

DN Sales: Regulatory Architecture Work Group

Meeting 3 – Draft Notes

24 February 2004

Attendees:

Mike Ashworth	NGT	Lisa Waters	Waters Wye Associates
Sue Higgins	NGT	Alison Kuck	Centrica
Nigel Sisman	NGT	Steve Rose	RWE Innogy
Jess Hunt	Ofgem	Bob Bruce	Glenton Bruce
David Ashbourne	Ofgem	Paul Hughes	SSE
Jon Dixon	Ofgem	Victoria Hunter	SSE
Farook Khan	Ofgem	Russel Ward	Inexus group
John Smith	Burges Salmon		

Review of Notes from previous meeting

The notes of the previous meeting were accepted.

Review of Actions

- 1 Ofgem has received comments from two parties on the UNC discussion paper, which have also been forwarded to NGT. Following consent of the authors, these papers will be circulated and posted on the Ofgem website. Further comments were invited.
Action closed.

Issues Log

A revised version of the [Issues Log](#) was circulated. It was noted that 3 new issues have been added to the log, as follows:

- 5.5 What transitional arrangements are required to move to a new regime?
- 5.6 Will the Directions and Determinations issued to Transco under section 12 of the Gas Act 1986 apply to the new legal entities?
- 5.7 How will amendments be co-ordinated across the different frameworks post and DN sale? (is the Elexon model appropriate?)

It was noted that a report from the Agency Workgroup to the DISG was expected 02 March 04, which may provide a steer for some of the wider issues of governance.

Report from DISG

DA gave a brief update from that morning's DISG, which had been taken up largely with matters relating to the Agency and NGT separation.

When the Agency Workgroup reports back to DISG next week it is expected to focus on governance, and also on the existing arrangements which it believes are not adequately captured

by (or are wholly outwith) the Agency proposals, such as the provision of connections services etc. More details on this will be available following the presentation to DISG.

NGT had provided a paper on what, in its view, would be the appropriate degree of separation order to facilitate the sale of one of more DNs, whilst guarding against discrimination etc. The paper proposes partial rather than full separation into separate legal entities. When asked why full separation has not been pursued, NGT explained that this would not be without costs, which may be unnecessary. In particular, that NGT's costs of capital could be impacted if it were broken into separate entities, as its current borrowing is off-set against a considerable asset base. SH further explained that NGT analysis indicates that its cost of capital would not be adversely impacted by the sale of up to 4 DNs. SH went on to invite comments on what safeguards would be provided by full separation that are not already provided by the proposed new licence conditions etc.

NB. This paper was later emailed to RAWG members and is now available on the 'Gas Distribution Network Sales' area Ofgem [website](#).

The licensing framework

It was queried how the Collective Licence Modification rules will work with NGT's licence being split between NTS and DN responsibilities. FK confirmed that this is still being looked into by Ofgem, though initial thoughts are that any areas of the licence which are 'switched off' will null the licensee's ability to vote, as they will have no interest.

When asked how many licences NGT will have, FK confirmed that this will be determined by the eventual policy on the required degree of separation, but in theory could require a separate licence for each of the DN's it retains. NGT asserted its view that a single licence can cover its NTS and retained DN businesses.

It was agreed by the group that a catch up exercise to review the treatment of iGTs under the proposed new licence would be required at some point, though it was generally acknowledged that this was an exercise to be undertaken post-April.

Prior to the walkthrough on its [preliminary analysis](#) on the licence, NGT clarified that its licence has been heavily amended, and that some 'standard' licence conditions do not in fact apply to other GTs. It also confirmed that the analysis reflects the current situation, and has not sought to second guess the outcome of discussion under the CIWG, which may themselves lead to new or amended licence conditions relating to the exit regime.

The key conditions were identified as:

ASC 4A – Obligations as Regards Charging methodology

SC5 - System Development Obligations

ASC 6 - Emergency Services and Enquiry Service Obligations

SC 8 – Provision and Return of Meters

ASC 9 – Network Code

SC 16 – Pipeline Security Standards

ASC 25 – Long Term Development Statement

ASC 30 – Regulatory Accounts

SpC 26 – Prohibited procurement activities

SpC 28A – Revenue restriction definitions

SpC 28B – Restriction of revenue in respect of the NTS transportation owner activity, LDZ transportation activity and NTS system operation activity.

In addition, NGT has identified 5 new licence conditions that may appropriately be added to its licence, these are:

‘DNs to refrain from any action which would, or would be likely to, prejudice the safe and efficient operation and planning of the NTS’.

NGT commented that this would be similar to the existing obligations upon shippers regarding the network. Following suggestion, it was agreed by NGT that this condition should be reciprocal, rather than solely upon DN's as shown in the table.

It was further suggested that an obligation should be placed upon NGT (as the NTS operator) to prepare and have approved an Offtake Code. The scope of the obligation would be similar to that for the Network Code.

‘NTS to refrain from undue discrimination and undue preference against any DN’

It was suggested that this condition could incorporate all forms of anti-competitive behaviour, rather than be limited to undue discrimination.

‘Shrinkage Contract’

NGT confirmed that this would in effect permit the licensee(s) undertake trading in gas, to the extent necessary to facilitate shrinkage provision

‘Requirement for DN's to provide first line emergency response to NTS’

It was agreed that the scope of this condition could be expanded, requiring DN's to also provide mutual assistance to each other.

‘Treatment of revenue for services provided by DN's to NTS’

Again, this condition should be reciprocal and could include the provision of service from DN to DN. This condition could also capture any revenues obtained from the proposed SOMSA service, given that they are derived from regulated assets.

DA invited the group to provide comment on these proposals and welcomed suggestions on any other new conditions that may be appropriate.

Date of next meeting: Tuesday 2nd March 2004. Ofgem, 9 Millbank, London.