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Dear Sonia

POTENTIAL SALE OF GAS NETWORK DISTRIBUTION BUSINESSES

**OFGEM FORMAL CONSULTATION UNDER S23 AND INFORMAL CONSULTATION
UNDER S8AA**

This document is the formal response to the above consultation by MGN Gas Networks (UK) Limited (MGN). MGN has signed an Option Deed with National Grid Transco (NGT) to acquire the Wales and the West (W&W) Distribution Network (DN) being sold by NGT. The transaction is conditional on a number of events, including the consent of the Gas and Electricity Markets Authority.

Please feel free to contact either Ed Beckley (020 7065 2039) or Julian Bagwell (020 7065 2148) should you wish to discuss any of the contents of MGN's response to your licence consultation.

Yours sincerely
MGN Gas Networks (UK) Limited

Howard Higgins
Division Director

Edward Beckley
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POTENTIAL SALE OF GAS NETWORK DISTRIBUTION BUSINESSES

OFGEM FORMAL CONSULTATION UNDER S23 AND INFORMAL CONSULTATION UNDER S8AA

MGN GAS NETWORKS (UK) LTD RESPONSE TO CONSULTATION

In the comments that follow, we have followed the sequence in the consultation paper for ease of cross-reference. Paragraph references are to those in the consultation paper.

3 Section 23 Notice and Formal Consultation

We support the stance adopted in this Chapter, namely at this stage to limit the scope of the s23 notice to modifications aimed at the separation of the price controls. Our comments on the s23 notice conditions are set out below.

SpC28A: Revenue Restriction Definitions

We accept the changes proposed to the DN-GT licence set out in paragraph 3.34.

SpC28B: Restriction of Revenue

DNZ (W&W) appears to be correct in terms of its appropriate share of gas transportation revenue. In respect of prescribed rates, we suggest in order to aid transparency that if Transco intends to allocate costs between the various controls in the event that, for instance, that it does not provide rating assessments for all of its businesses, then the criteria for assessment should be extended to include a provision that the allocation process should be consistent across all activities. The condition as drafted requires objectivity, neutrality and consistency across periods, but not consistency across activities. The mains replacement incentive appears to be robust in that sense that as far as we can tell the numbers all tally. With regard to the k factor, we have no way of checking the “actual” number as it is impossible to determine what the aggregate level of k should be. We can confirm, however, that in terms of the share of aggregate k, the correct number has been applied to W&W. Apart from these comments, we are comfortable with the remainder of this condition.

SpC29: Allocation of Revenue and Costs

We accept the changes proposed to the DN-GT licence set out in paragraph 3.44.

SpC30: Supplementary Provisions

We accept the changes proposed to the DN-GT licence set out in paragraph 3.46.

SpC33: Information to be Provided to the Authority

We accept the changes proposed to the DN-GT licence set out in paragraph 3.49.

SpC34: Methodology for Incremental Entry Capacity Volumes

SpC35: NTS Performance Reporting

We agree that these conditions should not be applicable to the DN licence and that they should be retained without change, apart from appropriate cross-references, in the NTS licence.

SpC36: LDZ Incentive Scheme and Performance Reporting

We agree that this condition needs to be retained in the DN licences without change, apart from references to DNs and appropriate cross-references.

Schedule A: NTS Output Measures

We agree that these conditions should not be applicable to the DN licence and that they should be retained without change, apart from appropriate cross-references, in the NTS licence.

4 Key Issues

We provide comments on each of the key issues covered in Chapter 4, in the same order as they appear in the Chapter.

Private CLM Procedure

Chapter 4 provides only high level commentary, with further detail being provided in Chapter 6. We provide our principal comments on this issue here, covering the policy discussion in Chapter 4 and relevant detail in Chapter 6.

In summary, we do not agree with the analysis or the conclusions. We accept that there is a need to follow as closely as possible the present statutory procedures, but we also believe that there is a need, as in many other parts of the consultation document, to recognise the implications of the sale. Thus we believe that the comment in paragraph 6.19, that there was substantial consultation on the statutory CLM procedure, is not a sufficient reason to maintain the *status quo* in the changed circumstances brought about by the network sale; that consultation could not and did not canvass views about the detailed application of the CLM procedure in a disaggregated gas network world.

This is important, as we do not believe that our views on this issue were given full consideration in the consultation paper in two important respects:

- whilst we suggested the short term expedient mentioned in paragraph 6.12, treating holders of more than one licence as only holding one for CLM voting purposes, we also said that we saw a more general solution being that each DN had the ability to block a modification proposal on its own. We expanded upon this point in a subsequent letter, where we proposed that the wording in the relevant condition be amended to create a 10% by number of licensees threshold, rather than the 20% that presently would prevail. There is no mention of this proposal in the consultation paper;
- the consultation paper notes in paragraph 6.10 that, were further DNs to be sold, then the ability of MGN and the CKI/UU consortium to veto proposals could fall away. Whilst correct in relation to DN only SSCs, namely Section D of the draft licence, the problem is already apparent from Day 1 in relation to NTS+DN SSCs, namely Section A of the draft licence, where we and the CKI/UU consortium will each be one of six licensees. In some parts of the licence, therefore, the issue is thus not hypothetical upon further sales, but real. Section A is substantial and contains 38 active conditions.

Further, were there to be any further disposals by NGT of DNs, or were NGT to decide in the future to seek separate licences for its retained DNs, we and the CKI/UU consortium would be further disadvantaged in relation to modification proposals to the DN only parts of the licence, Section D, whereas the other DN owners would not.

We do not think that the actual and potential future circumstances that would arise should the present proposal stand are equitable. In particular, the comments in paragraph 6.22 that regulatory control should not be diminished as a result of the sales process are not correct if this term means the number of parties that can veto proposals. At present, only one party, NGT, can veto proposed licence modifications, whereas after the sale two parties, NGT and SSE, can veto. Our proposal would mean that four parties could veto, so the issue would appear to be the degree to which regulatory control is diminished, not the fact that such control is diminished.

We request that further consideration is given to our proposal for the threshold by licensee number to be reduced to 10% in the private CLM procedure, to reflect the changed conditions in the industry following completion of the sale process.

Switch On / Switch Off Provisions

We support the principle of such provisions and have no difficulties with the drafting proposed in the various new conditions published as part of Appendix 7B. Previously we had suggested that the criteria for use of these provisions were stated, but as the drafting includes requiring the consent of the licensee we do not believe that it is also necessary to provide such criteria.

Transportation Charging Arrangements

We accept the proposals in the consultation paper and the associated drafting of condition SSCA4. We believe that it would be appropriate to include a deadband to deal with any issues arising from an inability to change charges more than twice a year, although in practice we would expect any deviations to be relatively small. Given that penal rates of interest could be applied, however, we believe that the present arrangements in the equivalent electricity licence, the deadbands mentioned in paragraph 4.43, appear to be a reasonable risk mitigation device.

Network Code and Offtake Arrangements

We have always favoured offtake arrangements being handled in a separate Code, as we think that this is clearer and separates responsibilities properly. In addition, we think that such an approach is consistent with the treatment of existing offtakes, for example those under NExAs, SCAs and IAs. If instead the commercial aspects of offtake arrangements are contained within the Uniform Network Code, we think it important that relevant technical aspects are contained in documents separate to that Code, with rules regarding confidentiality and parties able to change the document being established that cannot be overturned by a subsequent Uniform Network Code modification proposal. Thus, whilst we support the wording in relation to these documents in paragraph 4.58, we would welcome clarification that a subsequent code modification cannot overturn the position stated there.

Emergency Services

We are comfortable with the view that the DN boundary issue should be dealt with through the safety case, and we do not see this as a licensing issue. We also believe it appropriate to continue for the moment with the present arrangements regarding first response emergency services to IGTs, and for this matter to be reviewed later prior to contract expiry. With regard to the provision of first response emergency services to the NTS, we accept a licence obligation to provide such a service. We do not believe, however, that the costs of this service are already within our price control; we note that Transco, in a paper to DISG 26 that contained a draft licence condition in this regard, specifically included text at paragraph 3 to the effect that charges from the DN to the NTs for such services should be on a reasonable rate basis, at least until the next price control review. We accept that customers should not have to pay twice for this service, but we do not consider that they would if the charging arrangements are appropriately covered in both sets of revenue restrictions. We also do not think that such services are never contestable – for example, if such services are a free good to the NTS, then any incident occurring near a DN boundary would see a perverse incentive to use IDN rather than RDN staff.

Pipeline Security Standards

We accept the need for clear and objective security standards. We believe that the standard should be applied uniformly, and that technical details need to be consistent. Whilst we also agree in principle with the high level proposals in the consultation paper, we would like to see more details of the associated commercial implications. We participate in the exit development forum, and will provide further views there as and when particular proposals are developed.

Clarification of Shipper/GT Obligations

We agree that the licence needs to be consistent with the Exemption Order and the implications of the Option 2A approach and that these issues need to be progressed through DISG.

Price Controls and Incentive Arrangements

We agree with the points made in the consultation paper, namely that the price controls should not be reopened, that the initial duration of any DN level incentive scheme should be for one year, and that a safety net should be introduced.

System Operator Managed Service Agreements

We continue to believe that it would be appropriate for certain of these contracts to be regulated, so that from a regulatory perspective the allocation of duties and liabilities can be seen to be consistent with licence obligations. In saying this, we do not see the regulation of these contracts as creating opportunities to reopen price controls, nor do we believe that regulation will perpetuate them (if anything the reverse) and appropriate sunset provisions would deal with any such risk. We note Ofgem's present views on this matter.

Customer Survey Obligation

We are happy to accept this obligation. Our only concern is that systems and processes exist within xoserve for the appropriate identification of the customers to be surveyed, and this is a matter that we will take up directly with it.

Connections

We support the approach of including appropriate connections standards in performance standards, and in general accept the draft licence conditions proposed to deal with this issue. We will need to agree appropriate back to back arrangements with Fulcrum in this regard, as these requirements have arisen since draft contract documentation was initiated.

Separation of Monopoly and Competitive Activities

We agree with the proposals for dealing with these concerns. We welcome the fact that reliance is primarily being placed upon existing licence conditions, rather than through the imposition of onerous new reporting requirements that would create costs for us to solve a problem that does not apply to us.

Separation of NTS and RDNs

We would prefer that legal separation of the NTS and RDNs was maintained, but we accept the discussion here and in the Final Impact Assessment that there are obstacles to doing this. We also note that it is Ofgem's intention to draft additional licence conditions to mimic, to the extent possible, the effects of legal separation and we welcome that. We will reserve further comment until we see those draft licence conditions.

Treatment of LNG and Metering

We support the various points made in the consultation paper. We note that the reversion to the standard conditions regarding storage contains drafting to allow those conditions to be removed if not applicable. We support the approach of treating all the conditions relating to LNG as Special rather than Standard or Standard Special.

5 Existing Transco plc Licence Conditions

In this part of our response we follow the order of conditions set out in the consultation, with appropriate cross reference to the relevant drafting in Appendix 7B. In each case, we also provide the new reference number or numbers in Appendix 7B for the avoidance of doubt.

Standard Conditions

ASC1: Definitions and Interpretations

SSCA3

SC1

We would prefer the licence to contain one section for definitions, not least because present practice leads to the same term being defined differently in different conditions. In addition, at present some terms are arguably in the wrong section. For example, we do not believe that it is appropriate to include as applicable at the DN and NTS level a number of NTS definitions, particular those referring to NTS entry capacity, which we believe relate only to the NTS. In addition, the reference to storage connection point is said to be a NTS only definition, whereas we understand that at least one storage facility is/will be connected to a DN pipeline system. Having only one section containing definitions would mean such points were irrelevant. Apart from that, we agree with the discussion at DISG 29, namely that this condition will have to be revisited towards the end of the process, when there is more clarity as to other conditions.

SC2: Application of Section C

SC2

We agree that this condition should apply to all GT licensees and for there to be a switch mechanism in relation to it. We accept the application and the drafting of SC2.

SC3: Payment of Licence Fee

SC3

We agree with the application and drafting of SC3. We note that changes may be introduced following further consideration of the roles of DTI and Ofgem regarding appeals against regulatory decisions.

ASC4: Charging Gas Shippers – General

SSCA4

As discussed above, we accept the proposals for a reasonable endeavours obligation not to change charges more than twice a year, and to keep to prescribed dates. We also agree that the role of the Joint Office should be administrative. We note that at DISG 29 Ofgem indicated that thinking had moved on since the drafting of the consultation paper, and we await any further drafting proposals. In that regard, we think it would be helpful for more detail to be provided on the meaning of the reasonable endeavours term in this condition, providing that such detail did not in effect change the requirement to best endeavours. Noting that further change may emerge, at present we accept the drafting of SSCA4 and the assumed associated reversion of ASC4A to a standard condition that is then switched off.

ASC4A: Obligations Regarding Charging Methodology

SSCA5

Our comments here are generally the same as those above relating to SSCA4. We would prefer, however, the review commitment to be as paragraph 5.57, namely 'from time to time, but not less than annually', and we think it unfortunate that the discussion in paragraph 5.64 omits the words 'but no less than annually', as we think that this is a sensible clarification of the obligation in the form proposed. We also think that the proposed wording sits better with the reasonable endeavours obligation not to change the methodology more than twice a year; the proposed drafting is inconsistent in requiring methodologies to be under review at all times, but with a constraint on change.

Nevertheless, we accept the drafting of SSCA5 and the associated reversion of ASC4A to a standard condition that is then switched off.

SC4B: Connection Charges
SC4B

We agree that this condition should apply to DN licensees and we accept the application and the drafting of SC4B

SC4C: Charging of Gas Shippers – Supplemental Connection Charges
SC4C

We agree that this condition should be switched off. We accept the proposal to do this, notwithstanding that the change is not part of the sale process. We feel strongly, however, that such tidying up should only be used for things such as redundant conditions and not more generally to effect other changes that should be pursued outside of the sale process.

ASC4D: Conduct of Transportation Business
SSCA6

We accept the need for appropriate provisions relating to affiliates. We note that the discussion in DISG 29 indicated that there might be changes to the wording in SSCA6, for example to deal with the fact that it is proposed not to place the NTS and RDN businesses into separate entities. We think that would be appropriate, and that if other conditions to deal with the potential for discrimination were made as specific as possible, so that they do not inadvertently capture other licensees not perceived to post the same problem. Subject to sight of the drafting changes that may occur to paragraph 1(a) of SSCA6 and the correction of minor typographical errors, we accept the drafting proposed, together with the assumed reversion of ASC4D to a standard condition which is then switched off.

ASC4E: Conformity with Network Code
SSCA7

Subject to our comments in Chapter 4 regarding the Network Code and the Offtake Code, we accept the drafting proposed for SSCA7 and the assumed reversion of ASC4E to a standard condition that is then switched off.

SC5: System Development Obligations
SC5

We agree with the application and drafting of SC5.

SC5A: Information to be Provided to Designated Registrar of Pipes
SC5A

We agree with the application and drafting of SC5A.

ASC6: Emergency Services
SSCA8

It is in the interests of all parties that safety considerations are paramount. We support the conclusions of the discussions on this issue in the consultation paper, for example that where appropriate control is exerted through the safety case, there is no need for further reinforcement through a licence condition. We welcome the clear statement that our obligations regarding the 0800 telephone number will be discharged through a contract with Transco. We also agree with the application and the drafting of SSCA8 and the associated reversion of ASC6 to a standard condition that is then switched off.

SC7: Illegally Taken Gas
SC7

We agree with the application and drafting of SC7.

ASC8: Provision and Return of Meters SSCA10

We accept the application and drafting of SSCA10 and the assumed reversion of ASC8 to a standard condition that is then switched off.

ASC9: Network Code SSCA11

We support the proposals on Network Code matters set out in Chapter 5, bearing in mind our concerns over the treatment of offtake matters as discussed above in the response to Chapter 4. Our response on the issues raised in Chapter 5 regarding Network Code is as follows:

- we accept the structure of a UNC and SFCs. We are open minded as to whether there should be a pro forma version of the SFC, so as to reduce concerns over excessively long and/or divergent SFCs;
- we accept the need for the Agency and JO arrangements. We comment further on aspects of these arrangements in our response to Chapter 6;
- we think it sensible to place the Code modification rules within the Code. In that regard, whilst we accept the drafting proposed, given that the modification rules are in the Code, we believe that the proposed licence drafting is over-prescriptive. For example, we believe that most of paragraph 13 and some elements of paragraph 9 could be included in the relevant Code section;
- we accept the need for the consent of the Authority to be required relating to any proposed modifications;
- we accept the need for the two new relevant objectives proposed.

We have some minor comments on the drafting of SSCA11. First, the term 'Individual Network Code' first appears in paragraph 7, after the first references to the Network Code of each transporter. It would be helpful if these references, which we think are to the same document, are standardised, and then if reference is not to the generality of Individual Network Codes, the language 'any' or 'each' could be used as appropriate. Second, the present drafting appears to allow any shipper or supplier to propose a modification to any Code (because the modification procedures are generic, due to the provisions of paragraph 8, and the list of permitted modifiers is contained within them, as set out in paragraph 9(b)(i) & (ii)). We suggest that the ability to propose modifications to any DN level Individual Code is restricted, so far as shippers and suppliers are concerned, to parties that have signed the relevant Framework Agreement to that Code. Third, the wording of 22(b)(i) is not clear; if the term 'equivalent document' means other Network Codes, then we suggest using that term, if it is to something else, then we are not sure to what it refers.

Subject to the above comments, we therefore accept the application and drafting of SSCA11 and the associated switching off of ASC9.

SC13: Change Co-Ordination for Utilities Act 2000 SC13

We agree that this condition should be switched off.

SC14: SPA Agreement SC14

We accept the application and drafting of SC14.

SC16: Pipeline System Security Standards

SC16

We accept the need for explicit statements on planning standards. We are comfortable with the proposal to continue the 1 in 20 obligation. We note Ofgem's comment that any changes to the short term capacity allocation regime and more specifically the flexibility product must be consistent with the 1 in 20 obligation and suggest that the business rules for such allocations are reviewed, as and when they are available, in the light of that comment. At this stage, however, we accept the applicability and drafting of SC16.

ASC17: Provision of Services to Various Disadvantaged Groups SSCA19

We accept the application and drafting of SSCA19, and the associated reversion of ASC17 to a standard condition that is then switched off.

SC18: Provision of Services to Blind and Deaf SSCA20

We accept the application and drafting of SSCA20 and the associated switching off of SC18.

SC19: Arrangements in Respect of Powers of Entry SSCA22

We accept the application and drafting of SSCA22 and the associated switching off of SC19.

SC19A: Authorisation of Officers SC19A

We accept the application and drafting of SC19A

SC19B: Exercise of Powers of Entry SC19B

We accept the application and drafting of SC19B

SC20: Standards of Performance SC20

We accept the application and drafting of SC20

SC21: Complaint Handling Procedure SSCA23

We accept the application and drafting of SSCA23, and the associated switching off of SC21.

SC22: Code Compliance Statements SSCA24

We accept the application and drafting of SSCA24, and the associated switching off of SC22.

SC23: Record of and Report on Performance SSCA25

We accept the application and drafting of SSCA25, and the associated switching off of SC23.

ASC24: Provision of Information to the Authority SSCA26

We accept the application and drafting of SSCA26, and the associated reversion of ASC24 to a standard condition that is then switched off.

ASC25: Long Term Development Statement
SpCD3
SpCC2

We agree with the application of these conditions. We think that it would be helpful if further minor clarifications could be made to the drafting, for two reasons. First, it would be helpful to clarify the timings involved – we anticipate that the requirements under SSCD3 paragraph 3 will be a defined period of time before those under SSCC2 paragraph 3. Second, it might be preferable to include the same requirements to take into account other systems as in SSCC2 in the equivalent paragraph of SSSD3, especially in relation to the NTS. Whilst we do not think that there should be the same requirement to provide statements, it would be sensible if amongst other things each DN when preparing its long-term development statement in year n took account of the plans presented by the NTS in year n-1. Apart from these comments, we accept the proposed drafting of SSCD3 and the associated reversion of ASC25 to a standard condition that is then switched off.

SC27: Adjustments using RPI
SC27

We accept the application and drafting of SC27.

SC28: Termination of Shipping Arrangements
SC28

We accept the application and drafting of SC28.

ASC29: Disposal of Assets
SSCA27

We accept the application and drafting of SSCA27, and the associated reversion of ASC29 to a standard condition that is then switched off. We note that further proposals in relation to drafting may emerge in due course.

ASC30: Regulatory Accounts
SSCA30

We support the proposals for regulatory accounts. Given the present position on business separation, we think it even more important that there are clear commercial interfaces between the RDNs and the NTS. We also support the potential proposals to remove the current cost accounts requirement and the interim unaudited profit and loss account, to update the format of the regulatory accounts and to move to a 'fairly presents' audit opinion. To maintain transparency, we do not believe that the fairly presents opinion for NGT should be for the licensed business as a whole, but should be separately required for each DN and the NTS. We also believe that it would be helpful for Regulatory Accounting Guidelines consistent with the draft condition to be developed and issued as soon as possible. In terms of drafting, whilst we accept the application and drafting of SSCA30 and the reversion of ASC30 to a standard condition which is then switched off, we await further drafting in relation to the potential proposals mentioned above, which would amongst other things remove paragraph 6 from the present draft.

SC30A: Change of Financial Year
SC30A

We accept the application and drafting of SC30A.

ASC31: SPA Services
SSCA31

We accept the application and drafting of SSCA31, and the associated reversion of ASC31 to a standard condition that is then switched off. That said, in this and other appropriate areas, it might be appropriate to include a cross-reference to the Agency.

**ASC32: Interpretation of Section C
SSCA32**

We accept the application and drafting of SSCA32, and the associated reversion of ASC32 to a standard condition that is then switched off.

**SC33: Designated Registrar of Pipes
SC33**

As stated in responses to previous consultations, we do not believe that it is necessary to appoint a Registrar of Pipes for the time being. In that regard, we note that Ofgem intends to consult on this condition, and we request that any such consultation is put into the timetable now, as it has a number of consequences for workload, both in terms of responses and then in implementing interfaces with any party that were to be appointed. These concerns lie outside the condition itself, and we accept the application and the drafting of SC33.

**SC38: Availability of Data Formats
SC38**

We accept the application and the drafting of SC38

**ASC39: Restriction on Use of Certain Information and Independence
SSCA33**

We agree that this is a potentially complex area and will need further review depending upon the outcome in relation to business separation within NGT. At present, and subject to that outcome together with additional drafting mentioned in the consultation paper, we accept the application and the drafting of SSCA33 and the associated reversion of ASC39 to a special condition that is then switched off.

**SC40: Appointment of Compliance Officer
SSCA34**

We accept the application and drafting of SSCA34, and the associated switching off of ASC32.

**SC41: Prohibition of Cross Subsidies
SSCA35**

We accept the application of SSCA35, on the assumption that it follows the comments in paragraph 5.399, and the associated switching off of condition SC41.

**ASC45: Undertaking from an Ultimate Controller
SC45**

We accept the application and the drafting of SC45.

**ASC47: Indebtedness
SSCA39**

We accept the application and the drafting of SSCA39 and the assumed associated reversion of ASC47 to a standard condition that is then switched off. We also accept the inclusion of relevant drafting from what was SpC5 and the removal of that special condition in consequence. We also note that further changes may arise as a result of the DCPR 4 consultation process.

SC48: Last Resort Payment Claims

SC48

We accept the application and the drafting of SC48.

The following ASC is not discussed in numeric sequence in the consultation paper, and is treated as follows:

ASC43: Restriction on Activity and Financial Ring Fencing

See discussion under SpC2 below

Special Conditions

SpC1: Interpretation and Construction

We note that the provisions of any replacement of SpC1, over and above those in SSCA3, discussed above, will be subject to later drafting to be considered in DISG.

SpC2: Restriction on Activity and Financial Ringfencing

ASC43: Restriction on Activity and Financial Ringfencing SSCA36

We accept the application and drafting of SSCA36, the dropping of SpC2 and the assumed associated reversion of ASC43 to a standard condition that is then switched off.

SpC3: Availability of Resources SSCA37

We accept the application and the drafting of SSCA37.

SpC4: Investment Grade Credit Rating of Licensee SSCA38

We accept the application and the drafting of SSCA38.

SpC5: Cross Default Obligations SSCA39 (part)

We accept the proposed removal of this condition.

SpC9D: Restriction of Prices for LNG Storage Services SpCC3

We agree that these provisions should be a special condition in the NTS only part of the licence

SpC17: Operational Guidelines for Balancing

We agree that this condition should be removed and the relevant provisions of present SpC27 used instead.

SpC18: Conveyance to Independent Systems

We note that this condition is subject to a DTI position paper to be issued in due course

SpC19: Emergency Services to or on Behalf of Another Transporter SSCA41

We accept the application and the drafting of SSCA41. We also feel that it might be unhelpful to attempt to define precisely the term 'major loss of supply' as application of any

such definition could possibly hinder a swift response to an incident that fell just under whatever threshold was used in the definition.

**SpC23: Provision of Meter and Meter Reading Services
SSCA43**

We accept the application and the drafting of SSCA43.

**SpC25A: Assignment of Licence
SSCA45**

We accept the application and the drafting of SSCA45.

**SpC26: Prohibited Procurement Activities
SSCD4**

We think that the proposed drafting, which separates in a licence condition sense energy balancing from constraint management, is an appropriate approach. In saying this, we assume that the purchase of the flexibility product is classified as constraint management. We therefore accept the application and the drafting of SSCD4.

**SpC27: Licensee's Procurement and Use of System Management Services
SSCD5**

We remain of the view that the reporting requirements of this condition are onerous at the DN level, relating as they do to what are likely to be a small number of call off contracts for gas for constraint management purposes. We nevertheless accept the application and the drafting of SSCD5, hoping that in its application the proportionality of the relevant provisions, set against the services required and reported against, is sensible.

**SpC28A: Revenue Restriction Definitions
SpCE2A**

We note the proposals set out in paragraph 5.544 and we support them in principle. We wait to see detailed drafting proposals before commenting further. We do not offer a view on the drafting of SpCE2A at this stage, because the consultation paper notes that the drafting will need substantial amendment.

**SpC28B: Revenue Restriction
SpCE2B**

Apart from our comments in response to Chapter 3 above, we note that there are further changes contemplated, and we wait to see detailed drafting before commenting further.

**SpC29: Allocation of Revenues and Costs
SpCE3**

We accept the application and the drafting of SpCE3.

**SpC30: Supplementary Provisions of the Revenue Restrictions
SpCE4**

We accept the application and the drafting of SpCE4.

**SpC31: Tariff Capped Metering Activities
SpCE5**

We accept the application and the drafting of SpCE5.

**SpC32: Non-Discrimination in the Provision of Metering Activities
SSCA46**

We accept the application and the drafting of SSCE46.

**SpC33: Information Regarding Revenue Restriction
SpCE6**

We accept the application and the drafting of SpCE6.

**SpC34: Methodology for Determining Incremental Entry Capacity Volumes
SpC15**

We agree that this condition should not be applied to DNs and should be only be considered when it becomes evident that such entry points are planned.

**SpC35: NTS Performance Reporting
SpC16**

We agree that this condition should not be applied to DNs.

**SpC36: LDZ Incentive Scheme and Performance Reporting
SSCD9**

We accept the obligation to provide customer surveys, as discussed earlier. We therefore accept the application and the drafting of SSCD9.

**SpC37: Exit Code Statement
SpCC17
SSCD7**

We believe that this condition is probably redundant as a result of other provisions arising from the sale process. Given that these other changes will only arise if the sale proceeds, we would prefer for the avoidance of doubt that this condition is dropped, rather than containing the possibility of being continued, as the present drafting in paragraph 3 provides.

SpC38: Restrictions Relating to EnMo

We agree that this condition should be removed.

**SpC39: Charging of Gas Shippers – Domestic Infill Premises
SSCA47**

We accept the applicability and the drafting of SSCE47.

Schedules

We agree with the comments in paragraph 5.630 regarding the future nature of the various schedules.

Chapter 6

We provide comments on the new licence conditions proposed in this Chapter, again in the same order as in the Chapter.

**Private CLM Procedure
SSCA2
SSCB2
SSCD2**

We have provided extensive comments on this issue in our response to Chapter 4. Here, taking our present proposal, we propose that the figure twenty (20) per cent in paragraph

3(d)(ii)(aa) of condition SSCA2 and condition SS CD2 be changed to ten (10) per cent in each case.

Switch On / Switch Off

SSCA1

SSCB1

SSCD1

We accept the applicability and the drafting of SSCA1 and SS CD1 (SSCB1 applies to NTS only).

DN Interruption Reform

SSCD8

We welcome the approach proposed by Ofgem, a requirement to proceed with reform by April 2006, on a reasonable endeavours basis. We think that this recognises the importance of delivering the restructured industry as soon as possible. We therefore accept the applicability and the drafting of SS CD8.

Agency Obligations

SSCA15

We support the concept of the Agency as an appropriate means of avoiding fragmentation. In future, we think it important that alternative solutions can be considered, if that is cost effective and does not lead to fragmentation. We believe that in general the drafting of SSCA15 provides for this. There are two points to note. First, there is an incorrect cross-reference in the consultation paper (paragraph 6.49 refers to SSCA14 rather than SSCA15). Second, we do not think that the drafting at the end of paragraph 1 is correct. There are three points:

- for the avoidance of doubt, we think it better that specific reference is made to the relevant provisions of SSCA14, rather than using the undefined term 'agreed common systems and procedures';
- the word 'to' in the very last line of paragraph 1 should read 'from';
- we believe the word 'or' in the very last line of paragraph 1 should read 'and'. If the intention is to procure services from a common service provider, and we think that it is, then both parts of the sentence should apply, not one or other of them.

Subject to these comments, we accept the applicability and the drafting of SSCA15.

Independence of the Independent Market for Balancing

SSCA16

SpCC6

We accept the applicability and the drafting of SSCA16 (SpCC6 applies only to the NTS)

Requirement not to Prejudice the System of Other GTs

SSCA17

We accept the principle of a condition that requires us to take account of other gas systems. We believe that the drafting in SSCA17 is an improvement on that provided to DISG 25, as we considered that some of the then references to matters such as planning would create difficult conflicts with obligations under other conditions. We have two comments on the wording proposed:

- we cannot find a general obligation to operate our own pipelines reasonably and prudently. We think that it would be sensible to have such an obligation, and for the obligation in paragraph 1 of SSCA17 to be subordinate to it;

- we have some operational concerns as to the application of the condition, for example in relation to little used interconnections between DN systems that could nevertheless be important in an emergency. Our present thinking is to leave the words in the condition as they are, and to deal with this in relevant business rules, for example in relation to offtake arrangements.

Apart from these comments, we accept the applicability and the drafting of SSCA17.

Inter-Operator Service Agreements
SSCA36 (part)
SpCE1

We have provided our views on the regulation of certain agreements in our response to Chapter 4. We accept the need to relax the relevant constraints within appropriate conditions, and at this stage we accept the applicability and the wording of the special condition as drafted.

Joint Office Governance Arrangements
SSCA12

We believe that the Joint Office is an appropriate means of delivering the services specified in the consultation paper in paragraph 6.74. We accept the need to separate the Office from all GTs. Although perhaps not appropriate for licence level drafting, we believe that a cost effective solution would be for the Office to be aligned with the Agency, at least in terms of office and administrative arrangements, with an operational charter that emphasised its independence. If this is not done, we are concerned that it might be difficult to staff such a small office with individuals of the right calibre.

Whilst we support the concept of the Joint Office, we cannot offer complete support until we see the drafting of the Joint Governance Arrangements and the Joint Governance Arrangements Agreement, key documents referenced in the drafting of SSCA12. In addition, we query whether these documents, which are contracts between GTs relating to the discharge of licence obligations, should be subject to widespread consultation and discussion. Not only does this create a precedent but in the present circumstances could lead to additional work and possibly delay. Subject to sight of these agreements, we accept the applicability and drafting of SSCA12.

Connections
SSCD10

Further to our comments in our response to Chapter 4, we accept the applicability and the drafting of SSCD10.

Governance of Technical Standards

We accept the need for there to be a common set of technical standards, so as to enable competitive provision of connections to develop further. We would prefer such standards to be contained in specific industry codes rather than the licence. If a licence condition in relation to this matter were introduced, we would prefer it to be high level, requiring further detail in subordinate documents.

Arrangements for Gas Measurement

We agree with the principle proposed in the consultation paper, namely that the present arrangements regarding the testing of measuring equipment should be formalised. Consistent with our comments on technical standards, we would prefer that such arrangements should be in a specific industry code rather than the Network Code, as the latter is essentially a commercial contract. We also agree with the proposal for the present arrangements for the testing of water vapour to be discontinued.

Separation of Monopoly and Competitive Activities
SSCA33

SSCA34

We agree with the conclusion that further ringfencing conditions are not required. We have provided our views on SSCA33 and SSCA34 in our response to Chapter 5.

Separation of NTS and RDNs

We provided our views on this matter in our response to Chapter 5. We will review our comments in the light of the drafting of the various new conditions mentioned in paragraphs 6.136 to 6.141, as and when it is available. In that regard, we hope that the proposed drafting will not inadvertently create problems for us in relation to other companies in the Macquarie group, and we will review it closely in that regard.

LNG Storage SpCC1

We agree with the approach proposed, namely a condition that augments a number of other licence conditions, and we also agree that this should be a special condition.

Other Conditions

Our comments on other new conditions not discussed in Chapter 6 are as follows:

Common Systems for UNC SSCA14

This condition is not discussed in Chapter 6. Whilst we support the concept of common systems, we cannot offer complete support until we see the drafting of the Common System Arrangements and the Common Systems Arrangements Agreement, key documents referenced in the drafting of SSCA14. We also make the same comments as under SSCA12 regarding the risk of delay. Subject to sight of these agreements, we accept the applicability and drafting of SSCA14.

Provision of First Call Emergency Response to NTS SSCD6

We are happy to accept the obligation to provide this service. We are uncomfortable with the proposed drafting in at least two respects:

- as discussed in our response to Chapter 4, the drafting as in the paper submitted to DISG 26 relating to cost recovery has been dropped. For the reasons discussed earlier, we believe that the relevant paragraph should be reinstated;
- whilst we accept the need for properly trained staff to be provided, at DISG 29 NGT made clear that DN staff were not authorised to work on the NTS network, and that any such staff would be used for little more than crowd control. We are not sure that deploying emergency staff in such circumstances is necessarily appropriate, especially if they are a free good to NGT, and would welcome further consideration of the wording in paragraph 3, perhaps introducing something in terms of proportionality.

Apart from these points, we accept the applicability and the drafting of SSCD6.

END