modifies standard conditions under sub-section (2)(a) above for the purposes of their incorporation in licences under section 7 or 7A(1) or (2) above granted after that time, he shall publish the modifications in such manner as he considers appropriate.

(12) In this section, in relation to modifications of standard conditions under sub-section (1)(b) above—

‘consenting holder’ means a relevant licence holder who has consented to the modifications;

‘non-consenting holder’ means a relevant licence holder who has not so consented;

‘relevant activity’ means an activity to which the modifications relate and which is carried on in the period of twelve months immediately preceding the making of the modifications;

‘relevant licence holder’ means a licence holder whose licence incorporates the standard conditions.

Appendix 5

The Consent of Licence Holders

In order for the modification now proposed by the Director to be introduced, it is necessary, under Section 23 of the Gas Act 1986, that not less than 90% of all licensees, both by number and by volume of gas, consent to the modification. For this purpose, the volume of gas of each gas supplier, transporter or shipper is as estimated by the Director on the basis of information available to him.

The Director will obtain from Transco information showing the volume of gas supplied by each licensed supplier conveyed by itself and by each public gas transporter to premises and shipped by each shipper in the last twelve months. These volumes will include volumes for both to domestic customers and to other customers.

Following the period of consultation, a draft of the proposed licence modifications will be produced with such amendments as are necessary in light of the responses to the consultation. For the purpose of assessing consent or non-consent to the proposal, all holders of licences of each type will then be sent a form for return to the Director on which they will be asked both to indicate whether they consent to the modification or not. That form will also show the estimate of gas volume provided by Transco and will seek acceptance of that volume, for the purpose of the determination by the Director of the percentages by volume consenting to the proposed modification. If a licence holder regards the volume proposed to be used by the Director as inappropriate he should provide the Director with an alternative estimate and a statement of reasons for preferring his estimate over that proposed by the Director.

Appendix 6

Part 1

Notice to amend the standard conditions of Gas Suppliers' licences

Gas Act 1986

Section 23(3)

NOTICE

Notice of proposal to modify the standard conditions of the licences granted and treated as granted under section 7A(1) of the Gas Act 1986 (Gas Suppliers' Licences)

The Director General of Gas Supply (hereinafter referred to as "the Director") pursuant to section 23(3) of the Gas Act 1986 (hereinafter referred to as "the Act") hereby gives notice as follows –

1. The Director, pursuant to section 23(1)(b) of the Act, proposes to modify the standard conditions of licences granted and treated as granted under section 7A(1) of the Act in the manner set out in the Schedule hereto.

2. The effects of the modifications that the Director proposes to make are –
 - (a) to increase the limit that currently applies to the total amount of the costs incurred by the Director that may be recovered through amounts paid to the Director by holders of all types of licence granted or treated as granted under the Act;
 - (b) to alter the proportions in which the total amount of such costs are shared between holders of different types of such licences, and
 - (c) to alter the basis on which the share of such costs that is recovered through amounts paid to the Director by holders of licences granted or treated as granted under the said section 7A(1) is apportioned between holders of such licences.

3. The reasons why the Director proposes to make the modifications are set out in the consultation paper that accompanies this notice.

4. Representations or objections with respect to the proposed modification may be made by 30th July 1999 and should be addressed to the Office of Gas and Electricity Markets, Stockley House, 130 Wilton Road, London SW1V 1LQ.

The Seal of the Director General of Gas Supply
hereunto affixed is authenticated by –

.....
Duly authorised in that behalf by the
Director General of Gas Supply

28th June 1999

SCHEDULE

For condition 32 of the standard conditions of licences granted and treated as granted under section 7A(1) of the Gas Act 1986 there shall be substituted the following condition:

“Condition 32: Payments by licensee to Director

(1) The licensee shall pay to the Director in respect of each relevant year the amount determined in accordance with paragraph (2); that amount shall be paid by the licensee at the times and in the manner specified in paragraph (4).

(2) The amount payable under paragraph (1) in respect of a relevant year shall be the minimum fee or, if the licensee was supplying gas to more than 10,000 premises on the accounting day, the aggregate of -

- (a) the minimum fee;
- (b) an additional amount calculated by -
 - (i) taking the relevant percentage of the total recoverable costs;
 - (ii) adding to that amount any amount determined by the Director (in consultation with the Competition Commission), for the purposes of this condition generally, as having been incurred by the Commission in the preceding relevant year in connection with references made to it under section 24 of the Act relating to a licence or licences granted under section 7A(1) of the Act;
 - (iii) subtracting from the amount calculated as aforesaid an amount equal to the minimum fee multiplied by the number of persons who, on the accounting day, held relevant supply licences;
 - (iv) multiplying the amount calculated as aforesaid by the factor –

$$\frac{A}{B}$$

where -

“A” means the excess over 10,000 of the average of the number of premises to which the licensee supplied gas on the averaging days;

“B” means the aggregate of the average numbers of premises supplied with gas on the averaging days by persons who held relevant supply licences on those days disregarding, in the case of each such person, the first 10,000 of the average number of premises to which gas was so supplied.

(3) The licensee shall as soon as is practicable after an averaging day furnish the Director with such information as to the number of premises to which the licensee was supplying gas on that day as the Director may from time to time require.

(4) The amount determined in relation to a relevant year in accordance with paragraph (2) shall be paid by the licensee to the Director as follows.

- (a) The minimum fee referred to in paragraph (2)(a) shall be paid before the later of –

- (i) the end of the accounting day, and
 - (ii) the expiry of 30 days of being given notice in writing by the Director of the amount of the minimum fee.
- (b) An interim payment in respect 75% of an estimate made by the Director according to a method that has previously been disclosed in writing to the licensee of the additional amount referred to in paragraph (2)(b) shall be paid before the later of –
 - (i) the end of the accounting day, and
 - (ii) the expiry of 30 days of being given notice in writing by the Director of the amount of the interim payment.
- (c) A final payment calculated by deducting from the total amount determined in accordance with paragraph (2) the sum of the payments previously made in respect of that amount shall be paid before the later of –
 - (i) 31 December following the accounting day, and
 - (ii) the expiry of 30 days of being given notice in writing by the Director of the amount of the final payment,

provided that, if the final amount is negative and is not refunded by the Director, it shall be deducted from the amount payable by the licensee pursuant to this condition in relation to the next succeeding relevant year.

(5) In this condition -

“the accounting day”, in relation to a relevant year, means 1st April in that year;

“the average”, in relation to a set of numbers, means the arithmetic mean of those numbers;

“the averaging days”, in relation to a relevant year, are 1st January preceding the accounting day, the accounting day and 1st July and 1st October subsequent to the accounting day provided that if the licensee had not commenced supplying gas on the first of the averaging days in relation to a relevant year that averaging day shall be ignored in relation to that relevant year;

“minimum fee”, in relation to a relevant year, means, in the case of the relevant year beginning with 1st April 1996, £800 or, in the case of any subsequent relevant year, that sum adjusted in accordance with standard condition 27, except that any fraction of £100 in the sum as so adjusted shall be disregarded;

“relevant percentage” means 40% or, if the Director is of the opinion that that percentage does not fairly represent the proportion of the total recoverable costs which such costs incurred in connection with the supply or use of gas or related matters constitute, such other percentage as he may from time to time designate, for the purposes of this condition generally, as more fairly representing that proportion;

“relevant supply licence” means a licence granted under section 7A(1) of the Act which incorporates this standard condition, and any reference to a person who holds a relevant supply licence includes a reference to the licensee;

“relevant year” means a year beginning with 1st April in 1996 or any subsequent year;

“total recoverable costs” means the lesser of -

- (a) the aggregate of -
 - (i) the amount estimated by the Director, for the purposes of this condition generally, as likely to be the costs incurred by him during the relevant year

- in the exercise of the functions assigned to him by or under the Act otherwise than by paragraph 6 of Schedule 2 to the Act;
- (ii) the amount so estimated by the Director after consulting the Secretary of State as likely to be the costs incurred by him or the Secretary of State during the relevant year in defraying or contributing towards the expenses of the Council in accordance with paragraph 6 of Schedule 2 to the Act, and
 - (iii) except in the case of the relevant year beginning with 1st April 1996, the amount of the difference, if any, between the costs mentioned in subparagraph (i) or (ii) which the Director considers were actually incurred during the previous relevant year and the estimate of the costs in question made by him for the purposes of this provision, where the latter exceeds the former the amount of the difference being treated as a negative amount, and
- (b)
- (i) in the case of the relevant year beginning with 1st April 1996, £14 million, or
 - (ii) in the case of any subsequent relevant year prior to the relevant year beginning with 1st April 1999, £14 million adjusted in accordance with standard condition 36 except that any fraction of £1,000 in the sum as so adjusted shall be disregarded, or
 - (iii) in the case of the relevant year beginning with 1st April 1999, £20 million, or
 - (iv) in the case of any subsequent relevant year, £20 million adjusted in accordance with standard condition 36 except that any fraction of £1,000 in the sum as so adjusted shall be disregarded and for the date of 1st December 1995 in paragraph (2) of that standard condition there shall be substituted 1st December 1998."

Part 2

Notice to amend the standard conditions of Public Gas Transporters' licences

Gas Act 1986

Section 23(3)

NOTICE

Notice of proposal to modify the standard conditions of the licences granted and treated as granted under section 7 of the Gas Act 1986 (Public Gas Transporters' Licences)

The Director General of Gas Supply (hereinafter referred to as "the Director") pursuant to section 23(3) of the Gas Act 1986 (hereinafter referred to as "the Act") hereby gives notice as follows –

1. The Director, pursuant to section 23(1)(b) of the Act, proposes to modify the standard conditions of licences granted and treated as granted under section 7 of the Act in the manner set out in the Schedule hereto.
2. The effects of the modifications that the Director proposes to make are –
 - (a) to increase the limit that currently applies to the total amount of the costs incurred by the Director that may be recovered through amounts paid to the Director by holders of all types of licence granted or treated as granted under the Act;
 - (b) to alter the proportions in which the total amount of such costs are shared between holders of different types of such licences, and
 - (c) to alter the basis on which the share of such costs that is recovered through amounts paid to the Director by holders of licences granted or treated as granted under the said section 7 is apportioned between holders of such licences.
3. The reasons why the Director proposes to make the modifications are set out in the consultation paper that accompanies this notice.

4. Representations or objections with respect to the proposed modification may be made by 30th July 1999 and should be addressed to the Office of Gas and Electricity Markets, Stockley House, 130 Wilton Road, London SW1V 1LQ.

The Seal of the Director General of Gas Supply hereunto affixed is authenticated by -

.....
Duly authorised in that behalf by the
Director General of Gas Supply

28th June 1999

SCHEDULE

For condition 26 of the standard conditions of licences granted and treated as granted under section 7 of the Gas Act 1986 there shall be substituted the following condition:

“Condition 26: Payments by licensee to Director

(1) The licensee shall pay to the Director in respect of each relevant year the amount determined in accordance with paragraph (2); that amount shall be paid by the licensee at the times and in the manner specified in paragraph (4).

(2) The amount payable under paragraph (1) in respect of a relevant year shall be the minimum fee or, if the licensee was conveying gas to more than 10,000 premises on the accounting day, the aggregate of -

- (a) the minimum fee;
- (b) an additional amount calculated by -
 - (i) taking the relevant percentage of the total recoverable costs;
 - (ii) adding to that amount any amount determined by the Director (in consultation with the Competition Commission), for the purposes of this condition generally, as having been incurred by the Commission in the preceding relevant year in connection with references made to it under section 24 of the Act relating to a licence or licences granted under section 7 of the Act;
 - (iii) subtracting from the amount calculated as aforesaid an amount equal to the minimum fee multiplied by the number of persons who, on the accounting day, held relevant transporter licences;
 - (iv) multiplying the amount calculated as aforesaid by the factor –

$$\frac{A}{B}$$

where -

“A” means the excess over 10,000 of the average of the number of premises to which the licensee conveyed gas on the averaging days;

“B” means the aggregate of the average numbers of premises to which gas was conveyed on the averaging days by persons who held relevant transporter licences on the accounting day disregarding, in the case of each such person, the first 10,000 of the average number of premises to which gas was so conveyed.

(3) The licensee shall as soon as is practicable after an averaging day furnish the Director with such information as to the number of premises to which the licensee was conveying gas on that day as the Director may from time to time require.

(3A) For the purposes of paragraphs (2) and (3), references to premises to which the licensee or another public gas transporter conveyed or was conveying gas shall include any secondary sub-deduct premises where the licensee or that other transporter conveyed or was conveying gas to the relevant primary sub-deduct premises.

(4) The amount determined in relation to a relevant year in accordance with paragraph (2) shall be paid by the licensee to the Director as follows.

- (a) The minimum fee referred to in paragraph (2)(a) shall be paid before the later of –

- (i) the end of the accounting day, and
 - (ii) the expiry of 30 days of being given notice in writing by the Director of the amount of the minimum fee.
- (b) An interim payment in respect 75% of an estimate made by the Director according to a method that has previously been disclosed in writing to the licensee of the additional amount referred to in paragraph (2)(b) shall be paid before the later of –
 - (i) the end of the accounting day, and
 - (ii) the expiry of 30 days of being given notice in writing by the Director of the amount of the interim payment.
- (c) A final payment calculated by deducting from the total amount determined in accordance with paragraph (2) the sum of the payments previously made in respect of that amount shall be paid before the later of –
 - (i) 31 December following the accounting day, and
 - (ii) the expiry of 30 days of being given notice in writing by the Director of the amount of the final payment;

provided that, if the final amount is negative and is not refunded by the Director, it shall be deducted from the amount payable by the licensee pursuant to this condition in relation to the next succeeding relevant year.

(5) In this condition –

“the accounting day”, in relation to a relevant year, means 1st April in that year;

“the average”, in relation to a set of numbers, means the arithmetic mean of those numbers;

“the averaging days”, in relation to a relevant year, are 1st January preceding the accounting day, the accounting day and 1st July and 1st October subsequent to the accounting day provided that if the licensee had not commenced the conveyance of gas on the first of the averaging days in relation to a relevant year that averaging day shall be ignored in relation to that relevant year;

“minimum fee”, in relation to a relevant year, means, in the case of the relevant year beginning with 1st April 1996, £4,000 or, in the case of any subsequent relevant year, that sum adjusted in accordance with standard condition 27, except that any fraction of £100 in the sum as so adjusted shall be disregarded;

“relevant percentage” means 50% or, if the Director is of the opinion that that percentage does not fairly represent the proportion of the total recoverable costs which such costs incurred in connection with the conveyance of gas or related matters constitute, such other percentage as he may from time to time designate, for the purposes of this condition generally, as more fairly representing that proportion;

“relevant transporter licence” means a licence granted under section 7 of the Act which incorporates this standard condition, and any reference to a person who holds a relevant transporter licence includes a reference to the licensee;

“relevant year” means a year beginning with 1st April in 1996 or any subsequent year;

“total recoverable costs” means the lesser of -

- (a) the aggregate of -

- (i) the amount estimated by the Director, for the purposes of this condition generally, as likely to be the costs incurred by him during the relevant year in the exercise of the functions assigned to him by or under the Act otherwise than by paragraph 6 of Schedule 2 to the Act;
 - (ii) the amount so estimated by the Director after consulting the Secretary of State as likely to be the costs incurred by him or the Secretary of State during the relevant year in defraying or contributing towards the expenses of the Council in accordance with paragraph 6 of Schedule 2 to the Act, and
 - (iii) except in the case of the relevant year beginning with 1st April 1996, the amount of the difference, if any, between the costs mentioned in subparagraph (i) or (ii) which the Director considers were actually incurred during the previous relevant year and the estimate of the costs in question made by him for the purposes of this provision, where the latter exceeds the former the amount of the difference being treated as a negative amount, and
- (b)
- (i) in the case of the relevant year beginning with 1st April 1996, £14 million, or
 - (ii) in the case of any subsequent relevant year prior to the relevant year beginning with 1st April 1999, £14 million adjusted in accordance with standard condition 27 except that any fraction of £1,000 in the sum as so adjusted shall be disregarded, or
 - (iii) in the case of the relevant year beginning with 1st April 1999, £20 million, or
 - (iv) in the case of any subsequent relevant year, £20 million adjusted in accordance with standard condition 27 except that any fraction of £1,000 in the sum as so adjusted shall be disregarded and for the date of 1st December 1995 in paragraph (2) of that standard condition there shall be substituted 1st December 1998."

Part 3

Notice to amend the standard conditions of Gas Shippers' licences

Gas Act 1986

Section 23(3)

NOTICE

Notice of proposal to modify the standard conditions of the licences granted and treated as granted under section 7A(2) of the Gas Act 1986 (Gas Shippers' Licences)

The Director General of Gas Supply (hereinafter referred to as "the Director") pursuant to section 23(3) of the Gas Act 1986 (hereinafter referred to as "the Act") hereby gives notice as follows –

1. The Director, pursuant to section 23(1)(b) of the Act, proposes to modify the standard conditions of licences granted and treated as granted under section 7A(2) of the Act in the manner set out in the Schedule hereto.

2. The effects of the modifications that the Director proposes to make are –
 - (a) to increase the limit that currently applies to the total amount of the costs incurred by the Director that may be recovered through amounts paid to the Director by holders of all types of licence granted or treated as granted under the Act;
 - (b) to alter the proportions in which the total amount of such costs are shared between holders of different types of such licences, and
 - (c) to alter the basis on which the share of such costs that is recovered through amounts paid to the Director by holders of licences granted or treated as granted under the said section 7A(2) is apportioned between holders of such licences.

3. The reasons why the Director proposes to make the modifications are set out in the consultation paper that accompanies this notice.

4. Representations or objections with respect to the proposed modification may be made by 30th July 1999 and should be addressed to the Office of Gas and Electricity Markets, Stockley House, 130 Wilton Road, London SW1V 1LQ.

The Seal of the Director General of Gas Supply hereunto affixed is authenticated by –

.....
Duly authorised in that behalf by the
Director General of Gas Supply

28th June 1999

SCHEDULE

For condition 17 of the standard conditions of the licences granted and treated as granted under section 7A(2) of the Gas Act 1986 there shall be substituted the following condition:

“Condition 17: Payments by licensee to Director

(1) The licensee shall pay to the Director in respect of each relevant year the amount determined in accordance with paragraph (2); that amount shall be paid by the licensee at the times and in the manner specified in paragraph (4).

(2) The amount payable under paragraph (1) in respect of a relevant year shall be the minimum fee or, if the licensee was the relevant shipper in relation to more than 10,000 premises on the accounting day, the aggregate of -

- (a) the minimum fee;
- (b) an additional amount calculated by -
 - (i) taking the relevant percentage of the total recoverable costs;
 - (ii) adding to that amount any amount determined by the Director (in consultation with the Competition Commission), for the purposes of this condition generally, as having been incurred by the Commission in the preceding relevant year in connection with references made to it under section 24 of the Act relating to a licence or licences granted under section 7A(2) of the Act;
 - (iii) subtracting from the amount calculated as aforesaid an amount equal to the minimum fee multiplied by the number of persons who, on the accounting day, held relevant shippers’ licences;
 - (iv) multiplying the amount calculated as aforesaid by the factor –

$$\frac{A}{B}$$

where -

“A” means the excess over 10,000 of the average of the number of premises to which the licensee was the relevant shipper on the averaging days;

“B” means the aggregate of the average number of premises to which gas was conveyed on the averaging day by a public gas transporter in pursuance of arrangements made by persons who held relevant shippers’ licences on that day disregarding, in the case of each such person, the first 10,000 of the average number of premises to which gas was so conveyed in pursuance of arrangements made by that person.

(2A) For the purposes of paragraph (2), where, on any accounting or averaging day, gas was -

- (a) taken out of a pipe-line system of a public gas transporter in accordance with sub-deduct arrangements, and
- (b) conveyed to secondary sub-deduct premises,

it shall be deemed to have been conveyed on that day to the secondary sub-deduct premises by a public gas transporter in pursuance of arrangements made by a person who held a relevant shipper’s licence on that day.

(3) The licensee shall as soon as is practicable after an averaging day furnish the Director with such information as to the number of premises to which the licensee was the relevant shipper on that day as the Director may from time to time require.

(4) The amount determined in relation to a relevant year in accordance with paragraph (2) shall be paid by the licensee to the Director as follows.

- (a) The minimum fee referred to in paragraph (2)(a) shall be paid before the later of –
 - (i) the end of the accounting day, and
 - (ii) the expiry of 30 days of being given notice in writing by the Director of the amount of the minimum fee.
- (b) An interim payment in respect 75% of an estimate made by the Director according to a method that has previously been disclosed in writing to the licensee of the additional amount referred to in paragraph (2)(b) shall be paid before the later of –
 - (i) the end of the accounting day, and
 - (ii) the expiry of 30 days of being given notice in writing by the Director of the amount of the interim payment.
- (c) A final payment calculated by deducting from the total amount determined in accordance with paragraph (2) the sum of the payments previously made in respect of that amount shall be paid before the later of –
 - (i) 31 December following the accounting day, and
 - (iv) the expiry of 30 days of being given notice in writing by the Director of the amount of the final payment;

provided that, if the final amount is negative and is not refunded by the Director, it shall be deducted from the amount payable by the licensee pursuant to this condition in relation to the next succeeding relevant year.

(5) In this condition –

“the accounting day”, in relation to a relevant year, means 1st April in that year;

“the average”, in relation to a set of numbers, means the arithmetic mean of those numbers;

“the averaging days”, in relation to a relevant year, are 1st January preceding the accounting day, the accounting day and 1st July and 1st October subsequent to the accounting day provided that if the licensee had not commenced shipping gas on the first of the averaging days in relation to a relevant year that averaging day shall be ignored in relation to that relevant year;

“minimum fee”, in relation to a relevant year, means, in the case of the relevant year beginning with 1st April 1996, £200 or, in the case of any subsequent relevant year, that sum adjusted in accordance with standard condition 18, except that any fraction of £100 in the sum as so adjusted shall be disregarded;

“relevant percentage” means 10% or, if the Director is of the opinion that that percentage does not fairly represent the proportion of the total recoverable costs which such costs incurred in connection with the activities of gas shippers or related matters

constitute, such other percentage as he may from time to time designate, for the purposes of this condition generally, as more fairly representing that proportion;

“relevant shipper’s licence” means a licence granted under section 7A(2) of the Act which incorporates this standard condition, and any reference to a person who holds a relevant shipper’s licence includes a reference to the licensee;

“relevant year” means a year beginning with 1st April in 1996 or any subsequent year;

“total recoverable costs” means the lesser of -

- (a) the aggregate of -
 - (i) the amount estimated by the Director, for the purposes of this condition generally, as likely to be the costs incurred by him during the relevant year in the exercise of the functions assigned to him by or under the Act otherwise than by paragraph 6 of Schedule 2 to the Act;
 - (ii) the amount so estimated by the Director after consulting the Secretary of State as likely to be the costs incurred by him or the Secretary of State during the relevant year in defraying or contributing towards the expenses of the Council in accordance with paragraph 6 of Schedule 2 to the Act, and
 - (iii) except in the case of the relevant year beginning with 1st April 1996, the amount of the difference, if any, between the costs mentioned in subparagraph (i) or (ii) which the Director considers were actually incurred during the previous relevant year and the estimate of the costs in question made by him for the purposes of this provision, where the latter exceeds the former the amount of the difference being treated as a negative amount, and
- (b)
 - (i) in the case of the relevant year beginning with 1st April 1996, £14 million, or
 - (ii) in the case of any subsequent relevant year prior to the relevant year beginning with 1st April 1999, £14 million adjusted in accordance with standard condition 18 except that any fraction of £1,000 in the sum as so adjusted shall be disregarded, or
 - (iii) in the case of the relevant year beginning with 1st April 1999, £20 million, or
 - (iv) in the case of any subsequent relevant year, £20 million adjusted in accordance with standard condition 18 except that any fraction of £1,000 in the sum as so adjusted shall be disregarded and for the date of 1st December 1995 in paragraph (2) of that standard condition there shall be substituted 1st December 1998.”