

Improving the provision of gas connections services by gas transporters –

- **Revocation of the 1999 Gas Act Enforcement Order**
- **New overall standards of performance via new standard special licence condition**
- **New guaranteed standards of performance via amendment of the Gas (Standards of Performance) Regulations 2002**

Consultation and Update Document containing draft standard special licence condition and informal consultation on proposed amendment of the 2002 regulations.

December 2004

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Summary

This document forms part of an ongoing consultation process intended to reform the existing standards of performance regime in relation to the provision of connections by Transco and other gas transporters. The document provides details of Ofgem's proposals to revoke the section 28(1) Gas Act enforcement order (the Order) which was imposed on Transco in February 1999, and to introduce a new standard special gas transporters' licence condition containing overall standards of performance designed to incentivise Transco to deliver reasonable levels of performance in respect of connection services provided by its gas distribution network (DN) businesses. The document also provides an informal opportunity to comment on Ofgem's initial proposals in respect of new guaranteed standards of performance that will apply to all gas transporters, including independent gas transporters, through amendment of the Gas (Standards of Performance) Regulations 2002, which will apply to connection requests from customers (or prospective customers) of suppliers, i.e. end customers.

These proposals are intended to improve protection for customers who receive poor service and to provide incentives for gas transporters to provide connections services in an efficient and economic manner. The proposals take account of National Grid Transco's (NGT's) intention to sell several DN businesses during 2005 and the fact that the Order can only apply to Transco. The proposals also take account of the development of competition since the Order was introduced, particularly in respect of new housing developments and larger non-domestic one off connections. Ofgem's proposals represent a significant extension of the regulatory protection provided to end customers requesting connections services direct from gas transporters and a rationalisation of the standards of service imposed by the Order.

Ofgem proposes that the substance of the new arrangements should be put in place in March / April 2005 before the new licence condition and regulations formally come into effect in mid 2005. This will allow the new systems to bed down before the Transco DN sales process is concluded and should help to minimise disruption to customers.

Transco has voluntarily agreed to make payments to customers not protected by the new regulations to ensure that their level of protection is equivalent to that available to end customers. Ofgem would encourage other DNs to adopt the same position. If other DNs do not follow Transco's example Ofgem will have to consider the need to amend section 33AA of the Gas Act.

It is important to note that even if the DN sale process does not proceed, Ofgem's intention is still to move forward in respect of connections on the basis of the proposals set out in this document.

This document also summarises the responses to Ofgem's April 2004 consultation 'Improving Transco's provision of gas connection services – consultation on revocation of the 1999 Gas Act enforcement order and modification of Transco's gas transporters licence' and the discussions at the Ofgem workshop on 15 July 2004.

Ofgem intends to hold a further workshop to discuss the way forward at Ofgem on Wednesday 26th January 2005. Please indicate in any response submitted to this document whether you wish to attend the workshop.

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1. Introduction

- 1.1. In April 2004, Ofgem consulted on a proposal to revoke the 1999 Gas Act enforcement order (the Order) and replace it with a modification to Transco's gas transporters licence¹. The consultation asked customers how such a licence condition could best incentivise Transco to deliver reasonable connections performance. In July 2004, Ofgem held a workshop for interested parties to discuss further Ofgem's proposals².
- 1.2. The April 2004 document followed the March 2003 update³ and November 2002 consultation⁴ documents. These documents related to the provision of gas connection services by Transco and in particular:
 - Transco's compliance with the 1999 Enforcement Order;
 - the accuracy of quotations received from Transco to enable the provision of infrastructure and self lay connections services provided by Independent Connection Providers (ICPs);
 - the timeliness of effective response to queries in respect of existing quotations; and
 - timely attendance on site and effective undertaking of siteworks.
- 1.3. These documents followed complaints about Transco's performance. The principal purpose of the earlier consultations was to establish whether the complaints were isolated incidents or indicated more widespread shortcomings in Transco's provision of connection services.
- 1.4. In May 2004 the Authority found that Transco had acted in contravention of section 9 (1) (a) of the Gas Act and imposed a financial penalty of £1m.

¹ Improving Transco's provision of gas connection services. Consultation on revocation of the 1999 Gas Act Enforcement Order and Modification of Transco's transporters licence (27/04 April 2004)

² A summary of this workshop can be found on the Ofgem website (www.ofgem.gov.uk)

³ Provision of gas connection services by Transco – Update document (12/03 March 2003)

⁴ The Provision of gas connection services by Transco – A Consultation document (75/02 November 2002) Consultation and Update Document containing draft standard special licence condition and informal consultation on proposed amendment of the 2002 regulations

- 1.5. Following the July 2004 workshop Ofgem concluded that a licence condition requiring gas transporters to make payments to customers for failures to achieve guaranteed standards of service could only be made via regulations under section 33AA of the Gas Act and that such regulations could not apply to the customer groups currently protected by the Order, i.e. ICPs, shippers/suppliers and other gas transporters. Ofgem has therefore had to review its proposals.
- 1.6. Ofgem still considers that the Order should be replaced with a more effective regime to deliver improved connections performance by gas transporters. Although the Order delivered improvement in Transco's performance in terms of the timeliness of provision of quotations, the Order does not adequately address all the areas of service which now concern customers. Ofgem considers that action is required to ensure enhanced customer protection, improved delivery of connections services and improved scope for effective regulatory action where poor performance is identified. This is particularly relevant because if NGT sells some of its DNs the bulk of connection services in those DNs would, at least initially, be provided by Transco's service provider, Fulcrum Connections, on a contractual basis with the new DNs. It was, in the main, poor performance by Fulcrum Connections that led to the Authority's enforcement action against Transco in May 2004.
- 1.7. Ofgem proposes to revoke the Order and replace it with the introduction of two sets of new standards of performance – guaranteed standards via amendment of the existing Gas (Standards of Performance) Regulations 2002, and overall standards via a new standard special licence condition. The guaranteed standards will apply to all gas transporters and will protect customers or potential customers of suppliers (i.e. end customers) while the overall standards will require DN gas transporters to reach a specified overall level of performance in relation to all customers requiring connection services. In addition, all gas transporters will be required to provide audited performance data in relation to the overall and guaranteed standards as appropriate and to provide a formal process for customers to formally challenge the validity of quotations. Ofgem proposes that both the proposed regulations and licence condition only apply to connections below 7 bar which was the point at which the Order ceased to apply. However, Transco considers that 2 bar would be a more sensible cut-off point.

- 1.8. Ofgem believes that the ICP, shipper / supplier and gas transporter customer who currently benefit from payments under the terms of the Order should continue to receive payments where performance is poor. Following discussions with Ofgem NGT has agreed to voluntarily make financial payments to shippers / suppliers, ICPs and other gas transporters as if the proposed guaranteed standards of performance did apply to those customer groups. Ofgem is pleased that NGT has agreed to take this step and, if DNs are sold, would encourage the sold DNs to follow NGT's example. If the sold DNs do not follow NGT's example Ofgem would have to consider the need for amendment of section 33AA of the Gas Act to enable the protection provided by guaranteed standards of performance to be extended to these customer groups.
- 1.9. This document contains the draft standard special licence condition and outlines the proposed guaranteed standards in advance of a formal consultation process to modify the Gas (Standards of Performance) Regulations 2002 that will commence in January 2005. The draft standard special licence condition is also contained in the Ofgem consultation document "National Grid Transco – Potential sale of gas distribution network businesses – Licensing : Next Steps issued on 25 November 2004 accessible on website (www.ofgem.gov.uk).
- 1.10. It is open to respondents to mark all or part of their responses as confidential. Responses that are not marked as confidential will be placed in the Ofgem library and published on the Ofgem website.
- 1.11. Responses to this document should be sent to Sean O'Hara by e mail at sean.o'hara@ofgem.gov.uk

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Responses should be received by Ofgem by 7 January 2005.

2. Ofgem's proposals

- 2.1. Ofgem proposes to revoke the Order on Transco and to introduce new overall standards of service via a new standard special licence condition to provide incentives to all DNs to provide a reasonable level of performance for customers requesting connection services. Ofgem also proposes to amend the Gas (Standards of Performance) Regulations 2002 (the regulations) and place guaranteed standards of performance on all gas transporters, (including independent gas transporters), in relation to specified connections services provided to customers or potential customers of suppliers. Both the licence condition and new regulations will also require relevant gas transporters to operate an accuracy challenge scheme and provide audited performance data in relation to connections. This chapter discusses the principles underpinning the new standard special licence condition and amendment of the regulations
- 2.2. The new overall standards should be set at a level that it is reasonable to expect a gas transporter to achieve. Existing overall standards of performance that apply to various aspects of gas transporter performance are in the majority of cases set at a target level of 90%, including the standards imposed by the Order. The licence condition will provide for certain categories of connections requests to be excluded from the scope of the new regime, for example certain categories of "complex" quotation that a gas transporter cannot reasonably be expected to produce within the target timescales. The categories of connection that are subject to such exclusion must be agreed by the Gas and Electricity Markets Authority ("the Authority"). In proposing the timescales / payments shown Ofgem has taken account of the fact that the proposed new regulations will result in a significant expansion of the overall quantity of connections jobs that are covered by standards of performance and the fact that in certain cases the performance targets set by the Order are no longer appropriate.
- 2.3. The amended regulations will provide incentives for all gas transporters to provide reasonable connection services to end customers through guaranteed standards of performance with automatic financial payments associated for failure. Additionally there will be information and audit requirements specified in both the new regulations and licence condition in order to ensure that Ofgem

can identify poor performance / undue discrimination and take effective regulatory action.

New standard special licence condition

- 2.4. The new standard special licence condition as published in the Licensing : Next Steps document referred to at 1.9 above is set out at appendix 1. Please note that the draft licence condition will as a minimum, require amendment to refer specifically to an overall standard in relation to substantial completion.
- 2.5. Ofgem has proposed ranges of performance targets in terms of working days and invites comments from respondents as to the appropriate targets.
- 2.6. NGT has agreed to apply the standards in the regulations, together with associated payments for failure, to the customer groups not covered by the regulations. Ofgem will approach the DTI regarding amendment of section 33AA of the Gas Act to cover all customer types in the event that some DNs do not agree to adopt NGT's approach. The proposed ranges of payments to be applied under the regulations are set out below

The new regulations

- 2.8. The regulations will introduce guaranteed standards of performance which will in most cases cover the same areas of work as the draft standard special licence condition at appendix 1. It is probable that there will also be additional guaranteed standards regarding the timing of appointments as a result of the rationalisation of some of the existing guaranteed standards of performance that apply to connections as well as certain other gas transporter activities. For reference purposes, the licence condition sets out proposed definitions relating to working day etc. With regard to financial payments Ofgem's initial proposal is that payments should be made on the following basis.
 - Payments will be made automatically in every case where a gas transporter fails to meet the required standard.

- Payments will be made in respect of every working day (as defined in the licence condition) that the gas transporter fails to provide the requested service.
- Gas transporters will be required to make the payment to the customer directly (or to a supplier for onward transmission within 20 working days). Where they fail to do so they will be required to make an additional payment of £20.
- Payments shall be in the sum of £20 per day for standard and non-standard quotations for new or altered connections / land enquiries / substantial completion capable of up to and including rates of flow of 275kWh per hour.
- Payments shall be in the sum of £40 per day for non-standard quotations for new or altered connections / land enquiries / substantial completion where capability of rate of flow is expected to exceed 275kWh per hour.
- Where a gas transporter commits to achieving substantial completion of a connection on a certain date and fails to do so the gas transporter shall pay to the customer a sum of £20 per day in respect of connections capable of up to and including 275kWh per hour and £40 per day in respect of connections capable of transporting gas at flow rates that exceed 275kWh.
- Where a customer challenges the accuracy of a gas transporter's quotation / land enquiry and the quotation / land enquiry is found to be inaccurate the gas transporter shall refund any overpayment the customer has already made and shall pay to the customer a sum of £100 in the case of standard and non standard quotations capable of up to and including rates of flow of 275kWh.
- Where a customer challenges the accuracy of a gas transporter's quotation / land enquiry and the quotation / land enquiry is found to be inaccurate the gas transporter shall refund any overpayment the customer has already made and shall pay to the customer a sum of £200

in the case of non-standard quotations where rates of flow capability exceed 275kWh per hour.

- Payments made to a customer in respect of each individual standard failure shall not exceed £250 in the case of standard and non-standard quotations / land enquiries / substantial completion capable of up to and including rates of flow of 275kWh.
- Payments made to a customer in respect of each individual standard failure shall not exceed £500 in the case of non-standard quotations / land enquiries / substantial completion where rates of flow capability are expected to exceed 275kWh.

2.9 Please note that payments are capped in relation to individual jobs and each individual standard i.e. a customer who receives a late quotation, which subsequently is found to be incorrect, and where subsequently the gas transporter fails to achieve substantial completion on time will receive up to the cap in respect of each of the standards failed.

2.10 Ofgem invites comments in respect of Ofgem's initial proposals regarding:

- payments to be associated with the new regulations;
- work area definitions;
- definition of accuracy;
- the job specific payments cap;
- the nature of the audit to be undertaken; and
- the nature of the information to be reported to Ofgem.

Exclusions from the overall and guaranteed standards

2.11 Ofgem considers that to be reasonable and to take account of the development of competition it may be appropriate for the new regime not to apply to certain requests for connections. If certain categories of connection are excluded from the scope of the licence it will be necessary to define new arrangements to

ensure that such customers are not unduly disadvantaged by their exclusion from the new regime. Gas transporters will be required to propose exclusions for agreement by the Authority. Possible exclusion categories:

- new residential/industrial/commercial developments comprising of more than 6 premises in respect of which a request or requests for connection will be made.
- premises connecting to the network at a pressure above 2 or 7 bar.
- complex connections - generally connections involving a degree of technical or other complexity that would invariably require more time to produce quotations than would meet the required standard. For example, connections involving river or rail crossings or where a legal right of way needs to be gained from a third party. In addition, certain categories of reinforcement associated with a connection might require additional time or be subject to a requirement for a feasibility study.

2.12 Ofgem invites comments on the principle of excluding certain categories of connection and the possible exclusion categories listed above. Ofgem also invites comments regarding alternative arrangements to protect those customers excluded from the regime proposed in this document. Such arrangements could include gas transporters' performance in respect of such customers being reported to Ofgem to enable Ofgem to identify poor levels of service and take appropriate regulatory action.

3. Summary of responses

- 3.1 This chapter provides a brief summary of the responses to Ofgem's April 2004 consultation document and the discussions held at Ofgem's industry workshop on 15 July 2004. Copies of the consultation responses and the workshop presentations can be found at [HYPERLINK
http://www.ofgem.gov.uk/ofgem/work/index.jsp?section=/areasofwork/connections](http://www.ofgem.gov.uk/ofgem/work/index.jsp?section=/areasofwork/connections)

Consultation Responses

- 3.2 Ofgem received 7 responses to the connections consultation document 'Improving Transco's provision of gas connection services – consultation on revocation of the 1999 Gas Act enforcement order and modification of Transco's gas transporters licence' published in April 2004. 5 responses were from shipper/suppliers, 1 was from a UIP and 1 was from Transco. The overview of responses is set out below and a full summary is at appendix 2.

Overview

- 3.3 The majority of respondents supported the replacement of the Order with a new licence condition on Transco and any company purchasing a DN from NGT.
- 3.4 The majority of respondents supported standards of service that were applicable to all customers.
- 3.5 The majority of respondents agreed that standards of performance and payments for failure should take account of whether Transco was dominant in a market sector. There was agreement that Transco was still very dominant in the domestic one-off connections sector and smaller non-domestic one-off connections sector. Most respondents agreed that competition was effective in the new build housing sector except for small developments, typically < 12 premises.

- 3.6 All respondents wanted standards for quotation provision. A majority felt there should be standards for substantial and final completion, point of connection (POC) information, design approval and keeping appointments.
- 3.7 All respondents supported automatic, job specific payments every time a standard was failed.
- 3.8 The majority supported an ongoing incentive in relation to payments for failure but also supported a payments cap of some form remaining in place.
- 3.9 The majority supported the need for some form of accuracy standard or challenge scheme as poor quality information and inaccurate quotations were still considered to be a significant problem.
- 3.10 Overall, respondents felt further consultation or discussion was needed.

Workshop responses

- 3.11 Ofgem held a workshop on 15 July 2004 in response to requests for further discussions on the nature of the licence condition. Over twenty delegates from gas transporters, ICPs and shippers / suppliers attended. An overview of the discussions is set out below and a full summary is set out at Appendix 3.
- 3.12 The morning session featured presentations by Ofgem, British Gas Trading, Exoteric Gas Solutions and National Grid Transco. The afternoon featured discussions within two workgroups selected from attendees. Each group considered a series of questions for discussion. The outcomes of these discussions are set out below.

Workgroup recommendations

- 3.13 Items resulting in consensus
- Any interested party should be able to propose changes to the new regime but any change process should be subject Ofgem approval.

- The standards should be split into bandings to reflect the different time requirements of connections for different loads.
- There should be standards for POC, design approval, producing a quotation, keeping an appointment and completing the job. Some attendees felt there should be more standards; for example, for acknowledgment of receipt of a quotation request and to continue with the same standards as are currently in place in the Order.

3.14 Items not resulting in consensus

- With regard to payments for failure, one workgroup felt there should be one payment for all the standards. The other workgroup felt payments should vary depending on the type of connection. Most attendees felt there should not be a cap on payments.
- There was no consensus on exclusions to the standards.
- It was generally agreed that the current independent accuracy audit was of little value. It was also agreed that some form of accuracy challenge scheme or standard is required.
- Regarding liquidated damages included in the Transco siteworks contract, attendees felt Ofgem should be more involved, either through the licence or contract approval.

Overall summary of responses and workshop

3.15 The overall view was that the Order should be replaced with a new regime which extends protection to all customer groups and which requires compensation to be paid when gas transporters fail to provide an acceptable service. Also, the new regime should be simpler in structure with enhanced audit and reporting arrangements and a more user friendly process for customers to challenge the accuracy of quotations. Customers had concerns about governance of the siteworks contract now and in the future.

3.16 Many respondents agreed that in the longer term, effective competition in gas connections would resolve many of their concerns. However, in the short term,

improvements to Transco's services through Ofgem's intervention were required.

4. Next Steps Timetable

- 4.1 The deadline for responses to this consultation document is 7 January 2005.
- 4.2 It is Ofgem's intention to revoke the Order with effect from 1 March 2005 and that from 1 March 2005 NGT will operate on the basis that the Order has been replaced by the proposed new licence condition and regulations and that NGT will make payments to ICPs, shippers / suppliers and other gas transporters as if those categories of customer were protected by the regulations.
- 4.3 Ofgem intends to undertake a formal consultation regarding the amendment of the regulations in January 2005.
- 4.4 Ofgem has noted the concerns expressed by some customers in relation to connections services above 7bar and will consult on this issue during 2005.

Appendix 1 – Draft Standard Special Condition

D10 – Provision of connections

Standard Special Condition D10. Provision of connections information

[N.B. NEW CONDITION TO BE INSERTED IN THE LICENCES OF ALL LICENSEES REQUIRING THEM TO MEET CERTAIN STANDARDS IN THE PROVISION OF

- **QUOTATIONS FOR OBTAINING NEW OR ALTERING EXISTING CONNECTIONS;**
- **THE PROVISION OF POINT OF CONNECTION INFORMATION;**
AND
- **APPROVAL OF DESIGNS FOR THE PROVISION OF NEW OR THE ALTERATION OF EXISING CONNECTIONS**

THE CONDITION WILL BE LIMITED TO DOMESTIC AND SMALL COMMERCIAL CONNECTIONS.]

1. This condition applies (subject to paragraph 7) to the provision by the licensee of connections to the licensee’s pipe-line system in respect of:
 - (a) the provision of quotations for obtaining a new or altering an existing connection; and
 - (b) responding to land enquiries
2. The licensee shall procure that where this condition applies:
 - (a) 90% of standard quotations for obtaining a new connection or altering an existing connection up to and including rates of flow of 275 kWh per hour are issued within [eight -ten] working days of receipt of the request;
 - (b) 90% of non-standard quotations for:
 - (i) obtaining a new connection or altering an existing connection up to and including rates of flow of 275kWh per hour are issued within[ten - fifteen] working days of receipt of the request;

- (ii) obtaining a new connection or altering an existing connection where rates of flow exceed 275kWh per hour are issued within [fifteen – twenty-five] working days of receipt of the request;
 - (c) the licensee shall provide a scheme through which customers can check the accuracy of quotations and in the event that the licensee provides an inaccurate quotation the licensee shall adjust any charge made to the customer to the amount due under the accurate quotation;
 - (d) in 90% of cases replies to land enquiries are issued within [eight - ten] working days of receipt of the request;
 - (e) In 90% of cases new or altered connections are substantially completed within the timescales agreed with the customer.
- 3. Where a request is received after 5pm on any day it shall be deemed for the purposes of this condition as having been received on the next working day.
- 4. The licensee shall collect Specified Connection Information from and including [INSERT DATE] and shall provide such Specified Connection Information to the Authority on such dates and in respect of such periods as the Authority shall direct, but in any case not more than 4 times per annum.
- 5. Save where agreed with the licensee the Authority shall not require the licensee to collect or provide Specified Connection Information to a greater level of detail than previously collected.
- 6. The Licensee shall not less than four times in any twelve months
 - (a) carry out an audit of the accuracy of quotations referred to in paragraphs 1(a) of this condition by checking the accuracy of a sample of quotations as proposed by the licensee and agreed by the Authority;
 - (b) carry out an audit of such other information relating to Regulations made under section 33AA of the Act as proposed by the licensee and agreed by the Authority .
- 7. This condition shall not apply to requests for connections:
 - (a) to residential developments;
 - (b) to industrial developments;

- (c) to premises at a pressure of more than [2 or 7] bar gauge;
- (d) which are complex connections; or
- (e) where the customer has failed to provide to the licensee such information as the licensee will require from the customer in order to provide a quotation.

8. For the purposes of this condition only:

“accurate quotation” means in respect of a quote for a domestic customer within 5% or £75 (whichever is the greater) and in respect of a quote for a non-domestic customer within 5% or £200 (whichever is the greater) of the correct amount as calculated in accordance with the licensee’s published accuracy scheme;

“complex connection” means a connection of sufficient complexity as described in a statement issued from time to time by the licensee and agreed by the Authority;

“connection” means the connection of a service (or any part thereof) under sections 9(1)(b) and 10(2) Gas Act for the establishment of a new or alteration to an existing supply meter point on to the licensee’s gas transportation system where service means pipe (if any) installed or to be installed between any main and any emergency control valve at the relevant premises.

“industrial development” means a development of at least 6 industrial or commercial properties where there is no existing connection to the licensee’s pipe-line system;

“land enquiry” means an indication of the availability of gas, an estimate of pressure that will be available, an estimate of the cost of the connection and where appropriate the approval of designs for the provision of a new or alteration of an existing connection ;

“non-standard quotation” means a quotation other than a standard quotation.

“Specified Connection Information” means:

- (a) the number of requests which the licensee has received for each of the services referred to in paragraph 1;
- (b) the number of requests for each of the services referred to in paragraph 1 in respect of which the licensee has provided the requested service within the timescales set out in paragraph 2 (a), (b), (c) and (d);
- (c) the amount of compensation paid under a scheme made by the licensee (if any) for the purpose of compensating persons not entitled to compensation under Regulations made under section 33AA of the Act;
- (d) the amount of compensation paid under a scheme made by the licensee (if any) for the purpose of compensating persons for failure to provide an accurate quotation; and
- (e) the results of the audit carried out under paragraph 3 above .

“residential development” means a development of at least 6 domestic properties where there is no existing connection to the licensee’s pipeline system

“standard quotation” means a standard quotation as defined in the connections charges statement issued by the licensee in accordance with Standard Condition 4B of this licence ;

“substantially completed” means that the relevant equipment, including regulators, pipe-work, valves and associated apparatus upstream of the emergency control valve and as more particularly described in the relevant contract has been installed, commissioned and left safe;

“working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday within the meaning of the Banking and Financial Dealings Act 1971.

Appendix 2 – Consultation Issues

2.1 Below is a more detailed summary looking at each consultation issue.

Revocation of Order/ new licence condition

2.2 The first consultation issue was whether the Order should be revoked and replaced with a new licence condition.

Summary

2.3 The majority of respondents agreed the order should be revoked and replaced with a licence condition. The majority agreed that the licence condition should apply to Transco and to any DNs sold by NGT. Three respondents felt it should also apply to IGTs. Two respondents thought the Order should be retained. One felt Ofgem had no justification to impose a new licence condition on third parties that have not been in breach of Act or licence.

Type of licence condition

2.4 Ofgem asked for views on the type of licence condition that should be introduced.

Summary

2.5 There was no consensus on the form of licence condition. However, four respondents agreed that the standards should apply to all customer groups.

2.6 One respondent said the body of the licence condition could be placed in SLC20 and should be similar to SLC4B. The licence condition should govern a subsidiary document that defines the standards, business rules and their application.

2.7 One respondent said the licence condition should not allow standards to be changed through a document subsidiary to the licence unless Transco had a right of appeal.

2.8 One respondent said that the licence condition should state when and to whom compensation is payable, the compensation levels and when it should be paid.

The terms of the licence condition should not be amendable by Transco's internal processes (i.e. not like the current business rules). The licence condition should be explicit about what Transco is required to do, not how it is required to do it.

Standards of service

- 2.9 Ofgem asked for views on what standards were appropriate and whether they should be split between services where Transco is and isn't dominant.

Overall

- 2.10 The majority of respondents agreed that where Transco was dominant, customers required protection through standards.
- 2.11 Three respondents felt that service alterations work and metering should be included as Transco is also dominant in these areas.
- 2.12 Some respondents stated that Ofgem should ensure that Transco does not just work to the minimum requirements, that the standards should be reviewed annually and that Transco must resource adequately to meet the standards.
- 2.13 One respondent felt that there is already sufficient provision under the existing guaranteed and overall standards of performance and the introduction of a third mechanism just for connections could be confusing and unjustified.

The market

- 2.14 Respondents agreed that standards should reflect the different market sectors. There were different opinions on what the market sectors were. One respondent said an objective test is required to establish where standards are needed.
- 2.15 The majority of respondents agreed that Transco remains dominant in domestic and non-domestic one off connections although competition is developing at the larger end of the market.

- 2.16 Three respondents felt that competition is established in new housing with more than 12 dwellings (Transco retains 25-30% of market) and no standards should apply.
- 2.17 Market sectors defined by respondents were: new housing/multiples, non-domestic (small, medium and large) and domestic one offs.
- 2.18 Two respondents agreed that competition is emerging in non-domestic one off connections and standards should be set to encourage competition. One respondent felt Transco was still dominant in everything except for new housing.

The standards

- 2.19 Two respondents agreed with Ofgem's proposals.
- 2.20 Transco felt that post acceptance issues should be dealt with under the existing Guaranteed Standard of Performance 3 (making and keeping appointments) and payment of liquidated damages for failure of completing siteworks. There should be no standards for provision of POC or design approval.
- 2.21 Over half of the respondents felt standards must reflect overall performance. For example, an inaccurate quotation sent within the required timescales will not be compliant.

Standards required

- 2.22 All respondents felt there should be standards in place for quotation provision. The majority felt there should be different standards for different types of work or market sector.
- 2.23 All but Transco felt there should be a standard for substantial completion (SC) and final completion (FC).
- 2.24 Four respondents felt there should be a standard for POC, design approval and keeping a site appointment.

- 2.25 Three respondents felt there should be a standard for making a site appointment, metering and service alterations.
- 2.26 Two respondents felt there should be a standard for a planning date.
- 2.27 Deferrals, provision of meter point reference numbers (MPRN), disconnections, acknowledgement of quotation request and acknowledgement of quotation acceptance were all recommended by one respondent as requiring a standard.

Timescales

- 2.28 One respondent felt the required timescales should be in line with the existing guaranteed standards of service.
- 2.29 One respondent felt that eight days to produce a quotation is acceptable as long as it is accurate. This should include a site visit where required.
- 2.30 One respondent's recommended timescales were POC (5 working days (wd)), design approval (10wd), quotation (mutual agreement, domestic one off no survey 3wd, other 8wd), site appointment date (domestic) (5wd), site survey date (others), keeping site date (domestic only), achievement of SC, provision of MPRN.
- 2.31 One respondent's proposed timescales were POC D + 1[□], domestic one-off (desktop/ site visit) D + 3/8, I&C one-off (no reinforcement/reinforcement) D + 8/12, GT/self lay enquiry D + 3, GT/self lay quotation (no reinforcement/reinforcement) D + 5/9, domestic multiples (12 or less) D + 10, domestic multiples (more than 12) D + 15, I&C multiples D + 10, disconnections D + 5. Design approval D + 3. Acknowledgement of receipt of quotation request within 24 hours. Acknowledgement of quotation acceptance D + 1. Planning date D + 1. Lead times should be varied dependent on value of job. Keeping site attendance date, substantial completion and final completion all needed payment for failure.

[□] D + ? means day of receipt of quotation request plus the number of working days Transco has to complete the task

Payments for failure

Summary

- 2.32 All seven respondents agreed that there should be payments for failure. They agreed they should be automatic and job specific.

Payments cap

- 2.33 The majority (5) felt a cap should be retained in some form.
- 2.34 One felt the cap should be removed entirely.
- 2.35 Those in favour of the cap being retained preferred either: keeping the cap focused on individual payments, a cap on penalties in any one calendar year, a cap by contract sum with a minimum of compensation guaranteed and increasing the cap to 10% of the revenue derived from connections.

Level of payment

- 2.36 Four respondents felt that the levels of payments need to reflect the different variety of connection requests. This could either vary between domestic, non domestic and new housing or by the value of the job or by commercial contract levels.
- 2.37 Two respondents felt the payment should be the same regardless of customer type. Different regimes for different market sectors would be overly complex and confusing for customers. Clear definitions are needed to avoid disputes.
- 2.38 One respondent felt that payments should be in line with existing guaranteed standards of performance payments.
- 2.39 One respondent suggested 50% of contract sum to be paid for failure to substantially complete with further 5% a day until it is achieved. The total could be capped by the contract sum. If Transco didn't achieve substantial competition in 11 days they would not be paid. Small value projects could get a minimum payment of £100 + £20 a day.

- 2.40 One respondent suggested the following: POC £20 a day then £20 every 3 wd to a maximum of £100, design approval £20 then £20 every 5wd up to £100, quotation (mutual agreement, domestic one off no survey 3wd, other 8wd, 1% of quotation value minimum £20 and max £1000), site appointment date (domestic) (5wd, £10 every 2wd max £50), site survey date (others)(£10), keeping site date(domestic only)(£20 then £20 for every failure up to £100), achievement of SC (5% quotation value min £50 max £5000), provision of MPRN (£10 initial failure £10 every 2wd max £50).
- 2.41 One respondent suggested the following: a daily increase of £100 until day 5 when each subsequent day will be £1000. Lead times should be varied dependent on value of job but with the same liability payments. Failure to keep appointments should receive £2,500 for each broken appointment then with a daily increase until day 5 when it goes up to £5000. Substantial completion and final completion should incur a £2,500/1000 payment with daily payments of £100 until day 5 when it raises to £5000/2500. Provision of design approval D+3 - £500 daily increment until Day 5 when it is £5000.

Ongoing failure

Summary

- 2.42 The majority of respondents agreed that there needed to be ongoing incentive in the form of payments for failure.

Detail

- 2.43 Two respondents wanted a daily increase in payments for failure. One recommended a daily increase of £100 until day 5 when each subsequent day will be £1000.
- 2.44 One respondent felt there should be clear incentive for Transco to deal with the longest delayed quotations first.
- 2.45 One respondent felt the customers should recover all their costs via the payment and one felt that any payment should allow a shipper/supplier to cover its administration costs.

Accuracy and associated payments

2.46 Customers challenging the accuracy of information provided by the GT:

Summary

2.47 The majority of respondents felt that some form of accuracy standard or challenge scheme is required as accuracy of quotations and poor information provided continues to be a problem.

Details

2.48 There was no consensus on what form the scheme should take. One respondent stated that what actually constitutes an error needed to be agreed, One respondent felt the current scheme should continue, One respondent felt the current scheme should be kept but become voluntary, Two respondents felt the current scheme is flawed and needs to be simplified. One respondent felt that inaccurate quotations should trigger payments of £1000 for each incorrect quotation or response.

Accuracy audit

Summary

2.49 There was no real consensus. Four respondents said the principles of an independent audit should remain and one felt it should be removed.

Detail

2.50 Transco proposed to carry out its own internal audit which could be subject to some form of external audit. One respondent felt it should remain unchanged, One felt it should be kept in the licence condition but only switched on when needed, one felt the auditor should be appointed by, report to and be paid by the Authority. Transco should then pay the Authority the costs.

Recovery of monies

- 2.51 The consultation stated that Ofgem believed payments made on standards should not be passed through to customers.
- 2.52 Three respondents did not think costs relating to payments for failure should be passed through to customers and should come off Transco's (or any other gas transporter's) bottom line.
- 2.53 Transco stated it would be inefficient to be resourced to a level that would ensure no failure occurred. Therefore an underlying efficient level of failures should be agreed and Transco provided with sufficient revenues to cover the associated payments. Any failure above this level would be borne by Transco.
- 2.54 Transco also stated that the costs for implementing system changes would need to be recovered.

Monitoring

- 2.55 One respondent felt there should be an annual review to assess the standards to ensure they are challenging and providing a good customer service. The accuracy of quotations, number of deferrals and extent of delays need to be monitored. Standards reporting should continue to be published monthly to customers as it is in relation to the standards introduced by the Order.

Exclusions

- 2.56 The consultation asked whether there should be any exclusions from the standards.

Summary

- 2.57 Four respondents felt there should be exclusions and they should be clearly defined.
- 2.58 One respondent felt there should be no exclusions.

Detail

- 2.59 One respondent thought the following services should be excluded: jobs above 7 bar, requests where work exceeds £25K, CHP and Compressed Loads, infills, POC, design approval for UIPs, new housing and customer's requests for quotations on non standard terms.
- 2.60 One respondent felt the exclusions should be as defined by the existing guaranteed standards of performance.
- 2.61 One respondent felt they should be kept to a minimum and the licence condition should state that those services excluded must be treated reasonably by Transco.

Other issues raised by respondents

- 2.62 One respondent stated that the extension of standard pricing in the domestic and small I&C markets could enhance service delivery to customers. Several respondents competition to develop in the longer term.

Appendix 3– Workshop

- 3.1 Set out below are the issues discussed and the comments made by the workgroup members.

Type of licence condition

There was no consensus from respondents to the April 2004 document on what type of licence condition should be imposed. The licence condition will require a supporting document. What change control mechanism is required for that supporting document?

- 3.2 Attendees agreed on a need for Ofgem to “own” whatever documentation was produced to support the actual licence condition
- 3.3 No significant changes should be made without consultation and Ofgem approval
- 3.4 Anybody should be able to propose change.
- 3.5 A three tier structure was suggested – licence condition, supporting document containing details of timelines and payments to be made, exclusions policy etc. and separate business rules regarding communication formats etc.
- 3.6 There should be a minimum amount of difference between the third tiers of each DN to reduce “chaos”.
- 3.7 Referral to the competition commission post Authority decision may be an option under the Energy Bill.

Banding of standards

The majority of respondents to the April 2004 consultation agreed Transco was dominant in the domestic sector. However, there were a variety of views on the market definitions and where there is competition/ scope for competition. How should the different sectors

be identified?

- 3.8 There was discussion of different ways to band the connections market including consideration of using meter size, value of quotation and load. Value of quotation was discarded on the grounds that an expensive quotation was not necessarily a large connection.
- 3.9 Five categories were identified as potential banding for standards areas: domestic, small commercial, medium commercial and large commercial and multiples/ new housing.
- 3.10 It would be necessary to identify appropriate loads to link within these bandings.
- 3.11 It was agreed that effective competition existed in the market for multiples/ new housing comprising > 6 units.
- 3.12 Statutory domestic connections within 23 metres might also be a viable distinct group.

Standards

All respondents felt there should be a standard for quotation provision and the majority of respondents felt there should be standards in place for substantial and final completion, Point of Connection information, design approval and keeping an appointment. How many standards should there be and which areas should the standards apply to?

- 3.13 Attendees in one of the workgroups made clear their requirement for appropriate standards to be in place for any service that they required from Transco, these included those already covered in the Order.
- 3.14 The other group felt that output based standards would be appropriate with standards in place for producing a quotation, keeping an appointment and completing the job. For UIPs standards would be required for point of connection information and design approval.

- 3.15 Transco was keen to only have standards where there was a genuine requirement.
- 3.16 EGS made the point that they required an incentive to be placed on Transco in relation to acknowledgements due to numerous delays caused by Transco mislaying faxes.
- 3.17 It was felt that agreement was also required on when a standard had actually been met to avoid dispute.
- 3.18 The issue of RGMA impact on completion was raised.

Payment for failure

All respondents agreed there should be automatic and job specific payments for failure. Define whether there should be daily incentives or staggered periods of incentive for a DN when it fails to meet a standard, whether the payments should vary between market sector, job value or be the same for everyone, what sort of capping mechanism should be in place e.g. value of job and who should receive the payments.

- 3.19 One workgroup agreed that any incentives should be designed to ensure that there was incentive on Transco or a DN to deal with the most delayed jobs first.
- 3.20 One workgroup felt that as the liability payments are intended to provide an incentive rather than compensation it would be appropriate for all customers to receive the same payments under each standard. The other workgroup disagreed believing that payments should vary depending on the banding of the standard.
- 3.21 Transco believes some form of capping mechanism is appropriate. Attendees considered that poor performance should result in a harsh penalty and that a cap would dilute that principle.
- 3.22 Attendees in one workgroup believed firmly that liability payments should be made to the party requesting the service from Transco.

- 3.23 The other workgroup thought it essential to distinguish between the two types of customer (the end user or consumer and the contractor or customer) before deciding who should be compensated.
- 3.24 The possibility of introducing an information and incentives project (IIP) type process was also considered. The principal disadvantage identified was the fact that IIP did not necessarily result in payments to affected customers.

Exclusions

- 3.25 Define the 5 most important exemptions/exclusions.
There was no overall consensus on the top 5. Several options were raised and supported by various parties.
- 3.26 Option 1: have no exclusions at all. The timescales for the standards would be lengthened to allow for exclusions to be eliminated.
- 3.27 Option 2: have general overall exclusions similar to the ones which apply to the Gas (Standards of Performance) Regulations 2002 and then standard specific exclusions as appropriate. For example, a specific exclusion for the quotation production standard.
- 3.28 Option 3: the only exclusion should be where a customer requests postponement etc.
- 3.29 Option 4: jobs above 7 bar should be excluded. However, EGS felt that jobs above 7bar should not be excluded as Transco's performance was poor here also. Transco felt this to be inappropriate since the work in question was not done by Fulcrum but by Transco's asset business. Ofgem's initial thought was that these jobs would not be included in the licence condition. However, if performance in this area was poor there might be grounds for considering alternative means of improving performance.
- 3.30 Other issues raised included:
- Transco raised the issue of shaded bands on their digital records which indicate the existence of oil pipelines, HV circuits etc. which can delay works and should therefore be taken account of.

- Fulcrum suggested a regime focused on compliance with statutory requirements such as NRSWA.
- The need for applicability of exclusions to be identified at an early stage in the quotation process and notified to the customer as part of the customer deferral process.
- EGS felt that the principal details of any exclusions should be in the supporting document to the licence condition.

Accuracy audit

The principles underpinning any accuracy audit will need to be discussed. Define whether and why the current accuracy audit is beneficial and who should bear the cost of an accuracy audit if one is required (Transco currently pays)

- 3.31 It was generally agreed that the current independent audit was of little value or relevance to customers.
- 3.32 One suggestion was that a better alternative would be for Transco to simplify and improve the usability of its published charging statement in order to enable customers to audit their own quotations.
- 3.33 Transco suggested that the results of its own extensive internal audit arrangements could be subject to some form of external audit.
- 3.34 An alternative suggestion was that Ofgem should commission an extensive independent audit at Transco's cost.
- 3.35 It was suggested that the overall quality of the process was more important than simply accuracy. For example the quotation might be accurate but be sent to the wrong address or customer.
- 3.36 One workgroup felt the audit needed to involve the customer in the loop more than it does presently.
- 3.37 The point was made that the MAM arrangements would increase the level of scrutiny required in the connections process.

Accuracy scheme

The majority of respondents agreed there was a need for some sort of scheme or standard for accuracy. Define whether there should be a standard or a scheme for accuracy challenge, whether the current system is working and what the alternative should include.

- 3.38 There were comments that the current scheme is too slow and it is easier to simply ask for a requote.
- 3.39 It was agreed that some form of accuracy challenge scheme or standard is required. In general attendees didn't mind whether there was a separate standard or a trigger in the quotation standard which kept the clock ticking until an accurate quotation was produced. The overall wish of attendees was to provide suitable incentive to provide an accurate quotation in a reasonable timescale.
- 3.40 One workgroup agreed that it would be inappropriate for Transco to retain the ability to accept fault within five working days and requote without penalty.
- 3.41 One workgroup agreed that a suitable definition of inaccuracy would be any error +/-5%. In addition errors amounting to a value of less than £50 would not trigger a payment. The other group felt that agreement was required as to when a quotation was considered accurate. An example would be the quotation price was correct but it was sent to the wrong address.
- 3.42 One workgroup suggested that the liability could be either standard fixed payment or reflect scale of percentage of error.

Liquidated damages

Ofgem has limited regulatory oversight of siteworks. The siteworks contract is negotiated between the parties subject to interpretation by the courts. Define whether Ofgem should ensure a reasonable minimum level of protection for certain customers via a licence condition.

- 3.43 Attendees were generally unhappy with Transco's current negotiating stance regarding the siteworks contract as customers had no option to go elsewhere. Attendees felt Ofgem should have some form of regulatory oversight of the terms of the siteworks contract. Ofgem felt it likely that its existing ability to investigate complaints about abuse of dominance etc. would already allow it to take action in respect of the terms of the contract if a complaint was made to Ofgem.
- 3.44 One suggestion was that Transco should be required to submit the contract to Ofgem for formal approval.
- 3.45 One workgroup supported Ofgem using the licence condition to require some minimum level of protection in the siteworks contract. However the group expressed concern over Ofgem's ability to enforce such a condition with any new DN owners. Transco raised concerns that setting a minimum might result in double jeopardy.
- 3.46 Ofgem agreed to check the situation with the DN sales team.

Other issues

- 3.47 It was agreed that it would now be appropriate for the interested parties to present proposals regarding the actual format of the standards and the associated liabilities. Ofgem agreed to request this information from the attendees of the workshop.