

DN Sales Development & Implementation Steering Group Minutes

Meeting 32

11 January 2005, 10:00 am – 2:00 pm

Ofgem's office, 9 Millbank

Attendees

Sonia Brown	Ofgem (chair)	John Costa	EDF Energy
Jason Mann	Ofgem	Mike Young	BGT
Suzanne Turner	Ofgem	Alison Russell	Centrica
Carolyn Waddell	Ofgem	Julian Bagwell	Macquarie
Helen Connolly	Ofgem	Nick Wye	Macquarie/WWA
Hannah Cook	Ofgem	Tory Hunter	SSE
Peter Bingham	Transco	Alex Wiseman	United Utilities/CKI
Sue Higgins	Transco	Marie Clark	ScottishPower
Peter Bolitho	E.ON UK		

Sonia Brown opened the meeting by setting out that she anticipated that licence issues would be discussed at DISG 33. She clarified however that whether DISG 34 would be held would be dependent upon the outcome of the Authority meeting and stated that there were three possible outcomes:

- the first is that the Authority grants its consent to a potential DN sale, in which case DISG 34 would take place as usual on Tuesday 25 January;
- the second is that the Authority does not grant consent to a potential DN sale in which case DISG 34 would not take place on Tuesday 25 January unless DISG members were keen to meet to understand the reasons behind the Authority's decision; or
- the Authority decides that it will require further time to properly consider the implications of a potential DN sale, in which case it would be unlikely that DISG 34 would go ahead as the DN sales team would want to be available to undertake further investigation.

Sonia clarified that, in any case, Ofgem would not be able to let DISG members know whether DISG 34 will be going ahead until late in the week prior to the meeting and apologised for any inconvenience that this may cause to DISG members

1. Review of items from DISG meeting 31 (held 4 January 2005)

a. Review of minutes

- Alison Russell highlighted that under item 6 of the minutes she had been quoted as saying that "the CSA did not cover the scope of the services as well as the systems" and that this should be amended to reflect her comment more closely and, as such, suggested it should say "so far as the licence drafting covered the CSA it did not cover the scope of services as well as the systems"
- Tory Hunter set out that she would be providing feedback on Thursday regarding the removal of the consent provision in SSC A1. She detailed that while she understood why this provision had been removed she did not consider that it was a necessary amendment. In this regard she explained that while the policy decision had been to reflect the provisions of SC 2 she did not consider that it would be necessary to remove the consent provision to enable

the new condition to be introduced. Sonia highlighted that this was a policy issue not a comment on the minutes and stated that while she would be happy to discuss this, Ofgem had requested that any comments on this issue should be received prior to DISG 32.

- Alex Wiseman stated that he had a minor issue on the minutes and requested that it be noted that himself and Stephen Parker were representatives of CKI/UU.
- John Costa set out that he hadn't been at the previous DISG meeting. He outlined that while it was evident that under the interim arrangements there would not be any changes in relation to exit capacity it was not clear whether, in relation to flexibility, there would be any amendments to current arrangements. Sonia highlighted that it was her understanding that this was included in the consultation document. She also stated that Nigel Sisman's presentation, which was on the Ofgem website provided details of this. She explained that up until the enduring arrangements were to take effect, flow flexibility for NTS direct connects would continue to operate in the same way, as set out under NExA provisions. She clarified however that different arrangements would operate if users were to request additional flexibility within-day and that a 'bid window' would be established to ensure no undue discrimination. NGT confirmed Sonia's understanding to be correct.

b. Review of minutes from DISG 30 (held on 21 December)

- Peter Bolitho pointed out that the minutes referred to Christiane Sykes as Catherine Sykes. Sue Higgins also highlighted that Jess Hunt had been referred to as Hess in paragraph 6 of the minutes.
- John Costa detailed that the point that he had raised regarding the minutes from DISG 29 had not been properly reflected. He set out that the minutes stated that 'It was agreed that this would be acceptable' but that more clarity was needed regarding what was agreed on and suggested that the minutes should say 'It was agreed that Ofgem could respond to these comments in the revised minutes'.

c. Actions from previous meeting

- Ofgem to circulate DISG 30 minutes and accept comments at DISG 32. Sonia highlighted that this had been done at the beginning of the DISG 32 meeting.
- Transco to reconsider its position on the credit proposals for day 1 of any DN sale. Sonia explained that this was an ongoing action and that Transco would need to report back to DISG 33. Peter Bingham confirmed that this would be possible.

Action – Transco to reconsider its credit proposals for day 1 of any DN sale and report back to DISG 33.

- Transco to check whether the instructions to interrupt are from the NTS or DN control rooms. Peter Bingham set out that he had got an answer from Nigel Sisman on this issue and detailed that the DN would instruct interruption on the DN control centre in the long-term but that in the interim, until August, these instructions would continue to go through the GT control centre. Sonia asked whether these revised arrangements would have an impact on shipper systems. Peter Bingham responded that he was unsure on this point. Sue Higgins asked how this system is presently managed and John Costa responded that he thought that it was currently done by fax. Sue suggested that if this were the case the systems should not be too complex to change and asked for clarification that shipper concerns, regarding this issue, were in relation to the fact that this amendment to systems may cause the existing framework to become more fragmented. Sonia confirmed that this was the case and stated that consideration

may need to be given as to whether these flows would need to be directed through the agency. Peter Bolitho also expressed concerns that the possibility of both the DN control centre and NTS control centre may instruct interruption on a specific site simultaneously. Peter Bingham clarified that, after August 2005, it would not be possible for the NTS to instruct interruption for a site on any DN. Jason Mann therefore clarified that there would not be any situation in which interruption would be instructed in this manner. Nick Wye set out that the NTS control centre being responsible for directing an interruption on DNs during the interim period did not seem to be the most efficient way to provide notice and stated that, under this arrangement, it did not seem to be clear who would be directing information to the relevant shipper. Sonia set out that an action should be placed upon Transco to make this process clearer to all participants.

Action – Transco to provide clarity regarding the flow of information that will take place where interruption is instructed by the NTS control centre on a DN in the interim period. This should take the form of a pre and post August process map.

- Transco to revert to DISG on how many SNI and TNI sites there are on the NTS. Peter Bingham explained that there was currently one TNI site on the NTS. He set out that Transco had recently reviewed the need for this TNI site and had determined that it was no longer required. He detailed that the site would be notified and would then become an SNI.
- Transco need to look at a way to join up what is in the licence to what they are proposing to ensure that licence conditions are finalised by 14 February with particular attention to A4. As a result, Transco will need to inform Ofgem of the revenue flows that will be in place. Further, Transco should ensure that they explain the consultation document to Ofgem before publication. Sonia explained that an action should be placed upon Transco to liaise further with Ofgem on this matter in order that additional information regarding the charge change window could be included within the relevant presentation.

Action - Transco to liaise further with Ofgem on this matter in order that additional information regarding the charge change window can be included within the relevant presentation.

- Transco to update the DN sales roadmap. Sonia detailed that Transco should bring this updated roadmap to DISG 33 and, if the Authority grants its consent to a potential DN sale, Transco would be required to bring an updated DN sales roadmap to DISG 34.

Action – Transco to present an updated roadmap for DN sales at DISG 33.

- Sue Higgins to report back to DISG regarding what IGSA stands for. Sue Higgins explained that IGSA stands for Interim General Services Agreement and that, in this regard it referred to support and administrative services.
- DISG members to provide any comments on income to be excluded from the de-minimis limit for the next DISG meeting. Sonia outlined that this was item 2 on the DISG 32 agenda.
- Transco to reflect on this discussion and report back by next meeting. Sonia outlined that this was item 3 on the DISG 32 agenda.
- Comments requested by Transco and potential buyers regarding storage provisions by the next DISG, everyone else comments are needed by 14

January. Sonia highlighted that Ofgem had received comments from Macquarie and NGT in relation to these issues. Tory Hunter explained that she had not, as yet, submitted relevant comments on behalf of SSE but that she was planning to provide these comments to Ofgem on 13.01.05. Sonia emphasised that it was really important that potential buyers and NGT ensured that they were providing Ofgem with relevant comments on licence conditions, presented to DISG, on time in order to allow Ofgem to allocate resources and meet the, already tight, deadlines.

- Comments requested by Transco and potential buyers regarding switch on / switch off condition and the private CLM condition by next DISG, everyone else comments are needed by 14 January. Sonia set out that Macquarie and NGT had submitted comments in relation to this issue. Alex Wiseman clarified that he had also provided comments to Ofgem in this regard. Sonia emphasised again that it was really important for all the relevant parties to submit any comments that they have in accordance with deadlines set. Alex responded that in order to achieve this, it would be helpful if the relevant licence drafting was on the web by the end of DISG on a Tuesday or at the latest, Wednesday morning.
- Transco to compile a definition of derivation of the DNZ term to be placed in the public domain. Sonia outlined that this was item 4 on the DISG 32 agenda.

2. DISG members to provide any comments on income to be excluded from the de-minimis limit

Sonia detailed that Ofgem had received comments on this issue from Innogy and asked whether DISG members had any further comments. Alison Russell set out that she had a couple of points regarding this issue:

1. She highlighted that on the last page of the presentation that had been given at DISG 31 a reference had been made to services excluded from the de-minimis limit and the fact that there was an upper limit on these. She suggested that if it were the case that DN owners did not want figures of this nature to be placed in their licence it would make sense to simply incorporate details of this upper limit.
2. She asked for clarification that Ofgem did not consider it to be appropriate for non transitional arrangements to be excluded from the de-minimis limit. In this regard she detailed that if the arrangements were to be long-term it would not be appropriate to exclude them from the de-minimis limit.
3. She considered that it may be sensible to include provisions in the licence for reporting arrangements regarding the scale of figures in relation to de-minimis services.

Sonia asked Transco whether they had any response to the second point that Alison Russell had raised. Sue Higgins acknowledged that the point made by Alison in this regard was a valid one and detailed that there was no doubt that a potential DN sale would create a number of de-minimis services and that, as such, it may be better to exclude non-transitional services from the permitted limit. Suzanne Turner asked whether, if that approach were adopted, it was likely that, in aggregate, de-minimis services would exceed the 2.5% limit following a potential DN sale. Sonia suggested that Transco should report back to DISG 34 regarding the way in which it would deal with these issues.

Action – Transco to report to DISG 34 regarding whether it intends to exclude non transitional services from the de minimis limit.

Peter Bingham set out that if the relevant service were a useful long-term service then it may be sensible to maintain the exclusion. Sue Higgins considered that such services should not be excluded from the de minimis limit but that it may be sensible to place them in another excluded category.

Sonia asked Alison, with respect to her comments regarding the reporting requirements that should be put in place in relation to de minimis services, whether she considered that this should be over and above the requirements that are already included within the provisions of the regulatory accounts. Alison explained that she envisaged the reporting should be undertaken at a high level setting out the level that Transco anticipated that the de minimis services would reach and the level that it actually reached. She clarified that this level of detail may already be included within the provisions of the regulatory accounts but that she had not yet looked at the relevant conditions in this degree of detail. Sonia explained that Ofgem had already been looking at these conditions in relation to other provisions that would need to be picked up in the licence but that she was undecided as to whether reporting provisions regarding de minimis services should be placed in the regulatory accounts condition or whether it should be in a separate condition. Sue Higgins clarified that Transco would not want overly complex reporting arrangements to be developed in relation to transitional issues. Sonia outlined that Ofgem were simply interested in looking through the existing licence conditions to determine what the scope of the requirement should be.

Sue highlighted that the question asked regarding de-mimimis services had been regarding the reasons behind why some charges in this regard differ for IDNs and RDNs. She clarified that certain parts of the charges would not need to be excluded for RDNs as they would not strictly be de-mimimis but that with respect to the IDNs these charges would fit into the de-mimimis category.

Sonia emphasised that there would not be a lot of time to deal with all of these licence conditions as although they were only scheduled to go back to DISG 34 in two weeks time, Ofgem would require any comments before then. In this regard she highlighted again that the 14 February was a very tight deadline especially considering outstanding issues regarding the Authority decision.

4. Transco to report back to DISG regarding the scope of the agency agreement

Sonia Brown stated that Ofgem had spoken with internal colleagues regarding the scope of the agency agreement. She clarified that Standard Special Condition 15 of the licence set out the scope of services which should be incorporated within the UNC and that internal colleagues had been very firm that this scope should be contained within the UNC. Peter Bingham explained that although Transco could see both sides of the argument regarding the scope of agency services. In this regard he set out that Transco had a concern that if these details were placed within the UNC this would allow the community to amend the scope, thus causing it to incur additional costs while the community concern was that if the scope of the agency were placed within the UNC it would allow Transco to remove services.

Sonia set out that she would need to push-back on these issues. In this regard she explained that Transco's price control is set on the basis of the obligations that it is

required to fulfil and clarified that if Transco were required to undertake further responsibilities this would be dealt with in one of two ways:

- If the costs were to arise as a result of DN sales then Ofgem would not be willing to amend the current provisions of Transco's price control;
- If the costs were not incurred as a result of DN sales or were incurred due to an initiative developed to reduce costs for customers then there would ultimately be protections for this type of situation within the provisions of the price control. She detailed that the process would work in a similar way to the current process that NGC operates under. As such she set out that, if a mod is raised which causes NGC to incur substantial additional costs then a representation is made to Ofgem to apply to recover the associated costs.

Peter Bingham stated that Transco do not have income adjusting event clauses within their price control provisions. Sonia responded that it was her understanding that Transco did have IAE provisions and that these provisions were being enhanced within the Section 23 notice currently being consulted on outside of DN sales. Peter Bingham asked for clarification regarding the way in which other GTs would be treated in relation to these provisions. Sonia detailed that Ofgem were intending to adopt a common approach as there was scope for all NTS and DN-GTs. Sue Higgins asked whether it would be possible for Ofgem to provide Transco with something in writing in relation to this issue. Sonia highlighted that Ofgem had explained this issue to Transco on a number of occasions and outlined that details of these provisions would be contained within the February licence consultation. She also suggested that if Transco were unsure of the way in which these provisions would operate it may be sensible to look at NGCs licence. She emphasised that Transco may be permitted to recover any additional costs if they were efficiently incurred and fell outside of the scope of DN sales.

Tory Hunter asked for clarification that this was a further Section 23 consultation that has been running in parallel with the formal Section 23 consultation for DN sales. Sonia explained that it had now closed. She explained that the changes that Ofgem were planning to implement were broadly intended to improve transparency with respect to situations in which Transco may apply to Ofgem to amend the provisions of its price control in response to an income adjusting event. She clarified that these provisions would apply collectively to other participants and therefore if any party were to apply to Ofgem under the income adjusting event clause they would be required to apply in a transparent way and to provide all of the relevant information required to Ofgem.

Peter Bingham asked whether if the scope of the agency were to increase, Transco would be permitted to recoup any associated costs through its allowed revenue. Sonia responded that there would potentially be the case in situations where the scope of the agency increases and this increase is unrelated to DN sales. She stated that she wanted to be clear that, post DN sales, there may be questions about the scope of the agency and that changes may need to be made to accommodate the new industry framework but that any additional costs that were incurred in this regard would not be recouped from customers. She set out that if Transco were asked to do something outside of the scope of DN sales in order to secure benefits for customers then Ofgem may consider this to be an income adjusting event. Sonia explained this was consistent with the adopted in relation to all DN sale price control issues. She clarified that any mod proposal would have to make it clear that the costs incurred had been unforeseen when the price control was set.

Tory Hunter asked whether if a mod was raised to amend the framework of the agency to an Option F model from an Option C model, whether the costs incurred by GTs in this respect would be recoverable through the allowed revenue in their price control. Sonia responded that deciding upon the scope of arrangements that the agency would cover had been a difficult decision to reach. She detailed however that it could be possible that the Authority had reached the wrong decision in this regard and that if costs incurred by the agency were higher than anticipated under Option C, it would be necessary for Ofgem to provide customers with a degree of protection against these costs and, as such, the additional costs would not be recoverable through the provisions of GT price controls. Peter Bolitho stated that he was encouraged by Ofgem's robust position on this. Peter Bingham agreed that clarity had been achieved and that the approach adopted fitted well with Ofgem's regulatory policy.

Alison Russell asked for clarification on whether the scope of the agency would be included within the drafting of the UNC. Peter Bingham stated that if this becomes a licence condition through the formal 8AA consultation process then it will be necessary for Transco to comply with it but highlighted that Transco did not feel very comfortable with incorporation of the scope of the agency into a document which will be modifiable by all signatories to the Network Code.

Peter Bolitho considered that having the scope of the agency within the UNC would be a positive development in that it would provide shippers with a hook to raise mods to this. Sonia clarified that if shippers were to raise mods on the basis that they had incurred significant additional costs, it would be necessary for Ofgem to undertake a thorough investigation regarding these. She detailed that, as such, all of the relevant information regarding the way in which the costs have arisen and the reasons why these were overlooked prior to DN sales would need to be compiled and analysed. She explained that the Authority had considered Option C to be the best balance of risks at the time that their decision was reached and that, as such, a high burden of proof would have to be demonstrated before the Authority considered amending its position.

Peter Bolitho asked whether it would be necessary for affected parties to demonstrate that the costs had been incurred or whether it would be sufficient to highlight the costs that would be incurred in the future. Sonia set out that if it were to become evident, following a potential DN sale, that a mechanism didn't work in the way that Ofgem had anticipated when it developed that particular mechanism, it would be possible for shippers to raise a mod to draw attention to the additional costs being incurred. She stated that once the mod had been raised Transco would be required to respond to it and either attribute the difficulties experienced to "teething" problems or acknowledge that there was an issue evident which would require resolution. Peter Bolitho considered that it should be possible for shippers to raise mods prior to the incurrence of any associated costs as once the costs had been incurred it would prove difficult to recover them. Jason Mann responded that it would not be possible for shippers to recoup any of the incurred costs but that if the mod were accepted it would prevent them from incurring any further costs in the future.

Marie Clark asked how shipper costs would be assessed against each other. Sonia clarified that Ofgem would be looking at the level of costs that may flow through to customers and assess these against the costs that may be incurred in the future if a potential solution were to be implemented. She highlighted the case of connections as an example. In this respect, she explained that if a mod was raised which proposed incorporating connections within the scope of the agency, the additional costs incurred

in the future as a result of the problem identified would be assessed against the benefits that would be foregone due to restrictions placed on the development of competition in connections. Peter Bingham set out that Ofgem could be assured that Transco would bring forward the drafting regarding the scope of the agency for incorporation within the UNC.

4. Transco to present a definition of derivation of the DNZ term to be placed in the public domain

Peter Bingham distributed a paper which presented a spreadsheet providing details of some of the numbers that were used to determine Transco's most recent price control, as well as an explanation of the way in which the price controls were derived. Peter detailed that the starting point of the calculations was to index Transco's core allowed revenue for 2002 to obtain core allowed revenue for 2003. He stated that this was then effectively adjusted to reflect composite volume growth. He set out that the repex incentive adj. minus the pass-through would provide figures regarding rates and explained that the under / over recovery from the last period of the price control and related interest would also be incorporated.

He highlighted that all of these figures would be added together to obtain a total allowed revenue figure. He detailed that the core revenue figure would be indexed by RPI and again by the composite volume increase. He stated that once this core revenue figure had been obtained, pass-through and repex incentive adj. would be added, as well as carry forward from the previous year and associated interest. He set out that the total revenue would then be compared against actual revenue to provide a figure regarding carry forward.

Peter explained that the price controls were separated in March 2004. He outlined that, to achieve this, allowed revenue for 2004/05 was determined using a postalisation model which ensured that price equitability was maintained and to allow consistency in prices across the DNs. He set out that the percentage figures were published in an Ofgem open letter which was published in March 2004. He stated that the key issue was to ensure the same starting point was used across the networks to minimise the scope for divergence.

Sonia suggested that it might be appropriate for DISG members to take the paper away and absorb the information but asked if anyone had immediate questions. Nick Wye pointed out that the methodology used, in which allowed revenues were originally held in aggregate and then allocated in accordance with the percentage apportionment did not provide a reflection of the characteristics of the DN to which the allowed revenue was allocated. He asked whether as a certain allowed revenue had been allocated to each DN, there would be an adjustment for the remainder of the price control. Peter Bingham stated that the targets incorporated are unique cost targets which are not explicitly included within the licence but that additional protection provisions are provided in the licence in this regard. He asked for clarification that Nick wanted to achieve a greater understanding of the way in which the cap was split between the DNs. Nick asked how additional capital that may be accumulated would be treated and Peter responded that this would be dealt with as part of the price control. Nick requested further clarification regarding the way in which Transco envisaged that this would work.

Action – Transco to provide further clarification regarding the way in which the mains replacement allocation within the DNZ term was derived for individual DNs following

the separation of DN price controls and how it will operate with respect to individual DNs following a potential DN sale. This information is contained within Appendix 2 of the open letter regarding DN price controls issued by Ofgem in March 2004.

Action – DISG members to bring back any comments regarding Transco’s presentation on the derivation of the DNZ term to DISG 33.

Sonia highlighted that a potential purchaser had suggested that these figures should be independently audited. She explained that Ofgem were currently considering this proposal and were intending to progress this issue further with Transco.

5. Exemption interactions such as changes to the definition of shipper

Sonia Brown set out that the presentation regarding exemptions would by no means fetter the Authority or Secretary of State’s discretion regarding these issues. She clarified that while the decision regarding exemptions would be for the Secretary of State to make, Ofgem had been looking through the licence to achieve an improved understanding of the way in which the grant of an exemption would impact upon existing conditions.

Suzanne Turner detailed that the Offtake arrangements consultation in June 2004, considered 4 options for NTS offtake. She noted that Options 1, 2, and 3 would require an exemption from the Gas Act in relation to the need to hold a shipper licence by the NTS and DNs. She outlined that the Offtake arrangements conclusions document published in August 2004 outlined that option 2 had been chosen (“NTS connects booking model”), consistent with views expressed by respondents to the consultation.

Suzanne set out that, as a result, in a post DN Sales world interactions between GTs will need to be reflected, including the fact that GTs will (in some cases) be charging other GTs as well as shippers. She explained that on the assumption that the Authority and the Secretary of State grant their consent to DN Sales in January 2005 and NTS and DN-GTs are granted the exemption that they require to the Gas Act, Ofgem have considered the licence amendments required to reflect these new arrangements.

Suzanne outlined that licence modifications would be required to

- address definitions of “shipper”;
- consider where GT / shipper interactions should also be GT / GT interactions; and
- consider the implications of Option 2A for the price control conditions and regulatory principal formulae.

Suzanne detailed that there are currently two shipper related definitions within the licence:

- **Shipper:** (as used in price control conditions - see Special Condition 28A of Transco plc’s existing licence)
“means any gas shipper, or person benefiting from an exemption under section 6A of the Act from the prohibition under section 5(1)(c) of the Act, who has arranged with the licensee for gas to be introduced into, conveyed by means of, or taken out of the transportation system.”
- **Relevant shipper:** (see Amended Standard Condition 1 of Transco plc’s existing licence).

“means, in relation to any premises, a gas shipper which has made arrangements with the licensee in pursuance of which gas is conveyed to those premises and, in relation to any secondary sub-deduct premises, such arrangements shall be deemed to have been made where, in pursuance of arrangements made by a gas shipper, gas is taken out of the pipe-line system of the licensee at the relevant primary sub-deduct premises with a view to its conveyance to those secondary sub-deduct premises”

Suzanne set out that **Gas shipper** is not defined in the licence since it is a term defined in the Gas Act (section 7A(11) Gas Act 1986) as:

“the holder of a licence...authorising any person to arrange with any gas transporter for gas to be introduced into, conveyed by means of or taken out of a pipeline system operated by that transporter, either generally or for purposes connected with the supply of gas to any premises specified in the licence”.

Suzanne stated that there were a number of proposals regarding the definition of a shipper. This included:

- the explicit inclusion of a single definition of “gas shipper” within A3, as per Gas Act definition, which excludes GTs that have been granted an exemption:
 - “gas shipper” shall have the meaning given in Section 7A(11) of the Act;
- the deletion of the definition of “shipper” within price control conditions;
- leaving the definition of “relevant shipper” substantively unchanged; and
- the inclusion of additional definitions to indicate where GTs also affected:
 - DN operator;
 - NTS operator; and
 - Relevant gas transporter – “NTS operator or DN operator”.

Suzanne outlined that, as well as the definitions discussed within the presentation, a number of other definitional changes would be made. These included:

- A3 – Definitions and Interpretation: amend definition of “transportation arrangements” - such that it is not only gas shippers that may have gas introduced into, conveyed by means of and taken out of the licensee’s pipe-line system, but also “relevant gas transporters”;
- A4 – Charging Gas Shippers - General:
 - Change title from “Charging Gas Shippers – General” to “Charging – General”
 - Para 1a to be augmented by NTS Special Condition “specified descriptions of gas shippers and/or DN operators as appropriate”
- A5 – Obligations as Regard Charging Methodology:
 - To be augmented by NTS Special Condition, such that:
 - Para 2a: “consulted the gas shippers and/or DN operators as appropriate”
 - Para 2b: “representations (if any) made by gas shippers and/or DN operators”
- NTS Special Condition will make it clear that involvement of DN operators is only “appropriate” in the context of NTS exit capacity and flow flexibility products
- A6 – Conduct of Transportation Business:
 - Para 1 currently says:
“The licensee shall conduct its transportation business in the manner best calculated to secure that neither –
(a) the licensee or any affiliate or related undertaking of the licensee, nor
(b) any gas shipper or gas supplier,

- obtains any unfair commercial advantage including, in particular, any such advantage from a preferential or discriminatory arrangement, being, in the case of such an advantage accruing to the licensee, one in connection with a business other than its transportation business. ”
- Introduce a paragraph (c) that states “any relevant gas transporter” consistent with comments made by DISG members at DISG 29.

Sonia explained that this amendment was particularly aimed at prohibiting Transco from exercising undue discrimination between its NTS and RDNs. Suzanne clarified that it was also augmented by Special Condition C18 which addresses this issue. Sue Higgins set out that she did not understand why it was necessary to include this provision. Sonia detailed that Ofgem felt that Special Condition C18 would not be sufficiently robust to prevent Transco from exercising undue discrimination between its NTS and RDN businesses and that it considered that this belt and braces approach would provide an additional degree of comfort.

Sue Higgins expressed concern that a licence amendment of this nature would create confusion within Transco as regards their obligations and that this may therefore lead to inefficiencies. Sonia stated that sub paragraph (c) would be relevant to NGT as well as that may own multiple networks. Sue detailed that she had concerns regarding the extent of these provisions and set out that if one company were to have two DN licences it would be inclined to do certain things in relation to the other DN that it owned which it wouldn't consider doing for another DN. Sonia emphasised that companies should not be discriminatory in this respect. She set out that in a situation such as this, if another DN were to wish to obtain a particular service on these terms then it should be able to achieve this.

Sonia highlighted that Transco should be more concerned about the provisions contained within the Competition Act 98 which was extensively covered at DISG 29. Sue indicated that she needed to achieve a clearer understanding of what exactly the licence obligation would require Transco to do and Sonia responded that while she thought the licence obligation was clear she would be happy to discuss this separately with Sue. Sue set out that she accepted that the condition would have to be applicable between the NTS and IDNs. Sonia stated that it would be important that no unfair or preferential commercial advantages were afforded between all DNs and emphasised again that this was a DN-DN issue.

Alison Russell highlighted that favourable treatment from one DN to another may allow those DNs to benefit in some way in an ‘I'll scratch your back if you scratch mine’ scenario. Sue responded that this would be an issue for those DNs under the provisions of the Competition Act. Sonia explained that the condition would be supplementary to the provisions of the Competition Act. She outlined that it would be necessary for Ofgem to look at the circumstances of each individual case before deciding whether to use the powers that it has under the Competition Act or the provisions contained within this condition.

Suzanne Turner highlighted that Special Condition C1 would include provisions relating to the definition of “LNG storage arrangements”. She explained that the insert text in red “means arrangements whereby gas shippers and/or DN operators may, from time to time and in different cases and circumstances, have gas stored in the LNG Storage Facilities”. She detailed however that the involvement of DN operators would be limited by the terms of the exemption and that, as such, the terms of the exemption

would make it clear when DN operators would be permitted to interact with the NTS with respect to LNG storage.

Suzanne set out that Special Condition C5 included provisions relating to the licensee's procurement and use of system management services in relation to the NTS. She explained that a number of changes would need to be made in this regard, including:

- Change para 6(c) – "...before revising the system management services adjustment data methodology the licensee shall:
 - (ii) consult gas shippers and allow them not less than 28 days in which to make representations
 - (iii) consult DN operators where there is a potential impact upon NTS exit capacity or NTS flow flexibility and allow them not less than 28 days in which to make representations "
- Change para 8(a) (review of statement of principles and criteria which will determine which system management services the licensee will use)– "in consultation with gas shippers and/or DN operators and other interested persons likely to be affected".
- Change para 8(b)(iii) (reporting on outcome of above review to the Authority) – "representations or objections from gas shippers and/or DN operators and other interested parties".

Peter Bolitho asked what the definition of flow flexibility would be and where in the licence it would reside. Suzanne responded that this was incorporated within Standard Special Condition A3 which made reference to the definition of flow flexibility included within the Network Code. Peter Bolitho highlighted that presently the issue of flow flexibility was an exit concept and explained that if the condition were to become broader it would be necessary for this to be clear. Sonia confirmed that Ofgem would make it clear, within the licence, that flow flexibility was an exit concept.

Suzanne explained that Standard Special Condition D5 included provisions regarding the licensee's procurement and use of system management services in relation to DNs. She detailed that two key changes would need to be made to the existing condition and that these were to:

- Change para 7(a) (review of statement of principles and criteria which will determine which system management services the licensee will use)– "in consultation with gas shippers and/or the NTS operator and other interested persons likely to be affected"
- Change para 7(b)(iii) (reporting on outcome of above review to the Authority) – "representations or objections from gas shippers, the NTS operator and other interested parties"

Suzanne highlighted that within the price control conditions generally a change from "shipper" to "gas shipper" had been made throughout. In relation to Special Condition C8A which includes provisions relating to revenue restriction definitions in respect of the NTS Suzanne stated that changes had been made to:

- The definition of NTS TO revenue: "services to gas shippers and DN operators"
- Delete definition of "shipper"
- While Suzanne highlighted that in relation to Special Condition E2A changes had been made to:
 - "Distribution Network transportation quantity" - "arrangements with gas shippers and other DN operators"
 - Delete definition of "shipper"

Suzanne outlined that further changes had been made to price control conditions as appropriate to reflect the impact of the exemption as well as the decision to adopt an Option 2A approach with respect to revenue flows.

Action – shippers to come back to Ofgem with any representations regarding the definition of relevant transporter by DISG 34.

Sonia outlined that if DISG members had any further questions or comments, they should get into contact with Helen Connelly, Suzanne Turner or any other member of the team.

6. Charge change window conditions

Sonia Brown apologised that the version numbers had not been included on the version of the licence drafting that had been circulated. Suzanne Turner detailed that these version numbers would be inserted onto the drafting prior to the DISG items being placed on the Ofgem website. She also outlined that the licence drafting versions on the website may be more user friendly as they highlight, in track changes, the amendments made to the existing versions of the licence.

Suzanne detailed that Ofgem had previously consulted with industry regarding the implementation of a charge change window to require DNs to coordinate changes made to their charging statements and, as such, limit any associated costs that shippers would incur. She outlined that while Ofgem had proposed, in the licence consultation document, to permit DNs to make changes to their charging statements on a twice-yearly basis, this position had been reconsidered in light of the way that option 2A would look. She explained that given the definite changes required to accommodate an option 2A approach, Ofgem were proposing that charge changes on the NTS should only be permitted twice a year, with a caveat that changes regarding exit capacity and flow flexibility would only be permitted once per year.

Sonia clarified that this would mean that charge changes on the NTS would only be permitted twice a year. She detailed that Ofgem had considered the possibility of introducing a requirement onto the NTS which would permit it to make charge changes only once a year but that Ofgem had dismissed this proposal on the basis that it may compel the NTS to continually be in breach of its licence obligations. She stated that the licence would permit DNs to make charge changes once a year based on the revenue flows that would be passed through to DNs under an option 2A approach. As such, she clarified that Ofgem did not anticipate commodity charges being passed through to DNs from the NTS and that permitting DNs to change their charges only once a year would therefore be sufficient.

She set out that a number of assumptions had been made in reaching decisions regarding the licence drafting of provisions related to the charge change window and that if it were the case that, following a potential DN sale the NTS were to recover SO/TO commodity charges from DNs it would be necessary for Ofgem to revise the relevant licence drafting.

Nick Wye asked for clarification that SO/TO commodity charges would not be passed through to DNs. Sonia responded that while this issue had not been included in the presentation given to DISG 31, it had been necessary for Ofgem to make an assumption in this regard and that it had therefore assumed that the NTS would cover any changes

in these commodity charges. Nick pointed out that this was not what Ofgem had said in the Next steps licence consultation document. Sonia clarified that the consultation document had been drafted on the basis of the information that Ofgem had at the time of publication and that Transco's position regarding issues such as this had been evolving over time. She explained that it was safest to assume that SO/TO commodity charges would not be passed through to DNs and that therefore DN charge changes would only apply once a year in relation to changes in exit capacity and flow flexibility. Peter Bingham confirmed that this was a reasonable position for Ofgem to assume. Sonia outlined that the second Section 23 consultation, undertaken by Ofgem, would allow any issues of this nature to be 'mopped up'.

Suzanne set out that she would start off by taking DISG members through the changes made to Standard Special Conditions A4 and A5 that did not relate to amendments made to accommodate the implementation of charge change windows. She outlined that paragraph 2 had been referred to as 'not used' in the licence drafting in order to address the issue of charge change windows and that, as such she would come back to this issue later. She highlighted that amendments made to paragraphs 5, 6, 7, 9 and 10 related to LNG arrangements which Ofgem did not intend to discuss at DISG 32.

Suzanne stated that references to Standard Condition 4C had been removed from the drafting in view of the fact that this was a time-redundant condition and would be switched off. She explained that references to the 'licensees pipeline system' had been amended to refer to 'the pipeline system to which the licence relates'.

She outlined that there had been an ongoing issue in relation to Standard Special Condition A5 and the fact that it incorporated an obligation on the DNs and the NTS to keep the charging statement at all times under review. She stated that Ofgem had considered all of the comments submitted to the September consultation document in relation to this issue but remained of the opinion that in view of the fact that the licence requirement regarding no undue discrimination was drafted in the same way this obligation would not be unduly onerous.

Sue Higgins pointed out that this drafting was inconsistent with the terms of the electricity licence. Sonia responded that she had looked at the terms of the NGC licence and that this was the way in which the condition had been drafted. She therefore highlighted that DISG members should note this consistency. Sue stated that she had meant the electricity DNO licences.

Sue Higgins asked for clarification that the underlying intention of the licence obligation was simply to ensure that DNs and the NTS had a reasonable process in place to review their charging methodologies. Sonia confirmed that the spirit of the licence obligation was simply to require the relevant parties to have thought about the most appropriate format for their charging methodologies to take. Tory Hunter pointed out that this was inconsistent with the provisions in the electricity distribution licence. Sonia responded that NGT and gas DNs would have this requirement and that, at an opportune time, Ofgem may wish to consider its possible application across networks. She clarified that the requirement would simply be to ensure that relevant parties were thinking about the way in which they were discharging their obligations as opposed to reviewing their processes at all times.

Suzanne detailed that a number of other minor tweaks had also been made to Standard Special Conditions A4 and A5 in response to views expressed by respondents to the

licence consultation documents. In this regard, she set out that paragraph 2A (c) referred to 'changes' rather than 'proposals and to 'any other relevant gas transporter'. She explained that the definitions incorporated into the end of Standard Special Condition A5 had been taken from Special Condition C2 (the LNG augments).

Suzanne stated that the main changes to Standard Special Conditions A4 and A5 were:

- As a result of the need to reflect the position that the NTS would be permitted to implement charge changes twice a year, while DNs would be permitted to make changes only once a year. She clarified that due to the difference in the obligations on the respective parties, it had been difficult to incorporate the provisions within a single licence condition. She explained that paragraph 2 (a) and (b) of Standard Special Condition A4 were referred to as 'not used' in the current licence drafting but that the provisions contained within them would apply to the relevant parties through the use of augments. She explained that a similar approach had been used with respect to the drafting of Standard Special Condition A5.
- The inclusion of augments to place the relevant obligations onto the DNs and NTS. She detailed that, as drafted, there were currently two augments – Special Condition C7 to augment Standard Special Conditions A4 and A5 for the NTS and Special Condition E7 to augment the provisions for DNs.
- A change to Standard Special Condition A4 which she had covered in the presentation that she had given regarding Exemption interactions. She stated therefore that this amendment was not made as a result of charge changes but would be implemented to introduce the concept of the NTS dealing with other GTs as well as shippers.
- To implement a reasonable endeavours obligation within Special Condition C7 to augment Standard Special Condition A4 with respect to the NTS. This would require that any changes to charges are only made on 1 October in response to changes in charges regarding exit capacity and flow flexibility.
- The introduction of a new paragraph (b) into Special Condition C7 to augment Standard Special Condition A4 and include Income Adjusting Event Provisions for the NTS. Suzanne highlighted that the licence drafting was intended to ensure that the process through which any such application is made would be transparent and, as such, would allow interested parties to see the reasons why an additional change required did not fall under the reasonable endeavours obligation.
- The introduction of a new sub paragraph (a) into Special Condition C7 to augment Standard Special condition A5 and allow references to DN operators to be inserted in addition to the existing references to shippers.
- The introduction of a new sub paragraph (b) into Special Condition C7 to augment Standard Special condition A5 by inserting the 'not used' aspects of Standard Special Condition A5 into this condition and ensuring that they are applicable to the NTS.
- The introduction of a new sub paragraph (c) into Special Condition C7 to augment Standard Special condition A5 by inserting an 'as appropriate' obligation to require the NTS to consult with DN operators in relation to charge changes made regarding exit capacity and flow flexibility. Sue Higgins asked whether these changes would ensure that changes to charges and charging methodologies were aligned. Suzanne responded that she was assured that they would.
- The introduction of a new sub paragraph (a) into Special Condition E7 to augment Standard Special condition A4 to reflect comments made by DISG members at DISG 29. Suzanne detailed that, as such, this paragraph effectively makes

- provision for the incorporation of 'for each distribution network' to make it clear that the obligation would apply in relation to each DN.
- The introduction into Special Condition E7 of equivalent paragraphs introduced into Special Condition C7 to augment Standard Special Conditions A4 and A5 in relation to the charge change window.

Alex Wiseman pointed out that as the licence obligations required that it would be necessary for DNs to provide Ofgem with 150 days notice of an intended change to its charges this would mean that IDNs would not be permitted to make any changes to their charging methodologies until 1 October 2006. Suzanne responded that this was a reasonable endeavours obligation. Sonia suggested that if IDNs were keen to make amendments to their charging methodologies prior to 1 October 2006 then this would be something that they may be able to arrange with NGT. She clarified that the obligations had been put in place to provide shippers with a degree of stability that changes to charges would be coordinated and not implemented at various times throughout the year. She detailed that Ofgem would be happy to have discussions with DN buyers regarding the possibility of permitting them to make changes to their charging methodologies on 1 April 2006 by an exemption.

Alex asked why Ofgem had designated 1 October as the date upon which changes to charging methodologies would be permitted to be made. Peter Bolitho set out that this would fit in with the process for establishing gas contracts as they are mainly negotiated around this date. He stated that Transco have sought, on a number of occasions, to align this contract negotiation with the formula year but that this has consistently been halted by shipper opposition.

Alex Wiseman asked how the charge change process would differ from the way that it operates now following a potential DN sale. Sonia responded that through discussion at the DISG meetings participants had reached the conclusion that there should be a charge change window in order to reduce associated shipper costs. Alex asked how frequently charges had generally been changed to date and Sonia responded that changes had been implemented frequently. Alex therefore suggested that limiting charge changes to twice a year would reduce any associated costs. Sonia detailed that historically the NTS had changed its charges quite frequently while DN charges had been stable and that shippers had been keen to retain this aspect of the existing regime. She clarified however that the obligation was a reasonable endeavours one and recognised that a change to charges outside of the twice yearly window would, on occasion, be necessary.

Tory Hunter asked for clarification that the obligation was a reasonable endeavours one which is subordinate to best endeavours and Sonia confirmed that it was. Sonia also highlighted that the transparency provisions would enhance the condition by allowing interested parties to see that where additional changes were permitted this would be based upon convincing arguments.

Suzanne Turner outlined the last two amendments that had been made to the licence drafting to augment Standard Special Condition A5:

- The introduction of a new sub paragraph (a) into Special Condition E7 to augment Standard Special condition A5 to reflect comments made by DISG members at DISG 29. Suzanne detailed that, as such, this paragraph effectively makes provision for the incorporation of 'for each distribution network' to make it clear that the obligation would apply in relation to each DN.

- The introduction of paragraph (b) into Special Condition E7 to augment Standard Special Condition A5 by setting out that changes should only be made once a year on 1 October.

Suzanne highlighted that DISG members had also been provided with a copy of Standard Special Condition A47 for completeness but outlined that only minor changes had been made implemented within this condition (amendment of a cross-reference and correction of a typo). She requested that if any parties had comments on the licence drafting presented they should provide these to Ofgem by DISG 33.

Action – DISG members to provide any comments that they have on the charge change licence drafting by DISG 33.

Alex Wiseman asked why Ofgem felt that it was necessary to provide 150 days notice in relation to a charge change. Sonia responded that this was necessary in order to provide affected competitors with an adequate degree of notice and allow them to adjust their systems accordingly. Peter Bingham asked if this would be the case in the event that charges were reduced. John Costa pointed out that there would be a certain level of work involved in both cases and that, as such, the direction in which charges were adjusted would be irrelevant as affected parties would still need time to assess the changes that would impact upon them. Peter Bolitho stated that parties will also be striking contracts with users which would have an effect on the margins achieved and that even though there isn't currently certainty with respect to the size of the change that will be implemented, the advance notice provides stability regarding the way in which charges would be structured in the near future. Alison Russell detailed that there can be further implications when it is not simply the size of the charge that changes but where the type of charge levied is amended.

7. Emergency Service Conditions

Helen Connolly set out that although the drafting of this condition had been provided Ofgem had not, to date, made any amendments to these licence conditions. She therefore considered that it would be appropriate to simply go through some of the respondents' views expressed in relation to the Next Steps licence consultation document as well as comments raised at DISG meetings.

With respect to the DN boundary issue she detailed that the majority of respondents had expressed agreement that the DN boundary issue should be dealt with through the safety case. She highlighted that at DISG 29 a concern had been raised regarding the notification of the responding DN to the relevant DN, where the incident had occurred and where these provisions were set out. She confirmed, in this regard, that Transco had informed Ofgem that these requirements were set out in the DN safety case.

Helen outlined that one shipper had suggested that the relevant DN on who's network the incident is reported should inform the relevant shipper / supplier that its customers have been interrupted and that, as such whether Standard Special Condition A8 should be tweaked to reflect this. Helen stated that Transco had informed Ofgem that this issue was covered in the safety case.

In relation to the first emergency response to IGTs, Helen indicated that the majority of respondents had expressed support for the approach proposed in the Next Steps licence consultation document. She also set out that one respondent had expressed concern that there would not be enough time for them to implement the new arrangements prior

to completion of the DN sales project. Helen stated any proposal, as a result of a Ofgem consultation, would be allowed time to 'bed down' between the time the present extended arrangements expire to the new arrangements being introduced.

With respect to issues regarding the first emergency response to the NTS, Helen stated that at DISG 29 clarification had been sought regarding the meaning of the phrase 'to act in a best manner' which was incorporated within the licence drafting. She clarified that this phrase was meant to ensure that no physical work would be carried out on the NTS in this respect. Tory Hunter asked for clarification regarding what this issue was. Sonia explained that at DISG 29 a discussion had been initiated regarding the emergency first line response provision and what exactly this entailed. She set out that Ofgem had simply wanted to provide some clarity on this point and the fact that the obligation was to alert people of a potential gas leak rather to undertake any work on the pipeline system.

She highlighted that, in relation to the first response service to the NTS, one potential purchaser considered that the cost of providing this service would not be covered by the provisions of the price control but that Ofgem did not consider that this would be the case. Sonia clarified that Ofgem did not consider that NGT would have overlooked the cost of providing this service when the price control had been developed. She also explained that Ofgem would not want to reopen the price control for potential purchasers and then set a precedent and be required to reopen the control for other interested parties.

Helen also outlined that there had not been any licence drafting for this condition as yet even though it has been requested from NGT. Sue Higgins detailed that NGT were unsure as to the licence amendments that would be required in relation to this condition. Sonia clarified that tweaks would be necessary in relation to the 1 in 20 obligation to reflect the revised form of the flow flexibility product. She set out that Ofgem had not received any drafting from Transco in relation to this issue but that this drafting should be available for discussion at DISG 33.

Tory Hunter asked why it would be necessary for amendments to be made to the 1 in 20 obligation. Sonia stated that while presently it is not possible for GTs to go above MDQ/24 it will need to be the case that, to accommodate the revised flow flexibility product, GTs are able to do this following a potential DN sale. Jason Mann highlighted that while there is currently a limit on flow flexibility levels within day there is also a limit within hour and that in the future these allowances would need to change.

Peter Bolitho asked whether this would constitute a watering down of the 1 in 20 obligation. Sonia responded that Ofgem were simply trying to ensure the opposite and to retain the strength of the obligation as it currently stands. She emphasised that leaving the condition in its existing form would contribute to a watering down of the provisions. She explained that she had serious concerns in this area and that she simply wanted to ensure that the 1 in 20 obligation was not diluted.

8. Network Code Condition A11

Sonia Brown outlined that Ofgem had undertaken work to ensure clarity with respect to this licence condition. She set out that analysis of this condition would be ongoing to ensure that the new framework developed to accommodate a multi-transporter environment was adequately reflected in the licence. Sonia detailed that she was

disappointed that Transco had only just released the drafting of Section Y of the UNC. Peter Bingham responded that the business rules upon which this provision would be based had been presented to the UNC development forum meeting on 5 January and that, following this meeting, views expressed by respondents had been taken away for consideration by Transco.

Sonia expressed concern regarding the mod rules and how this would look following a potential DN sale. She stated that it would be most appropriate to place the relevant mod rules within the scope of the UNC but that if this was not the case, it would be necessary for Ofgem to put requirements in place to reflect this. She emphasised that the licence condition was drafted on the basis that the UNC process will continue to run smoothly and that, as presently drafted, incorporates all of the relevant detail required. She clarified that the current drafting was based on the best case scenario in Ofgem's opinion.

Peter Bolitho asked for clarification that the licence conditions, as currently drafted, mandate the mod rules as part of the UNC and Sonia confirmed that they did. Peter Bolitho pointed out that there was an outstanding issue regarding the way in which appeals to mod decisions would be conducted. Sonia responded that Ofgem had put forward a strawman on this which had been discussed at the DISG. Peter Bolitho indicated that he accepted that the recommendations would be used to decide whether mods were appeal-able and that he was satisfied with this approach. He considered however that if different methods were to be used to decide whether mods were appeal-able this may mean that the panel would need to be constituted differently. Sonia highlighted that these issues were more complicated as the consultation in this regard was running in parallel with discussions regarding the UNC and DTI decisions in this area. She therefore suggested that it might be appropriate to obtain some clarity regarding the DTI process and the timetable that they are working towards.

Action – Ofgem to speak to the DTI regarding their timetable in relation to the exemptions consultation.

Peter Bolitho suggested that, as currently envisaged, the panel structure may be ok if it were simply to be responsible for managing the mod process going forward. Sonia considered that the Authority might wish to obtain a recommendation from the mod panel, in relation to mods proposed, as this would inform the decision that is taken and allow the Authority to assume a more representative position. She explained that as the mod panel would be responsible for progressing mods in relation to a number of issues, it would be important to ensure equal representation of DNs as it could contribute to the costs of all parties.

With respect to the amendments made to the licence Sonia detailed that insertion of the words 'to which this licence relates' had been made in paragraph 1 (a) in view of the fact that NGT would not be required to legally separate and Ofgem were keen to ensure that clarity was retained regarding the parties to whom the conditions relate. She also detailed that in paragraph 1 (b) the words 'relevant gas transporter' had been inserted to make it clear that the provisions did not relate to IGTs.

Sonia set out that Ofgem had undertaken to perform a 'tidy-up' of the provisions included throughout the condition and to provide increased clarity when referring to SFCs and the UNC as she stated that in the original drafting this area had been quite confusing. In this respect she detailed that the remainder of amendments made had

been to tidy up the condition and clarify the meaning of all of the provisions. One such change had been to clarify that it would be necessary to provide consent in relation to mod rules in writing and that this may be amended from time to time.

Sonia outlined that in paragraph 5, a couple of changes had been implemented in order to retain consistency and to tighten up the provisions of the condition. She clarified that the numbering of the paragraphs was incorrect in that paragraph 6 was missing. She highlighted that this was due to the removal of this paragraph from the condition and its replacement in the next section of the licence.

Sonia detailed that the big changes to this condition had been made within paragraph 10. In this respect she set out that increased clarity had been provided in 10 (a) and (b) regarding the parties that have the ability to put forward mod proposals regarding the UNC and SFCs. She also pointed out that 'DN operator' had been inserted into paragraph 10B 1(c). In addition she explained that the arrangements associated with the raising of alternative mod proposals, in paragraphs 10(a)(2), 10(b)(2) and 9(c).

Peter Bolitho asked what principles this amended drafting had been based upon and highlighted a shipper concern that parallel mods may be consulted upon simultaneously with slightly amended provisions after a third party raised an alternative mod to the one initially proposed. Sonia clarified that the provisions would simply provide parties with the ability to raise alternative mods.

Peter Bolitho detailed that he had envisaged that the process would require that the relevant GT to either convince opposing shippers that the mod would be a positive development or to propose an alternative mod amended to accommodate the concerns expressed. Tory Hunter pointed out that, as currently drafted, shippers would have the ability to raise alternative mods themselves and would therefore not have to convince GTs to raise an alternative on their behalf. Peter Bolitho set out that he simply had concerns that the problems experienced in relation to the BSC should be avoided. Sonia explained that it would have to be evident that all of the possible alternatives had been considered.

Peter Bolitho outlined that there would be problems associated with having two versions of a single mod proposal under the same mod number and sponsored by two separate parties. Sonia responded that paragraphs 10(a) and (b) would simply allow parties to raise alternatives to mod proposals initially put forward but that the detail of how these alternative proposals would be progressed would be contained within the UNC. She explained that a key function of the provision would be to provide an opportunity for interested parties to propose alternative ideas to those initially put forward. Peter Bolitho set out that the industry was in favour of an amendment of this nature but that they just wouldn't want to end up in a bureaucratic nightmare. Sonia emphasised that Ofgem had wanted to create an inclusive process to which all affected parties would be able to contribute and that the objective of the licence drafting presented to DISG members was to establish this.

Sonia highlighted that the remainder of the amendments to Standard Special condition A11 were simply to tidy it up and provide clarity regarding the parties to which the obligation would apply. She detailed that a further important amendment had been made in relation to paragraph 1(f) regarding the relevant Code objectives. She explained that there had been a shortcoming in the initial drafting of this condition in

that it only referred to the Network Code. As such she outlined that a requirement had been introduced for the provisions to also apply to the UNC.

In addition, Sonia outlined that some changes would be made in relation to the Joint Governance condition. In this respect she set out that Ofgem had amended the obligations to require that the Joint Office would be responsible for the UNC to avoid having five different copies of the same document.

9. Reform of distribution network interruption A27

Suzanne Turner considered that most DISG members would be familiar with the provisions contained within this condition. She explained that the condition introduced a reasonable endeavours obligation on DNs to bring forward proposals regarding interruptions arrangements from 1 April 2006 and that the proposals should take into account the consultation Cost Benefit Analysis in order to achieve this target date. She highlighted that this was an aspect that the Authority considered to be important when they reached a decision regarding offtake arrangements. Sonia emphasised that the Authority had taken the decision to de-link DN interruption from the DN sales process and that, when this decision had been reached, the Authority had felt that it would be important to set a target date for these arrangements to ensure that work was started promptly in this regard.

Peter Bolitho set out that he had concerns regarding the inclusion of conditional licence conditions and that he considered that arrangements should either be proposed as part of the DN sales process or not. In this regard, he was of the opinion that if the reform of interruptions is part of a DN sale it should be included within the Cost Benefit Analysis. Sonia responded that Ofgem had listened and been involved in lengthy meetings regarding this issue. She highlighted that, as a result, the condition had been adjusted and that the current proposals were very different to the universal firm product initially envisaged.

Peter Bingham stated that it was difficult to know, from the current licence drafting, whether the obligation would be to develop relevant proposals by 1 April 2006 or to ensure the arrangements are implemented by this date. Sonia responded that the Authority had taken various decisions regarding offtake arrangements and that, to accommodate concerns regarding implementation, it was intended that interim arrangements would be put in place in order that the arrangements do not apply from day one.

Peter Bolitho set out that he did not understand why DN interruption reform would be necessary. Sonia reminded him that he had agreed that it would be important that it would not be possible for DNs to be able to discriminate between shippers. Peter Bolitho clarified that he had said that he didn't consider this to be the most important aspect of the arrangements. Sonia responded that Ofgem had been looking into this area in order to ensure that no undue discrimination would be exercised between parties using the services of the NTS. Jason Mann emphasised that, in the long-term, it would be important to ensure equitability of the enduring arrangements and that the DN interruption arrangements would therefore need to be addressed.

Tory Hunter asked for clarification regarding what the obligation would require licensees to undertake. Sonia set out that DNs would need to have developed a plan suitable for implementation and that if DNs were to bring forward a proposed plan it would be likely that Ofgem would consider that they had discharged this aspect of their licence obligations.

Sue Higgins set out that the implementation of arrangements regarding interruptions by 2006 was a new aspect of the obligation. Suzanne responded that the offtake arrangements conclusions document had been very clear that the arrangements would need to be implemented by 2006. Sonia clarified that the arrangements would be phased in on the NTS and that this may have been why Sue had thought that the arrangements would be phased in on the DNs.

Alison Russell stated that she had assumed that the proposals would be in the UNC and therefore expressed concern that it should not be the responsibility of individual licensees to develop arrangements in isolation. Sonia considered, in this respect, that innovative thought in this area would be a positive rather than a negative aspect of proposals developed. Peter Bolitho was of the opinion that it would be necessary for the process to be coordinated. Sonia responded that it would be a coordinated process as it would be progressed through the Joint Office. She detailed that Ofgem would be happy to think about the possibility of developing the idea of placing the obligation within the UNC but that she was of the opinion that this was an area in which the benefit of having comparators could be exploited.

Tory Hunter asked whether Ofgem would be happy for four different versions of the interruptions arrangements to be introduced. Sonia set out that it was likely that Ofgem would choose to pick the best proposal developed and that this would be implemented across all of the DNs. However, she also stated that there was a possibility that the arrangements implemented could be different across the DNs and emphasised that she would not want to set the expectation that this would definitely not happen. She clarified that this would be a decision for the Authority to take.

Alison Russell asked whether it would be necessary for a Cost Benefit Analysis to be undertaken on a smaller scale and Sonia responded that this would be the case. Although, she stated that while shipper costs would be important they would not be the deciding factor.

10. Licence Fee consultation

Helen Connolly explained that Ofgem would be consulting on the licence fee cost recovery principles which are proposed to deal with:

- Competition commission costs incurred in relation to Network Code mod appeals and licence modification references;
- BETTA; and
- The operation of Ofgem's five year cost control regime of RPI-X.

She set out that recognising that the Authority may grant its consent to a potential DN sale, in its licence fee proposals Ofgem has split out all 8 DN businesses to allow for this.

She detailed that the consultation was scheduled to be published by the end of the month. Peter Bolitho asked whether there were likely to be any surprises in the

document or whether it would simply be a pass through of costs to the monopoly businesses. Helen responded that it was likely that the consultation would fall under the latter of these two categories.

Sonia detailed that views on all of these issues and on the licence drafting presented should be provided to Ofgem by DISG 33. She asked that NGT and potential purchasers put any comments that they may have in writing but that shippers could raise any issues at the following DISG.

Action - DISG members to provide Ofgem with any comments that they have regarding the drafting of the various licence conditions presented to DISG 32 by DISG 33

11. Any Other Business

Peter Bolitho detailed that Julie Cox has asked him to raise an issue regarding licence conditions and the changes that would be made to baseline capacities. He stated that her specific concern was that there would not be sufficient time to implement these changes prior to completion of the DN sales project. Sonia responded that this issue was discussed at DISG 30. She set out that the incentives document would be released towards the end of January assuming that Authority consent was granted. She explained that this consultation document would provide some indicative baseline numbers and would be out for consultation for a period of four weeks.

She highlighted that the process currently underway with respect to the exit reform development forum, as well as the UNC development forum, was intended to work towards a baseline for the UNC which would then be consulted upon by Ofgem for a period of 28 days. She clarified that ideally the consultation would be underway before this but that people would have the opportunity to comment on the proposals developed during the respective exit and UNC development forums.

Tory Hunter asked when the baselines would be enshrined within the licence. Sonia responded that the opportunity to include these within the formal Section 8AA consultation had been missed and that it was likely that they would be included within the Section 23 consultation scheduled to take place between hive-down and completion.