



National Grid Transco – Potential sale of network distribution businesses

Informal Section 8AA consultation

A response by British Gas Trading

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INTRODUCTION

This document forms British Gas Trading's ("BGT") response to the informal section 8AA consultation issued by Ofgem in November 2004, i.e. the documentation issued as appendices 7A and 7B to document number 263/04.

In addition to the text issued as part of the consultation, Ofgem provided additional material at DISG on 21st December 2004, and requested that informal comments also be included in the responses to the informal 8AA. Whilst this means that a shorter consultation period has been given, as this is an informal consultation, BGT has complied with this request.

We understand that a formal Section 8AA consultation is to be expected in February, should Authority consent to DN Sales be given later this month, we will make further comments on the text provided at that point.

For convenience, the form of this response follows the drafting provided in the appendices mentioned above, and where additional text was provided at DISG, comments have been inserted so that the licence conditions follow in logical order. Where a condition has not been included in the response, we do not have specific comments to make at this stage, pending issuance of further text under the formal S8AA consultation.

In addition, where we wish to comment in respect of specifics in the main consultation document, those comments have also been included under each individual condition. Where we have made general remarks, a separate section has been included.

GENERAL COMMENTS

In addition to the points raised below, we are concerned to note that there does not currently appear to be a replacement Licence Condition in respect of existing Special Condition 18, Conveyance to Independent Systems.

Whilst we appreciate that the DTI is currently considering the issues raised by this area, we believe that the existing text should be included as an interim measure prior to the drafting of revised text. We will comment on the text provided in this area under the formal Section 8AA consultation.

SPECIFIC LICENCE CONDITIONS

Standard Conditions

As these conditions are unchanged, we have very few comments to make on this section. The key amendments here are to remove Standard Conditions (“SCs”) and replace by Standard Special Conditions (“SSCs”). BGT is of the view that the division between Standard Conditions and Standard Special Conditions is broadly correct. In respect of any comments on the existing Amended Standard Conditions, we have noted these under the relevant SSC.

It is believed that either SC 7 should be amended to require the establishment of a common methodology across GTs for estimating volumes of gas abstracted, or that for the DNs and NTS, this should be replaced by or supplemented with an SSC applicable to both the NTS and DNs covering this issue.

On SC 16, as has been previously identified, BGT believes that either consistency of the methodologies used for calculation of the 1 in 20 and 1 in 50 peaks should be required, or, at least transparency of the methodologies used should be provided. This could be achieved by the addition of a further SSCA condition, or by switching this condition off for the NTS and DNs and replacement by an SSC.

In respect of SC 38, Availability of Data Formats, we believe that the obligations under this standard condition should be extended to include the Common Systems Obligation referenced in the SSCs. The effect of this would be to extend the common systems obligation to the IGTs.

BGT also remains concerned on SC 48, Last Resort Supply: Payment Claims. Whilst NGT was the major GT operating, this condition was broadly workable. To include this as an SC, applicable to all GTs, implies that in future, any SoLR payment claims would need to be made at a network level. It is believed that this would be inefficient, and that such claims would be more effectively made and processed through a single, co-ordinating entity. We would prefer that this condition should be amended to facilitate co-operation and a further condition placed on NGT to co-ordinate SoLR claims.

Standard Special Conditions

SSCs applicable to both NTS and DN Licensees: Part A

SSC A1

The drafting of this condition provides that with the exception of paragraph 1, until a direction is issued pursuant to paragraph 2, then none of the SSCs, including paragraph 2, shall have effect. BGT believes that in order for the Authority to issue a direction under paragraph 2, it will need to be in effect as well as paragraph 1, though paragraphs 3-6 could await the direction.

The same comment applies to conditions SSC B1 and SSC D1.

SSC A2

BGT would welcome clarification on how this condition will operate, specifically, how the NGT licences will be treated under this condition, i.e. whether they will be treated as having one or two “votes”, as they will be impacted by changes to this section both as the NTS and a DN licence holder. In addition, SSE would presumably be treated as holding two DN licences. If this is the case there would be 6 relevant licence holders, but only two owners who could effectively object under the private CLM procedure, as the other two owners could not alone reach the required 20% of licence holders, making the second stage market share redundant.

SSC A3

In respect of paragraph 12 of this condition, the drafting in (a) and (a)(i) appears contradictory, in addition, it is believed that in the first line of paragraph (a)(ii), the reference should be to Standard Special Condition rather than Special Condition for consistency.

BGT believes that there are a number of definitions which will need amendment to reflect ongoing discussions in DISG and other fora, for example, the definition of “Consolidated Transportation Business”. We will therefore reserve further comments on this condition until we see updated drafting and ultimately until the formal Section 8AA consultation.

SSC A4

BGT supports the insertion of the requirement on NTS and DN GTs to use reasonable endeavours not to change charges more than twice in each year, and further to make such changes on 1st April or 1st October. We believe it would be appropriate to include a further requirement, as this is only a reasonable endeavours obligation; that if changes are required outside these parameters, the GTs should be obliged to consult affected parties on the proposed changes, advise on the consequences of not making the proposed changes and secure Authority approval for the deviation.

In addition, it is believed that paragraph 5(aa)(II) should not include Gas Suppliers.

SSC A5

BGT is of the view that the same principle as noted above under SSC A4 should be applied to this condition.

SSC A6

BGT is of the view that paragraph 1 should be amended by the inclusion of unrelated GTs as sub-paragraph (c), to ensure GTs do not discriminate in favour of other GTs.

It is believed that 2(i)(d) should be 2(ii) and that 2(ii) should be 2(iii).

SSC A8

BGT believes that this SSC should be amended to ensure that a consolidated record of those customers listed under paragraph 17 is maintained by the NEC, and that this process is supported by all GTs.

SSC A11

Whilst BGT is of the view that this condition is broadly appropriate, we have some concerns in respect of the detail.

Firstly, whilst the drafting obliges the transporters to jointly operate a joint office, we do not believe that the drafting obliges the transporters to process all NWC or UNC modifications through the Joint Office. Secondly the current drafting does not appear to contain an explicit obligation on the Transporters to propose consequential modifications to the individual NWCs should changes to the UNC render this necessary.

SSC A12

It is appreciated that the JGA Agreement is intended to be between the transporters, but where an amendment is proposed and submitted to the Authority under paragraph 3, BGT believes it would be reasonable to include a provision for users of the joint office to be consulted prior to such changes. The responses to the consultation should be included in the submission to the Authority. .

SSC A14

BGT believes that this SSC requires amendment in order to make provision for Common Systems which may be developed to provide for future services to be added. The current drafting appears only to apply to those systems which are listed in the Statement of Common Systems delivered to the Authority on or before the effective date of the condition.

It is also believed that the initial Statement of Common Systems may require auditing for completeness given the provisions in paragraph 4.

SSC A20

Further to discussions at DISG, it is believed that the first paragraph should be amended so that it is not limited to those instances where domestic customers are connected to the network, as Blind or Deaf customers may attempt to contact the NTS, and provision for such contact should be made, as this SSC covers facilities to complain.

SSC A23

As SSC A20

SSC A26

It is believed that the drafting of paragraph 9 is faulty, as Metering and Meter Reading Services should be separate from “storage arrangements”.

SSC A31

BGT is of the view that this condition should be amended to make explicit the requirement that the Supply Point Administration Service which is provided or procured under this condition should be a single service covering all DN and NTS networks. This will be both more convenient for users and reduce the risk of data quality degradation over time.

SSC A32

Paragraph 1 may need amending to reflect the fact that it refers to Standard Special Conditions rather than Standard Conditions. It is also noted that further drafting consideration may be needed.

SSC A33

BGT believes that this condition may need amendment to encompass holders of Generation Licences which are affiliated or related undertakings of the licensee, this change should be made in paragraph 1 and wherever else in the condition it is needed.

It is also believed that where there may be shared services between the transportation business and other parts of the licensee's business, for example, corporate centre type services, the services which can be provided should be explicitly specified, both in this condition and the separation conditions specific to NGT.

SSC A34

The condition makes explicit the duties of the compliance officer, and that they shall be provided with appropriate resource, but the duties are drawn in terms of the tasks the licensee considers it appropriate to assign him. In view of this, it would seem sensible that the condition should require an independent audit opinion as to whether the activities of the compliance officer are sufficient to ensure compliance with the assigned licence conditions. It would be useful to include a summary statement of this opinion in the published report.

The same principles could usefully be applied to the compliance activities specific to NGT as well.

SSC A41

As has been previously identified, BGT continues to be concerned that the provisions contained in this SSC are insufficient, as the safety case stipulation is simply to make safe, not to maintain supply. We believe that an obligation to maintain supply where possible is required, together with an additional requirement to notify the relevant shipper/supplier via the affected DN where customers may have been impacted by an emergency.

SSC A46

Confirmation is awaited as to whether the reference to Shippers in paragraph 2 should, in fact, be to Suppliers, post the RGMA drafting changes, as discussed at DISG.

SSCs applicable to NTS Licensees: Part B

SSC B1

As SSC A1

Special Conditions

Special Conditions (SpCs) applicable to the NTS Licensee: Part C

A separate pack for C8A, C8B, C9, C10, C14, C15, C16, C20 and C21 and the Schedules was issued at DISG 29, BGT's comments on these conditions are on the DISG pack, which exhibits minor differences to the Appendix 7B drafting.

SpC C1

Comments have been provided under separate cover. BGT will review and comment on the formal Section 8AA drafting.

SpC C8A

The definition of shippers has been removed, but a definition of gas shippers has not been included to replace it, equally Distribution Network Operator does not appear to be defined.

Under bullet (ii) of system balancing services, Top-Up Manager is still included.

In the Appendix 7B drafting, a definition of Transco's Network Code is provided which is omitted from the DISG pack.

It is also noted that there are no volume related definitions associated with SpC C8A, this being the case, we would welcome clarification of the basis on which NTS commodity based revenues would be collected.

SpC C8B

The definition of $TOExR_t$ refers to NTS baseline firm exit capacity and NTS flow flexibility, it may be that both should be the "baseline" quantities.

BGT will provide additional comments on the formula drafting once further clarity is available on the changes that are actually required to facilitate DN Sales. However, we would welcome clarification on one point at this stage. NGT has asserted that prior to 2008, NTS exit capacity will be acquired under administered prices, both interruptible and firm as now. This being the case, we do not understand why terms such as $DREVBExC_t$, $REVIExC_t$, $REVIFF_t$, $REVBFF_t$, $DREVBFF_t$ and others as well as the proposed addition of table A5 in Schedule A are required in the current price control.

SpC C12

Under paragraphs 3 & 4, a new term is added, R_t which appears to apply only to the formula year commencing 1 April 2005, BGT would welcome clarification on the purpose of this adjustment and why it is only required for one year.

SpC C14

If further amendments to the price control formula drafting are to be expected as a result of the exit proposals, it is likely that changes will be required to the reporting, and comments will be provided at that stage.

Based on the current reporting under Exit, the definition of $TOREVBExC_t$ in the reporting table does not appear to match the definition of the same term in the main text, and $TOREVFF_t$ appears in the reporting table but not in the text. It may also be helpful to consider a requirement to report $EXDNIIIC_t$.

SpC C16

It is expected that further changes will be needed to this condition to reflect the Exit reform proposals, and further comments will be provided at that stage.

It does not yet appear clear how transportation charges will be billed in respect of NTS directly connected sites, but if the NTS bills these charges directly to shippers (as opposed to via the DNs), it is believed that a number of elements of SSC D9 (specified information) in respect of shipper queries etc should be replicated under this condition.

In addition, BGT believes that it would be useful for the NTS to report throughput volumes and billed/unbilled energy figures, including amounts billed to DNs and NTS direct connects in aggregate.

SpC C20 & SpC C21

As previously mentioned, it is believed that it would be helpful to list explicitly under the separation conditions, what, if any, shared services may be provided and how. Further comments will be provided on the formal Section 8AA drafting on respect of the separation provisions.

Under paragraph 2, practices and procedures which the licensee may adopt, are mentioned. If these practices and procedures are necessary for separation but have not been implemented by 1st May, BGT is of the view that a specific time limit for implementation should be given, perhaps tied to the date of share sale, to give confidence to the community that stringent protections are in place.

The provisions around separate management boards are helpful, but it is believed that there should be a requirement that a certain proportion of the members of these boards may not be members of both boards, to ensure a healthy balance of views. It is recognised that those members of the TEC/DEC who are also members of the Transco plc Board, are likely to be in common, some form of Code of Conduct may, therefore, be required.

Standard Special Conditions

SSCs applicable to DN Licensees: Part D

SSC D1

As SSC A1

SSC D3

As discussed at DISG, BGT believes this condition may require adjustment to ensure that the DNs prepare their Long Term Development Statements in sufficient time for the NTS to take account of them in preparing the overall Long Term Development Statement to the appropriate deadline.

Under paragraph 3 (c), it appears that the cross reference may need to apply to sub-paragraph (d) rather than sub-paragraph (c).

SSC D8

This SSC applies an obligation for bring forward proposals for reform of the DN Interruption Regime, BGT believes that it would be helpful to widen the obligation to require the DNs to work together and with the NTS to bring forward joint proposals rather than placing the obligation at an individual network level, with the attendant risks of incompatibility.

SSC D10

British Gas agrees with the overall approach, i.e. Overall Standards of Performance should apply to Transco and its DN businesses (including those that are ultimately sold to third parties) under a licence condition, with Guaranteed Standards of Performance applying to all gas transporters set out in regulations. However, we do have a number of significant comments to make on the scope, proposed measures, application and timing of the proposed standards, and accordingly have responded separately to Ofgem's consultation: 'Improving the provision of gas connections services by gas transporters'.

We consider that there are fundamental problems associated with Transco's connections performance, and whilst these problems vary depending on the specific market sector (domestic, large non-domestic, SME, multiple new build), the development prospects for effective competition across many of the sectors will improve if the right level of market incentives are put in place. However, as drafted, these proposals do not yet deliver the right behavioural incentives on transporters and moreover, in the case of Transco, may actually reduce the overall financial incentive.

For further details, please refer to British Gas' response dated 7 January 2005 to Ofgem's consultation on connections.

Special Conditions

Special Conditions (SpCs) applicable to DN Licensees: Part E

As with a number of the conditions under Part C, additional text was issued at DISG 29, these comments relate to the DISG pack, in respect of SpCs E2A, E2B, E3, E4, E6 and E10.

SpC E2A

On the definition of NTS flow flexibility, it is not clear whether this should be related to or accompanied by a definition of NTS baseline flow flexibility for completeness.

SpC E2B

BGT believes that if NTS flow flexibility is to be held/acquired by DNs within this price control period, it should be calculated and reported separately rather than being included within the DNEXC_t term.

Under 1b, 8(4)(a)(ii)(b), it appears that this still permits grouping of K factors for interest rate purposes where the licensee and its affiliates together own more than one DN. It is believed that this is inconsistent with the principles of price control separation and weakens the incentives on the DNs to minimise K.

SpC E5

As per SpC C12

SpC E6

The drafting supplied at DISG related to the Scotland DN, however, where more than one DN is owned, it is believed that it is very important that all such reporting should be at a DN level, and hence that the title should be amended to refer to information to be provided to the Authority in respect of each distribution network.

SpC E10

This condition is intended to be complementary to the separation conditions applicable to the NTS licensee, and as such is a helpful addition to the suite of “protective” licence conditions. However, BGT does not believe that the suite goes far enough and an additional SSC (part D) is required to address separation requirements between DNs where more than one DN is owned by the same ultimate controller.

Please also see comments under SpC C20.