

Standard Special Condition A[]. Obligations as Regard Charging Methodology

NOTE: THE AMENDMENTS TO BE INTRODUCED UNDER THE S8AA PROCESS SHOWN BELOW AT PARAGRAPH 2A:

IMPOSE A REASONABLE ENDEAVOURS OBLIGATION ON THE LICENSEE NOT TO MAKE CHANGES TO THE CHARGING METHODOLOGY MORE THAN [ONCE] PER YEAR AND TO MAKE SUCH CHANGES ON A SPECIFIED DATE [1 OCTOBER];

OBLIGE THE LICENSEE TO KEEP THE CHARGING METHODOLOGY UNDER REVIEW AT ALL TIMES; AND

OBLIGE THE LICENSEE TO COMPLY WITH THE PROVISIONS OF THE JOINT GOVERNANCE ARRANGEMENTS RELATING TO THE ADMINISTERING OF THE COORDINATION OF CHARGING METHODOLOGY CHANGES.

1. Except in so far as the Authority consents to the licensee not doing so, the licensee shall, subject to paragraphs 2, 2A and 3, from time to time make such modifications of the methodology established in pursuance of paragraph 5 of Standard Special Condition A[] (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.

2A The licensee shall –

- (a) use its reasonable endeavours:
 - (i) not to make any changes to the charging methodology more frequently than [once] in each [financial] [formula] year; and
 - (ii) only to make changes to the charging methodology on [1 October] [and []] *(NB this date / these dates should appropriately precede the date(s) prescribed in paragraph 2(a)(ii) of the Charging of Gas Shippers – General condition)* in each [financial][formula] year;
- (b) for the purposes of ensuring that the charging methodology achieves the relevant methodology objectives, keep the charging methodology at all times under review; and
- (c) comply with the Joint Governance Arrangements (as defined in [Standard Special Condition A[][C] (Joint Governance Arrangements)]) to the extent that such arrangements relate to the administering of the coordination of any proposals referred to in sub-paragraph (a) made by the licensee with any such proposals made by any other licensed gas transporter in whose licence the condition corresponding to this condition has effect.

- 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 1 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) *save in so far as paragraph (aa) applies*, that compliance with the charging methodology results in charges which reflect the costs incurred by the licensee in its transportation business;
 - (aa) *that, in so far as prices in respect of transportation arrangements are established by auction, either:*
 - (i) *no reserve price is applied, or*
 - (ii) *that reserve price is set at a level*

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 - (I) *best calculated to promote efficiency and avoid undue preference in the supply of transportation services;*
and
 - (II) *best calculated to promote competition between gas suppliers and between gas shippers;*

- (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 Special Condition A[] (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)); and

- (iv) 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.

9. 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.
10. 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
 - (b) 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 subparagraph 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 Special Condition A[] (Definitions and Interpretation) shall cease to have effect.