

29 September 2004

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Dear Sonia

**Re: National Grid Transco – Potential Sale of gas distribution network businesses. Initial thoughts on restructuring of Transco plc's gas transporter Licences. Ofgem Consultation**

Thank you for the opportunity to comment on the above Ofgem consultation.

British Gas Connections has, in line with other IGTs and the AIGT, over the period of Ofgem's consideration of the issues in relation to National Grid Transco's (NGT) proposed sales of Distribution Network (DN), raised a number of specific and significant concerns in relation to the proposed network sales.

In summary these concerns focus on three key issues: -

1. The retention of arrangements post DN sales to ensure the continued availability to IGTs of a seamless emergency call-out and repair service from DN owners at reasonable cost.
2. The need to ensure that connection arrangements and agreements between NGT and IGTs are retained and honoured under alternative DN ownership.
3. The need to ensure that charging of transportation to Connected System Exit Points remains consistent across all DNs and that any scope for variability in the methodology applied by DNs which might adversely impact IGTs, is controlled and strictly regulated. In particular given the Relative Price Control applied to IGTs by Ofgem from 1<sup>st</sup> January 2004, in our view it is important that future transportation charging arrangements to connected systems are consistent with RPC and that the scope for variability over time is limited by effective licence conditions.

A fuller note produced for the DISG by the Association of Independent Gas Transporters (AIGT) and NGT circulated to the DISG members in February 2004 detailing the key issues is attached to this response. Regrettably, in our view, none of the issues raised at that time have been satisfactorily considered, resolved or significantly moved forward by the discussions held to date with NGT and Ofgem.

BGCL's underlying aim has been to ensure that the proposed sale of DNs does not adversely impact its ability to meet the needs of consumers connected to its networks, allow it to operate effectively in its chosen markets, and continues to enable it to compete effectively with the sold and retained DNs.

Turning to the detail of the Ofgem proposals we would offer the following comments:

**1. Amended Standard Condition 6 Emergency Services and Enquiry Service Obligations**

British Gas Connections believe that the current operation and reputation of the gas industry is partly built on the integrated and consistent response to emergency situations from an end user perspective. Looking forward this should in our view be considered a fundamental prerequisite of any approval for DN sales. It is essential that the current emergency arrangements including repair and reconnection are maintained across all consumers.

BGCL has consistently called for the obligation in NGT's standard licence to be broadened to cover both emergency make safe and repair for all consumers connected to its networks or those networks owned by IGTs.

Provision of a make safe and repair service at reasonable cost continues to be a monopoly activity. Neither the process of DN sales, sub-division or fragmentation of the emergency service will alter this reality. This is borne out of NGT's and DN's scale of operation and the ability to provide the emergency repair services on a marginal cost basis as an important add-on to other engineering works. All operating IGTs have contracted with NGT for these services. No viable alternative exists. The provision of emergency services including repair and gas supply restoration is not contestable and normal market forces do not apply. NGT's monopoly position exists because no independent operator has the scale of networks and number of emergency calls to set up viable or economic contracting arrangements independent from DN operations. By way of illustration of the limited scale and wide geographic distribution and costs of emergency incidents on BGCL's networks I have attached a paper indicating actual data from a typical week in both summer and winter in respect of gas emergencies on BGCL's networks. If you are agreeable BGCL shall be pleased to meet with you to discuss further the issues involved in establishing alternative Emergency Service Provision arrangements divorced from DNs for independent networks.

The continuation of a consistent and seamless emergency and repair service delivered to all gas consumers over all DNs and connected systems is a fundamental issue. The service provider needs to respond to emergencies in a timely fashion, make safe and then carries out the necessary work to allow the customer to recommence consumption. This is currently the position and must remain unaltered post DN sales in order to ensure that consumers' interests are properly protected. Therefore Ofgem must ensure, by applying suitable new licence provisions, that the full suite of emergency services continues to be provided by all DNs. In particular we would expect that the full service would also continue to be provided to IGTs, and to the NTS, both at reasonable cost.

**2. Amended Standard Condition 4A – Charging Methodology Co-ordination**

We support the proposal to limit the opportunity for the relevant Gas Transporters (DN owners) to vary prices and make arrangements to ensure co-ordination of price changes with each other. However, we believe that a more rigid requirement on valid dates and co-ordination in respect of Connected Systems should be imposed upon the licensees. We believe that treatment and methodologies relating to transportation charges by DNs to Connected Systems should be explicitly dealt with in the licences. Failure to achieve such co-ordination and consistency is over time likely to impose

unreasonable costs on IGTs, Shippers and potentially consumers, and could potentially be unworkable.

### **3. Standard Condition 33 – Registrar of Pipes**

We note that Ofgem do not intend to amend this condition as part of the DN Sales process. We also note that Ofgem are debating whether this power should be activated. However, we believe on Ofgem's interpretation that such a change is outside the DN Sales Process and as such we are unclear as to the status of any debate of the point. In our view we see no disadvantage of introducing suitable licence conditions that would ensure that accurate network records are kept, are readily accessible and that NGT and DNs have suitable liabilities on them should this not be the case. BGCL believe there may be certain key benefits in establishing a Registrar of Pipes at this time not least from a records accuracy, consistency and ease of access perspective, however these benefits must be balanced against the additional costs of such service and how these would be recovered.

### **4. Amended Standard Condition 39 – Restrictions**

BGCL believes that the redrafting of this Condition will be important to ensure that no party is able to unduly discriminate in any way with any affiliate. As the arrangements will vary between parties it is essential that all possibilities are addressed, including: DNs with IGT affiliates, Groups with more than one DN area under their control etc. This is particularly relevant with Scottish and Southern plc, a potential DN purchaser who already owns and operates an independent gas transporter, namely Scottish and Southern Pipelines Limited.

### **5. Standard Condition 41 – Cross Subsidies**

BGCL agrees that the issue of avoiding cross subsidies between DNs or NTS to DN within the same group is a fundamental requirement for the success of any comparison regulation.

### **6. Special Condition 19 – Emergency Services to or on Behalf of Another Gas Transporter**

BGCL supports the requirement for GTs to pro-actively co-operate with other GTs and IGTs on major loss of supply incidents in order to rapidly resource such occurrences and minimise supply interruption. We believe that such an approach should be embodied in the GT licence, but would not restrict this only to circumstances where a Direction is given by Ofgem. The obligation should be included in all GT Licences and cover all emergency situations, however it is important that the definition of major loss of supply is explicit in the licence and is understood by all industry participants and consumers alike. For example most IGTs would consider loss of supply to a single connected system serving more than 50 consumers as a major loss of supply whereas DN operators may have a different view of what constitutes a major loss of supply incident.

### **7. Special Condition 27 – Licensee's procurement and use of system management services.**

BGCL notes Ofgem's initial proposal to split obligations in relation to this Condition between the NTS GT and DNs. In addition we believe that the licence condition should reflect the issue of "prejudicing other Networks" in respect of all DNs, IGTs and NTS.

## **8. New Licence Conditions**

Technical Standards – BGCL welcomes the proposal to develop a new licence condition in relation to the governance arrangements applying to technical specifications and operational procedures for making connections to gas networks. In electricity different standards across operators have served to obstruct competition. The opportunity to move from a largely consistent approach to network connection under NGT stewardship to one where DN's can alter specifications, standards and procedures and thereby deliberately and inadvertently frustrate connection competition should be avoided.

In our view the development of technical standards does need to be carried out in a careful and co-ordinated manner such that system development, provision of services (i.e. emergency services) etc. can continue to be carried out on a consistent and integrated basis. We believe that this should be reinforced in the Licence Conditions.

## **9. Other Issues**

BGCL recognises that Ofgem are still developing their position in respect of actual revised Licences for the NGT businesses. However we would raise the following additional issue for consideration.

The areas to be granted to each Licensee needs to be given careful consideration (i.e. do all Licensees receive a Licence covering GB or is it geographically limited?). In our view either approach has risks and benefits particularly in respect of obligations to end consumers and in respect of competition between DNs and IGTs to develop and grow the market/network, however we believe that Ofgem should apply a cautious approach. DN licences should be restricted geographically until such time that it can be demonstrated that the granting of wider geographic areas to DN owners will not undermine the competitive playing field for IGTs and other connecting parties.

## **10. In Summary**

The scale of change to the gas industry envisaged by DN sales is difficult to fully consider by smaller industry participants such as BGCL. As such it must remain the Authority's ultimate responsibility to satisfy itself that it has properly identified and considered all factors and issues including the concerns of consumers, the safety authorities as well as large and small industry participants. In our view the scale of change should only be permitted to proceed only when Ofgem are satisfied and that there will be no degradation of service due to new owners seeing opportunities to save money or avoid costs by avoiding investment or reducing standards.

Should you wish to meet with BGCL to discuss the content of this response or any other matter please do not hesitate to contact me.

Yours sincerely

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British Gas Connections Limited

