

**April 2001**

**Electricity and Gas Connection  
Charge Regulations  
Consultation**

## Executive summary

This document seeks comments on drafts for revised regulations applying to connections to electricity and gas networks.

The existing gas regulations provide for the recovery of charges arising from the laying of gas mains from the persons requesting a supply of gas. The electricity connection regulations perform a somewhat different function in that they envisage reimbursement of those who met the costs of an initial connection. Charges levied on those who subsequently seek to connect to the same assets are used to reimburse the 'initial contributor'.

Changes to be effected by the Utilities Act 2000, and principally the separation of electricity distribution and supply, necessitate minor, consequential changes to both sets of regulations. For the new statutory arrangements to work, it is essential to have amended connection regulations in place. There is, however, the question as to whether this might be an appropriate opportunity to make more fundamental changes to the connection regulations.

Ofgem has considered whether it might be appropriate, at this point, to:

- align the gas and electricity connection regulations more closely;
- to address perceived problems of workability in the the electricity regulations; or to
- remove redundant provisions (dealing with connections prior to the coming into force of the existing regulations).

The paper concludes that questions of alignment and workability should be addressed at a later date, as part of other work that Ofgem already has in hand. There may be a case for further amendment of the regulations, later. The redundant provisions should, however, be removed now.

The attached draft regulations have been prepared in accordance with this decision and Ofgem would welcome comments on them.

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# 1. Introduction

## *Purpose of this document*

- 1.1 This document seeks comments on drafts for revised regulations applying to connections to electricity and gas networks. The draft Regulations are attached as annexes to this paper.

## *Structure of this document*

- 1.2 This consultation document sets out:
- the historical and legal background to the proposed regulations (Chapter 2);
  - the rationale for the changes that Ofgem is proposing (Chapter 3);
  - a summary of the proposed changes (Chapter 4); and
  - a review of future action (Chapter 5).

## *Contact details*

- 1.3 Comments are invited on the proposals contained in this paper. Responses should be sent, by **Friday 4 May 2001**, to:

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## 2. Background

### *History*

- 2.1 The Gas (Connection Charges) Regulations 1986 ('the 1986 Regulations') were made by the Secretary of State under sections 10(7) and 47(3)(b) of the Gas Act 1986 ('the 1986 Act') and came into effect in September 1986. They made provision for a public gas supplier to recover from a person requiring a supply of gas an amount in respect of the expenses of the laying of the main used for the purpose of giving the supply. The 1986 Act, as amended by the Gas Act 1995, empowered the Director General of Gas Supply to make regulations under section 10(7), but the Director did not have occasion to replace the 1986 Regulations.
- 2.2 On 7 March 1990, the Secretary of State made the Electricity (Connection Charges) Regulations 1990 ('the 1990 Regulations'), in accordance with sub-sections 19(2) and (3) and sections 60 and 64 of the Electricity Act 1989 ('the 1989 Act'). The 1990 Regulations made provision for a public electricity supplier (PES) to recover from subsequent users of electric lines and electrical plant, first provided for the purpose of giving a supply of electricity to a previous consumer, an amount in respect of the expenses incurred in first providing the line or plant. The 1990 Regulations further provided for the PES to use the sums so recovered to make refunds to the previous consumer or consumers.

### *Legal Background*

- 2.3 The Utilities Act 2000 ('the 2000 Act') abolishes the PESs, and creates separately licensed activities of electricity supply and electricity distribution. Accordingly, section 46 of the 2000 Act amends section 19 of the 1989 Act to reflect the fact that it will now be electricity distributors who have the power to recover connection charges from consumers requesting a connection. There is a modified power, in the new section 19(2), for the Secretary of State to make connection charge regulations having, *mutatis mutandis*, the same effect as the 1990 Regulations, but in respect of the new legislative provisions governing

electricity distributors.

- 2.4 Because it does not make major structural changes in the gas industry, the 2000 Act makes only minor amendments to those provisions of the 1986 Act that deal with gas connections. The 1986 Regulations would, however, require amendment to replace references to 'public gas supplier' with 'gas transporter'<sup>1</sup>. As the 2000 Act will abolish the post of Director General of Gas Supply, it is the Gas and Electricity Markets Authority ('the Authority'), with the consent of the Secretary of State, that will make the revised regulations.
- 2.5 Although it will be for the Secretary of State to make the revised electricity regulations, it seems sensible for Ofgem to consult on the revision of both Statutory Instruments, and to make a recommendation to the Secretary of State about those for which he is responsible.

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<sup>1</sup> The term 'public gas transporter' in the Gas Act 1995 is replaced with 'gas transporter' by the Utilities Act 2000.

### 3. Rationale

#### *Policy options*

- 3.1 The 2000 Act necessitates only minor changes to the Regulations. However, there are further changes to the law governing electricity and gas connections that might be seen as desirable and which Ofgem considered for this revision. This Chapter briefly reviews the relevant policy options, and explains what Ofgem proposes.
- 3.2 An important consideration in respect of all the policy options is one of timing. The prime objective is to have the revised Regulations in place to coincide with the various changes made by the 2000 Act. Ofgem currently anticipates that the Government will commence the relevant provisions of the primary legislation in June 2001. If anything additional to the essential changes is to be included, Ofgem must be satisfied that there has been adequate time for its proper consideration, and for consultation with interested parties.

#### *Alignment of the regulatory arrangements for gas and electricity*

- 3.3 A fundamental policy underlying the 2000 Act was that of aligning, where appropriate, the regulatory arrangements for gas and electricity. Although their titles are similar, the 1986 Regulations and the 1990 Regulations currently provide for different things. The 1986 Regulations are concerned simply with the recovery of the costs of laying gas mains, within a prescribed period. The 1990 Regulations provide for reimbursement of original contributors when other consumers are connected.
- 3.4 There is a case for alignment of the rules governing gas and electricity connections, and perhaps for their consolidation into a single Statutory Instrument. It may be, for instance, that there is a case for extending the provisions on reimbursement from the proceeds of subsequent connection to the gas industry. Ofgem considers, however, that the issues involved are complex. It

seems preferable, therefore, to make minimal, workable amendments at this stage, and to consider more fundamental change in the longer term. Further amendment, if necessary and at a later date, would appear to be the best course.

### ***Workability of the 1990 Regulations***

- 3.5 Ofgem is aware that a number public electricity suppliers (PESs) have expressed concerns about the workability of the arrangements envisaged in the 1990 Regulations for the reimbursement of original contributors to the cost of connection assets. While reimbursement should not be difficult to arrange in simple cases of subsequent connection, it is conceivable that PESs would often encounter difficulty in achieving an equitable result in less straightforward circumstances. Ofgem's initial view is that there may be a case for further consideration of the treatment of more complex sets of circumstances.
- 3.6 Moreover, the report of the Embedded Generation Working Group, published by DTI in January 2001, makes it clear that consideration of connection charges should now extend beyond demand customers to generators seeking connection to distribution networks. The electricity connection regulations could be further amended after these issues have been more fully explored and consulted upon.

### ***Electricity Connections Steering Group***

- 3.7 Another relevant consideration is the continuing work of the Electricity Connections Steering Group, which is tasked with producing workable and effective standards of performance, with attendant liabilities, for electricity connection work. The group will also consider the extent to which it may be feasible to align the standards of performance regimes for gas and electricity connections.
- 3.8 The steering group is due to report during 2001, and it would be helpful to take account of their conclusions in any more fundamental review of the Regulations.



### ***Consultation on the gas connection regulations***

- 3.9 Ofgem intends to issue a consultation on the gas connection charge regulations, shortly. It would seem sensible to delay significant changes to the regulations until the responses to the planned consultation have been considered.

### ***Mains laid before the commencement of the existing regulations***

- 3.10 Regulation 3 in the 1986 Regulations and paragraph 2 of Regulation 5 in the 1990 Regulations refer to connections provided before the coming into force of the respective Regulations. As the relevant five-year period expired in 1991 (for gas) and 1995 (for electricity), Ofgem considers that these provisions are no longer required.
- 3.11 As the removal of these two provisions is not expected to be controversial, it seems appropriate to propose their deletion as part of the present revision.

### ***Proposed action***

- 3.12 The available options include:
- restricting amendments to those required by the 2000 Act, leaving other policy questions for later resolution;
  - seeking to achieve alignment between the gas and electricity regulations; and
  - conducting a fundamental review of the workability of rules on reimbursement from 'subsequent connections'.
- 3.13 In order to accord proper consideration to the more complex policy issues, Ofgem considers that the first option would be the appropriate choice. The accompanying draft Regulations have been drafted on this basis.

## 4. Proposals

### *The revised gas regulations*

4.1 The attached draft Regulations incorporate changes to:

- replace references to 'public gas supplier' with 'gas transporter';
- delete Regulation 3, which refers to mains laid before the commencement of the 1986 Regulations; and to
- the explanatory note to accord with these amendments.

### *The revised electricity regulations*

4.2 The attached draft Regulations incorporate changes to:

- replace references to 'public electricity supplier' with 'electricity distributor', 'supplier' with 'distributor', and 'supply' with 'connection';
- delete paragraph 2 in Regulation 5, which refers to electric line or electrical plant provided before the coming into force of the 1990 Regulations: and to
- the explanatory note to reflect these changes.

## 5. Future action

### *Responses and confidentiality*

- 5.1 In accordance with our normal practice, we intend to make responses to this consultation publicly available through the Ofgem Library. However, if asked to do so, we shall respect the confidentiality of any response. Respondents wishing their responses to remain confidential should clearly mark the documents to that effect.
- 5.2 Ofgem would welcome views on the proposals set out in this paper and on the attached draft Statutory Instruments.

### *Timetable for the consultation*

- 5.3 The deadline for responses is **Friday, 4 May 2001**.
- 5.4 The present intention is that the two Statutory Instruments will be laid to accord with commencement of the relevant provisions of the 2000 Act.
- 5.5 Responses to this consultation should be sent to:

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