



Ofgem
9 Millbank
London
SW1P 3GE

For the attention of Sonia Brown

energy management group

Millstream
Maidenhead Road
Windsor
Berkshire
SL4 5GD

Tel. (01753) 431051
Fax (01753) 431150
Our Ref.
Your Ref.
08 October 2004

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 referenced Ofgem consultation.

British Gas Trading (BGT) has been actively involved throughout the Ofgem process surrounding the potential sale by Transco of some of its gas distribution businesses. We are therefore familiar with the needs such a transaction would impose on the revision of Transco's existing Transporter Licence. We are also familiar with the scale of this one task (which is part of the much larger industry overhead involved with the process). As such we are very concerned regarding the relatively limited amount of time available to consider the detail of the proposals, particularly recognising that this is the first stage of a convoluted process that has been proposed to manage the transfer from one integrated Licence to a world where there are up to 9 Licences in force covering the same activities. We are therefore not responding to the detailed documents recently published providing NGT's view of possible drafting of the revised Licence Conditions at this time.

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

- a) Change Process – BGT understands the Ofgem proposal intends to retain the benefits of the CLM process and as such we would support the intent behind the proposals. However, we need to ensure that whatever route the agreement of the parties is obtained under, that it has been the subject of full and open consultation with all parties. However, in the final analysis we need to be sure that we do not create either a multiplicity of types of Licence Condition (ie Amended Standard Special etc.), nor should we lose sight of the fact that there is already another existing category of Licensed Gas Transporters, namely IGTs who could or should be affected by any changes. As such we need to understand the consequence of each type of Modification process action.
- b) Switch on/Switch off Process – we note the proposal to replicate the current powers under SC2 in respect of section C to cover sections A and B as well and support the approach as it may also allow future developments by the different Licensees. However, we are concerned that

A *centrica* business

British Gas Trading Limited Registered in England No.3078711. Registered Office: Millstream, Maidenhead Road, Windsor, Berkshire SL4 5GD
www.gas.co.uk

Ofgem's proposals on the structure of the Licences will lead to unnecessary complexity due to repetition of clauses.

c) Key Issues –

- i) Transportation Charging – BGT fully supports the changes proposed to try and minimise the frequency of transportation charge changes and the potential for differential charging. To assist Users in understanding the potential for price changes we would encourage Ofgem to approve Network Code Modification Proposal 698.
- ii) Emergency Services Co-ordination – the continuation of a seamless service delivered to all consumers that not only responds to emergencies in a timely fashion, but makes them safe and then carries out the necessary work to allow the customer to recommence consumption is a fundamental element of the market. Therefore the new Licences must ensure that the full suite of services continues to be provided. In particular we would expect that the full service would also continue to be provided to IGTs, and to the extent necessary to the NTS, both on a reasonable rate basis as described elsewhere.
- iii) SOMSA – BGT is concerned that the arrangements in this area, which will initially have to be taken as a monopoly service from Transco, should be unregulated. BGT is unconvinced that these services can be offered competitively and would therefore expect to see them regulated at least until such time as alternative sources of supply are shown to exist. We are particularly keen that these services remain regulated as we believe that in providing such services Transco must be using regulated assets. It therefore is unreasonable that any resulting costs or revenues would not be captured.
- iv) NWC, UNC etc. – BGT acknowledges the intent behind a single Uniform Network Code to ensure consistent arrangements for Users. However, the structure requiring the creation of Short-form Codes and Framework Agreements does not appear to be fully justified. Looking at the development of the new arrangements, BGT believe that the amount of work, both for Transco and the Industry, involved in setting up the new arrangements ie. creating an UNC, redefining the NWC, identifying transition rules and any run-off arrangements has been badly underestimated by Transco. As such we need to ensure that, irrespective of any decision by the Authority as to the acceptability of Sales of DNs, revised contracts that do not work or which distort the current relationship between Transporter and User are not accepted by Ofgem. To this end it must be appropriate that only changes necessary for DN sales are included and that any other preferred changes, whether identified as gateway issues or not, should be excluded from the debate at this time.
- v) Price Controls and Incentives – BGT recognise that Ofgem have previously indicated that the Transco Price Control(s) should not be reopened. However, as the details of the arrangements that are likely to be in place should any sale occur become clearer the necessity for reconsidering that position in some areas, particularly in relation to Incentives, becomes stronger. As such BGT believe that it would be appropriate to make that decision now to allow adequate time for the necessary analysis, scenario modelling and detailed drafting to be carried out in advance of any sale approval, particularly when recognising the difficulty of putting the current arrangements into each Licence. In respect of the “safety net” approach introduced by Ofgem earlier in the process BGT would advocate that this is retained until the whole sale process (if any) to parties has been completed.
- vi) Pipeline Security Standards – BGT supports the current security standards being included in all GT Licences. In addition we would recommend that a standard methodology to meet the standard be defined and placed in the UNC to provide transparency and control for Users. Separately, BGT believes that Ofgem need to ensure that the definition of “System” is sufficiently robust to address both the system of an individual transporter as well as any combination of any or all transporters (including IGTs).

- d) Licence Conditions – We do not intend to comment on each of the current conditions but offer the following thoughts:-
- i) SC 3 – Payment of Ofgem’s Fees – We believe that it may be appropriate to consider the appropriate sharing of these charges between the different Licensees and whether the apportionment mechanism still works.
 - ii) ASC4 – Charging Methodology Co-ordination – We support the proposal to limit the opportunity for Transporters to vary prices and to co-ordinate any changes with each other. However, we believe that a more rigid requirement on valid dates and co-ordination should be imposed upon the licensees. Failure to achieve such co-ordination is likely to impose unreasonable costs on Users and could potentially be unworkable, for example in areas such as Pre-payment Meter Charging.
 - iii) ASC4 (and others) – LNG – We are very concerned about the current debate on LNG Storage matters within the DISG framework. Whilst recognising there are operational and financial issues from the current custom and practice of these sites it needs to be assessed against the future concept of separation between NTS and DN activities. In addition there seems to be no recognition of a separate class of Site, namely the LNG Import Facility such as the Isle of Grain where a similar issue arises (albeit for a different NGT subsidiary), nor is there any recognition of consistency with other DN Entry (input) points.
 - iv) ASC4A – There are similar comments as in relation ASC4 above. In addition it is not clear whether this should become a SC to ensure that there are no discrimination issues between DNs and IGTs.
 - v) SC4B – Connection – Whilst agreeing in principle that no change is necessarily required, it may be appropriate to consider the interaction between DN register of pipe within its own area, any pipes elsewhere (as a competitive activity) and those of IGTs connected to the Licensee’s Network.
 - vi) ASC4E – Codes – BGT recognises that this ASC will need amending. However we are yet to be convinced that Transco’s preferred approach of UNC, Framework Agreements and Offtake Codes provides the best contractual solution to the issues raised. As such we believe further development of the UNC and the amended NWC and Transition/Run-off arrangements will be required before any clear view can be reached.
 - vii) ASC6 – As noted above BGT believe that the current operation and reputation of the gas industry is to an extent built around the integrated response to emergency situations from an end user perspective. It is therefore essential that the current policy including repair and reconnection should be maintained.
 - viii) ASC9 – NWC – BGT agree that this Condition will need to be amended and that Ofgem has identified a number of the relevant issues. However, as noted against ASC4E above we are not yet in a position to fully define the requirement for any changes. In respect of “Consent to Modify” we are not clear why there needs to be any change to the current drafting.
 - ix) SC16 – 1-in-20 Obligation – BGT supports the Ofgem proposal to include this requirement in all licences. However, we would suggest that it may need to be amended to reflect the interactions between Licensees in meeting the obligation. In addition, BGT is of the view that the condition should be amended, either to include a definition of 1 in 20 or a reference as to where the definition may be found, to ensure that all DNs and the NTS are calculating on a like for like basis, and hence that consistent standards will be met.
 - x) ASC25 – Long-Term Statement – BGT recognise that this Condition needs to be amended either to require each Licensee to prepare a document or for one GT to prepare a consolidated document. Since this document is a forecast, and ultimately the NTS is affected by all other proposals there may be benefits in requiring the NTS GT to prepare a document, which may include within it separate sections from each DN area and expanded to cover all of the system not just the high pressure element.

- xi) ASC30 – Accounts – BGT believes that the revised drafting needs to accommodate both the potential for several DNs to be in common ownership and the provision of separated data for each DN to provide the comparators necessary to deliver the benefits that Ofgem expect from a DN sale.
- xii) ASC32 – Permitted Purpose – since the DNs are likely to have to provide most of the services that Transco previously supplied it is unclear why Ofgem believe that their outlined approach will be acceptable. For example if DNs retain reference to LNG Storage this should also be referenced here. In addition we need to ensure that all regulated income is used for permitted purpose(s).
- xiii) SC33 – 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 outwith the DN Sales Process and as such we are unclear as to the status of any debate of the point. We would therefore recommend that this is either referred to DISG to debate the issue or is the subject of a separate consultation outwith the DN Sales process.
- xiv) SC38 – Data Formats – BGT agree that this will be required in each Licence both to share formats between parties and agents but also with all Users.
- xv) ASC39 – Restrictions – BGT believe that the rewriting of the Condition will be important to all Users to ensure that no party is able to 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.
- xvi) SC41 – Cross Subsidies – BGT agree 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. As such this Condition needs to be constructed such that it is robust to all challenges to the extent that broader statutory requirements to support certain activities placed on Ofgem and Licensees.
- xvii) ASC48 – Last resort Payment Claims – BGT recognise that this condition is still required. However, Ofgem need to ensure that it does not adversely interact with the requirements of ASC4
- xviii) SLC4 – Credit Rating – BGT is unclear whether the discussion of alternative Credit Agencies should be included in this debate on necessary changes for DN sales.
- xix) SLC18 – BGT notes that Ofgem are currently considering this item and looks forward to an early resolution of the issue.
- xx) SLC19 – Emergency Services – BGT support the requirement to include this in all GT Licences and to cover all emergency situations.
- xxi) SLC23 – Meter and Meter Reading Services – BGT supports the retention of this requirement in all Licences as a requirement to provide the services when requested.
- xxii) SLC26 – Prohibited Procurement – BGT believe that this area needs further consideration to ensure that all necessary activities (ie purchase and transportation of shrinkage gas; disposal of excess gas) remain as permitted activities.
- xxiii) SLC27 – BGT note Ofgem's proposals. In addition we believe that the issue of "prejudicing other Networks" needs to be considered in respect of all DNs, IGTs and NTS.
- xxiv) SLC34 – IECR Calculation – following the DISG debate on 21st September we are unclear as to whether this is still seen as just a DN activity as there is clearly the potential for DN entry Points for Gas. We would welcome further debate of this issue.

e) New Licence Conditions

- 1) Private CLM procedure – BGT support Ofgem's proposal to include the private CLM procedure within each GT Licence as a pragmatic solution to the problem of ensuring consistency between sub-sets of Licensees. We assume that the proposal has been legally reviewed by Ofgem and confirmed as being within their vires. However, whilst

A centrica business

the proposal is to create this as a Special Standard Condition it may be appropriate to consider whether it would be better as a Standard Condition and therefore applicable to all Transporters (including IGTs).

- 2) Switch on/off – as detailed above BGT support this approach
- 3) Implementation of gateway Requirements – BGT is unconvinced that all the issues identified by Ofgem as “gateway” issues are necessary for the DN sales process. We have particular concerns in including any broadly drawn powers given to Ofgem/the Authority to require development or introduce issues at a later date through this power. We believe that only issues clearly necessary and therefore complete at the time of sale should be included in the amended/new Licences.
- 4) Requirement not to prejudice the systems of other GTs – as with Pipeline Security Standards, BGT believes that this requirement should apply to all GTs and should address not only bilateral concerns between GTs but broader “System” issues. In addition BGT believes that it would be appropriate to apply the same requirement to IGTs and is unclear why Ofgem believe it is not unduly discriminatory not to do so.
- 5) Inter-Operator Agreements (including SOMSA) – as detailed above BGT believes that these activities should be regulated and hence included in the Licence arrangements. We do not believe that we have sufficient details to specify the exact nature of a Licence condition (as requested by Ofgem) but believe that it should certainly cover any activity that uses or could use Regulated Assets.
- 6) Technical Standards – We do not accept Ofgem’s assertion that a company in single ownership automatically has one standard for an activity. However, the development and co-ordination of technical standards does need to be carried out in a careful and co-ordinated manner such that system development, provision of services (ie. emergency services) etc. can continue to be carried out on an integrated basis. It is therefore appropriate to reference this in the Licence although whether an equivalent to the Grid Code is required for the gas industry is unclear.
- 7) Gas Measurement – BGT is concerned to ensure that all metering on the Network including between NTS and DN and between DNs is fit for purpose and properly maintained and operated to appropriate standards. As such it is easy to see that there is logic to reference the activity in the UNC (to allow Shippers access to data and rights to examine etc.) to the Offtake Code to ensure consistent arrangements between transporters and in the Licence itself to provide the locus and vires for the activities elsewhere.
- 8) Testing for Water Vapour – recognising the issues above (on metering) and the potential for voluntary arrangements to be withdrawn it is probably appropriate to include the necessary details in the DN Licences.

f) Other Issues – BGT recognises that Ofgem are still developing their position in respect of actual revised Licences on the Transco businesses. However we would raise the following additional areas for consideration:

- i) Notwithstanding the future ownership structure of the industry we believe that it is essential that each DN should have a separate Licence which would then relate on a 1:1 basis to the relevant Price Control. We believe that this is the best way to ensure sufficient comparators continue to exist going forward.
- ii) That the areas to be granted to each Licensee needs to be given great thought (ie. do all Licensees receive a Licence covering GB or is it geographically limited?) 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.

In conclusion BGT recognises that a great deal of work has been done in this area, but that an enormous amount still remains. The volume of paperwork being generated makes it impossible for any one party (other than possibly NGT) to manage the process and ensure that all issues have been identified and dealt with. As such it must remain Ofgem/the Authority’s responsibility to satisfy themselves that they have identified all the concerns and that they have been addressed

A centrica business

British Gas Trading Limited Registered in England No.3078711. Registered Office: Millstream, Maidenhead Road, Windsor, Berkshire SL4 5GD
www.gas.co.uk

such that there is no degradation of service to Users due to new owners seeing opportunities to save money or avoid costs by avoiding investment or reducing standards of service.

Should you wish to discuss any of our comments please do not hesitate to contact me.

Yours sincerely,

Simon Goldring
Transportation Manager