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### Informal consultation under Section 8AA of the Gas Act

Dear Sonia,

RWE npower welcomes the opportunity to respond to the above element of Ofgem's wider Licensing: Next Steps consultation.

Our comments below are limited to various aspects of proposed licence conditions which may indirectly have an adverse impact on our shipping and supply businesses. We have not been able to review the document to ensure the adequacy of the new and existing licence conditions that principally relate to how a transporter conducts its business. Nor have we been able to review the formal section 23 of the consultation on how the existing price control should be adjusted.

Bearing in mind the fluidity and the lack of availability of some of the drafting, we hope to be in a position to undertake a more comprehensive review of licence changes during the forthcoming formal section 8AA consultation. Failure to raise specific issues at this stage therefore should not necessarily be taken as indicating we accept the proposals that have been presented to date.

#### Standard Special Condition A4. Charging Gas Shippers – General

The wording in paragraph 2.b) does not seem to be complete and we believe should read “to comply with the Joint Governance Arrangements (as defined in Standard Special Condition A12 (Joint Office Governance Arrangements)) to the extent that such arrangements relate to the administration of any proposals referred to in sub-paragraph (a) made by the licensee and with any such proposals made by any other licensed gas transporter in whose licence the condition corresponding to this condition has effect.”

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#### Standard Special Condition A5. Obligations as Regard Charging Methodology

Para 2A – whilst it might be appropriate for the frequency of charges to be reviewed no more than twice per annum we do not think the same interval should apply to charging methodologies. Any change to a charging methodology may lead to a changes in invoice charge codes, which would require shippers and the Agency to make adjustment to their systems. We would suggest therefore that licensees should have a reasonable endeavours obligation to limit changes to charging methodologies to no more than one per annum, and to keep the charging methodology simply “under review” (as opposed to “under review at all times”).

Also we cannot see where the term “relevant methodology objectives” is defined.

#### Standard Special Condition A6. Conduct of Transportation Business

Para 2.i) – Provision of Metering Services and Meter Reading Services should be shown as a separate facet of “transportation business”. The implication of the current drafting is that it is only metering relating to storage that is covered, as point d) is itself a sub point of 2.i).

#### Standard Special Condition A11. Network Code

We believe the primary relevant objective of all transporters should be the co-ordinated, efficient and economical operation of the combined pipe-line system as a whole. We suggest therefore that this condition be re-drafted such that paragraph 1a) becomes 1b) and 1b) becomes 1a).

The reference in paragraph 4 to “except where the Authority agrees otherwise” should be deleted as the whole purpose of having a UNC is to ensure that arrangements within it apply equally to all DNs. If a particular condition within the UNC was not felt by the Authority to be appropriate for one DN then in it should not be appropriate for all DNs. The drafting as currently written increases the scope for fragmentation of common systems and processes and no such similar exception applies to the Joint Office governance condition (which is also designed to prevent fragmentation occurring).

The reference to “unless the Authority agrees otherwise” should be deleted from para 8 as we believe that network code modification procedure should always be included in UNC to give adequate protection to shippers.

Finally the reference to “except in a case where the Authority otherwise consents” should also be removed from 9 c). Changes to individual network codes should always result in an accompanying change to the UNC otherwise fragmentation could result. We would also suggest changing the term “alternative proposal” to “accompanying proposal” in this clause.

#### Standard Special Condition A26. Provision of Information to the Authority

Para 9 – ditto comments under SSC A4 above.

#### Standard Special Condition A33. Restriction on Use of Certain Information and Independence of the Transportation Business

NGTs proposed merger of TMSL and Onstream needs to be considered in light of this condition. Paragraph 10 states that the licensee’s “Metering Business” (i.e. TMSL who currently undertake work on behalf of the licensee) is included in the definition of transportation business and therefore needs to restrict the use of this information to its “Meter Related Services Business” (which we assume to be

Onstream who undertake competitive meter work).

#### Standard Special Condition D8. Reform of Distribution Network interruption arrangements

As stated in our response to the final DN sales RIA we are concerned that introducing such a licence condition will create a momentum for change to be introduced within very short lead times (1 year potentially) and will limit shippers opportunities to influence such changes. This could have a material impact on shippers costs, which in our opinion could well negate all of the benefits Ofgem believe are likely to occur from DN sales.

We do not think therefore that such condition is appropriate or necessary. However, if it is to be included we believe that the proposed date in paragraph 1 should be changed to 1<sup>st</sup> April 2008 (in line with the next price control). This should allow sufficient time for proposals to be developed collaboratively and for the necessary changes in systems and processes to be undertaken within appropriate lead times. Paragraph 2 should also be amended to read "If for whatever reason the licensee is unable to develop proposals for revised transportation arrangements insofar as they relate to the interruption of supply points within the licensee's Distribution Network(s) to have effect from 1 April 2008, the licensee shall use all reasonable endeavours to ensure that such arrangements are achieved as soon as is reasonably practicable thereafter."

#### Standard Special Condition A14. Common System Obligations

We believe that reference should be made to data formats, as well as "systems and processes", in paragraph 1a) and 4, as these are equally critical to the prevention of fragmentation.

Shippers/suppliers also need to be able to comment on the adequacy of the "Statement of Common Systems" in advance of it taking effect and we would expect indicative drafting to accompany the formal consultation.

#### Standard Special Condition A15. Agency

Paragraph 1 – we do not believe the licensee should have the right to procure or provide services on a common basis subject to common systems and processes and the licensee's obligation should be for the licensee always to provide common services via a common service provider. In the event Ofgem do believe this is necessary we would reinforce the point made under A14 above, as common data formats will be critical to ensuring shippers do not have to adapt their systems in the event a particular DN chooses to discharge their obligations directly, and not through the Agency.

#### Standard Special Condition D10. Provision of connections information

Detailed comments on this clause have been included in our response to the Ofgem consultation on "Improving the provision of gas connections services by gas transporters" which has been sent to Ofgem today.

Yours sincerely,

Steve Rose  
Economic Regulation