

1<sup>st</sup> June 2004

Mr. Nick Simpson

Office of Gas and Electricity Markets (Ofgem)  
9 Millbank  
London  
SW1P 3GE

Dear Mr. Simpson,

**Re: Notice under Section 23(3) of the Gas Act 1986 – Condition 14. The Supply Point Administration Agreement (“SPAA”)**

Further to your letter (dated 30/4/04) regarding the above notification of the changes to the standard conditions for Gas Transporters, I am writing on behalf of E S Pipelines Ltd (“ESP”) to notify you that ESP had intended to object to the proposed changes. The reasons for this are as follows:

- As the SPAA only has the governance arrangements specified at this moment in time and the areas it will govern are currently, in ESP’s opinion, not clearly defined. ESP therefore feels that it cannot make a fully informed decision with which to ascertain the effect it will have on its business in the long-term and so has some reservations whether it should accept on the basis that more time is needed by itself to fully explore the pros and cons.
- It should also be appreciated that SPAA was developed until recently on the premise that it would only relate to Transco and not include the independent Gas Transporters (“iGTs”), and iGTs were subsequently only included relatively recently which meant that ESP had only a short period to assess the licence changes when it became apparent it would affect its business.

It is only as a consequence of the meeting (date 26/5/04) with Ofgem (organised by Jon Dixon) and the verbal assurances given that ESP feels on balance it will take a risk that SPAA will not turn out to be detrimental to its business and will benefit the industry in general. Therefore ESP intends now **not** to object, I would however like to make the following comments as to the assumptions I have made on which to base the decision:

- SPAA will be limited to the governance of supply point administration and relating issues, one of which is RGMA, and will NOT expand into other areas of regulation.
- Acceptance will not be seen as accepting RGMA in its current format which is designed specifically for Transco, and that the equivalent of RGMA for iGTs will be subject to full consultation in all its aspects so it is developed specifically for iGTs.
- ESP will not find itself having to adopt systems/procedures significantly more onerous than it currently has in place.
- If anything is approved through SPAA which requires ESP to incur significant setup and/or operational costs that it had not budgeted for when setting its transportation charges based on Relative Price Control (“RPC”), or for legacy sites when calculating long-term operational costs. Ofgem will facilitate methods by which these extra costs can be re-cooped, which may include levying additional charges outside the RPC transportation charges.

- Ofgem will ensure the requirements and limitations of smaller iGTs are taken into account within SPAA. This is because potentially the larger iGTs, Transco and the future DNs may try and impose expensive systems/procedures which are beneficial to large scale operations that can spread the cost across a large number of supply points, but which would be a significant financial burden to a small iGT.
- Ofgem is aware that there are iGTs who are in a company group with a shipper that is far more significant in business terms than the iGT, and therefore these iGTs may take a group view when voting on SPAA issues. Hence there may be occasions where they will vote in ways that would be in support of their shipper's interests even if it were detrimental to them as an iGT.
- Ofgem does appreciate that the smaller iGTs are important to facilitate competition in the market and would therefore seek to ensure their interests are protected and would support appeals to any decisions made by the SPAA process where they discriminate against smaller iGTs.

As ESP does still have concerns over SPAA and the potential detrimental impact it could have on it in the future, I would request that this letter be kept on file as a record of ESP's views on the subject. This is in lie of ESP not being able to explore these issues fully through consultation because of the short timescale (bearing in mind the other issues which are currently being reviewed that have taken up significant resources and time) from the time that it was decided to include iGTs in SPAA.

If you have any queries please do not hesitate in contacting me on 01372 227561.

Yours sincerely,

Robert Wallace  
General Manager