

NOTICE UNDER SECTION 23(3) OF THE GAS ACT 1986

The Gas and Electricity Markets Authority ("the Authority") hereby gives notice pursuant to Section 23(3) of the Gas Act 1986 ("the Act") as follows:

1. The Authority proposes to modify the gas transporter licence granted to British Gas Pipelines Limited (registered number 3226380) ("the Licensee") on 28 June 2004 under Section 7 of the Act by:
 - (a) introducing a new Special Licence Condition 1 in the manner set out in Appendix 1 of this notice; and
 - (b) amending Standard Licence Condition 4A in the manner set out in Appendix 2 of this notice.
2. The purpose and effect of the modifications is to put in place arrangements to restrict charges made to shippers for transportation arrangements in order to protect the interests of consumers connected to the transportation system of the Licensee.
3. The modification would create a new special licence condition "Special Licence Condition 1. Charging of Gas Shippers – Relative Price Control".
4. The modification of Standard Licence Condition 4A relates to the estimation of reasonable profits, in particular to exclude revenues derived from charges controlled by "Special Condition 1. Charging of Gas Shippers – Relative Price Control", from the reasonable profit objective.
5. The reasons for the modification were set out in Ofgem's final proposals document "The Regulation of Independent Gas Transporter Charging – Final Proposals, July 2003".
6. It is the intention of the Authority that the modification in Appendix 1 and 2 shall take effect retrospectively from 28 June 2004.

7. A copy of the proposed modification and Ofgem's final proposals of July 2003 can be obtained (free of charge) from Indra Thillainathan, Ofgem, 9 Millbank, London, SW1P 3GE and are available on the Ofgem website (www.ofgem.gov.uk). Any representation or objection to the proposed modification should be made on or before 13 August 2004 to the address above and marked for the attention of Indra Thillainathan.

David Gray

A handwritten signature in black ink, appearing to read 'David Gray', with a stylized flourish at the end.

Managing Director – Networks

Authorised on behalf of the Gas and Electricity Markets Authority

13 July 2004

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 in 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 [under 1 (a) (b) and (c) above.]

2. For premises subject to paragraph 1 above or paragraph 3 (4) of this condition the licensee shall for each premises, unless the Authority consents otherwise in writing, charge no more than:

$$TC_t = TC_{t-1} \times wSSP_r$$

- (a) Where $TC_{t-1} \times wSSP_r$ is greater than C_t , then

$$TC_t = C_t$$

- (b) Where $TC_{t-1} \times wSSP_r$ is less than F_t , then

$$TC_1 = F_1$$

- (1) Subject to this condition at Entry-point, then

$$TC_t = SSP - CSEP$$

- (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 is not required to adjust charges in accordance with paragraph 2 above but shall modify the charges 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. 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 to premises under paragraph 1 of this condition and which have an Entry-point before 2 January 2014 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 under this condition after 2014, the Authority shall 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 Quantity means the annual quantity of gas 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 Transco'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;
- SSP means Transco'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';
- TC_{t-1} means the maximum charge the licensee may charge each premises subject to paragraph 2 of this condition in the year preceding year 't' or part thereof;
- wSSP_r means the change in the average of Transco's single supply point charge from year t-1 to year t for each Regional Network r. Regional Networks r comprise: r₁ Scotland, comprising LDZ exit zones SC; r₂ North and Yorkshire, comprising LDZ exit zones NO, NE; r₃ North West, comprising LDZ exit zones NW; r₄ East England, comprising LDZ exit zones EM, EA; r₅ West Midlands, comprising LDZ exist zones WM; r₆ Wales and South West, comprising LDZ exit zones WA, SW; r₇ North London, comprising LDZ exit zones NT; and r₈ 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 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 beyond 1 January 2014 and conducts a review pursuant to paragraph 2 (6) of this condition, the Authority will review the migration date and if necessary propose a revised migration date with the objective of achieving revenue neutrality.
- (3) 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.
- (4) From 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 premises where 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 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 transportation 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) from 1 January 2004 a maximum surcharge of 0.3412 pence per kWh of gas transported adjusted on 1 January of each year by a factor of $\left(1 + \frac{RPI}{100}\right)$. RPI has the same meaning as given in paragraph 2 of this condition;
 - (b) the surcharge has a maximum duration of 20 years from when the surcharge to the relevant shipper first falls due;
 - (c) the surcharge may only apply to existing domestic premises which have not previously received a supply of 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.
- 8.** The charging arrangements in paragraph 2 shall apply so long as this licence continues in force but shall cease to have effect in such circumstances and at such times as are described in paragraph 9.
- 9.** Pursuant to paragraph 8, a licensee, in whose licence this condition has effect, may make a disapplication request in writing to the Authority. The disapplication request shall specify the paragraphs of this condition (or any part or parts thereof) to which the request relates and shall state the date (the "disapplication date") from which the licensee wishes the Authority to consent that the specified paragraphs (or the specified parts or parts thereof) shall cease to have effect. The disapplication date is a date which is either:
- (a) not less than 18 months after the date of delivery of the request or more than three years from 1 January 2004; or
 - (b) not less than 10 years after 1 January 2004.
- 10.** The disapplication request may be withdrawn by the licensee at any time prior to the disapplication date.

- 11.** The condition (or any part or parts thereof) to which the disapplication request relates shall cease to have effect from the date specified in the disapplication request or such later date as may be agreed, if the Authority agrees in writing to the disapplication request.
- 12.** If the Authority has not made a reference to the Competition Commission under section 24 of the Act relating to the modification of this licence by the removal of the paragraphs (or any part or parts thereof) specified in the disapplication request before the beginning of 12 months which will end with the disapplication date and the licensee has not withdrawn the disapplication request, the licensee may deliver a termination notice to the Authority. Following the service of a termination notice, with effect from the disapplication date or such later date as may be specified in the termination notice such of the paragraphs (or any part or parts thereof) as are specified in the disapplication request shall cease to have effect in this licence.
- 13.** If the Competition Commission makes a report on a reference in respect of this licence made by the Authority relating to the modifications of this licence by the removal of the paragraphs (or any part or parts thereof) specified in the disapplication request and such report does not include a conclusion that the removal of such paragraphs (or any part or parts thereof) operates or may be expected to operate against the public interest, the licensee may within 30 days after the publication of the report by the Authority in accordance with section 25 of the Act deliver to the Authority a termination notice. With effect from the disapplication date or such later date as may be specified in the termination notice such paragraphs (or any part or parts thereof) as are specified in the disapplication request and in respect of which the Competition Commission report does not include the aforementioned conclusion shall cease to have effect in this licence.

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 Transco's Network Code.

"Transco" means the licensed Gas Transporter Transco including any of its network regions or distribution networks or any successors

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; and
 - (c) that, so far as is so consistent, compliance with the charging methodology facilitates effective competition between gas shippers and between gas suppliers.
- 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));
- (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
- (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.