

DN Sales Development & Implementation Steering Group Minutes

Meeting 34

28 January 2005, 10:00 am – 3:00 pm

Ofgem's office, 9 Millbank

Attendees

Sonia Brown	Ofgem (chair)	Sue Higgins	NGT
Jason Mann	Ofgem	Stephen Parker	UU / CKI
Suzanne Turner	Ofgem	Julian Bagwell	Macquarie
Helen Connolly	Ofgem	Tory Hunter	SSE
David Ashbourne	Ofgem	Alison Russell	Centrica
Winnie Ching	Ofgem	Nick Wye	Macquarie
Hannah Cook	Ofgem	Charles Ruffell	RWE npower
Chris Train	NGT	Steve Gordon	ScottishPower

Sonia Brown opened the meeting by setting out that DISG 34 would be used as an opportunity to go through the entirety of the GT licence, as currently drafted, which would be applicable within a post DN sale environment in order to allow DISG members to comment on any outstanding areas which they felt would need addressing. She clarified that Ofgem had considered that providing interested parties with an informal forum in which to comment would be important given the likely volume of information included within the formal Section 8AA consultation to be published on 14 February 2005. She stated that Ofgem had versions of the minutes from DISG 33 but that these would be handed out at the end of the meeting in order to make good progress on the licence.

Suzanne Turner highlighted that Ofgem had also provided an update of the Section 8AA mapping table in order to assist DISG members in navigating the GT licence.

Standard Special Condition A1 – Switch on / switch off

Suzanne set out that this condition was related to the provisions regarding the switch on / off of relevant licence conditions. She stated that this was an important condition within the GT licence which was still under both internal and external review and may therefore be subject to further tweaks.

She explained that paragraph 1 determined that, with the exception of paragraphs 1 – 4 of this condition, any new conditions introduced into the GT licence through the private CLM or any new licence conditions introduced through the Gas Act, until such time as the Authority were to issue a direction, licensees would be required to comply with the standard conditions included within the current GT licence and not the standard special and special conditions.

Suzanne outlined that Ofgem had been involved in various discussions with interested parties regarding the inclusion of a reference to the requirement for Ofgem to obtain consent from the relevant licensee prior to the switching on or off conditions within the licence. She stated, in this regard, that paragraph 2 had been amended to incorporate

this requirement but clarified that, to reflect views expressed by respondents, this would be subject to the provisions contained within paragraph 4. As such, she explained that paragraph 4 provided that, if a standard special condition were modified or introduced through the private CLM procedure, consent would not be required and that this would allow the Authority to implement the relevant changes in such situations. She clarified that this would require that, in general, where the Authority wished to switch on or off a licence condition, the relevant licensee consent would be required but that in cases where a licence condition was to be switched on or off through, or as a consequence of, the private CLM this consent would not be necessary. She set out that if this provision were not put in place it would allow companies the ability to block private CLM proposals. She considered this to be a middle ground which would not frustrate the provisions contained within the private CLM but would also retain the obligation on Ofgem to obtain consent from the relevant licensee.

Sonia asked whether any DISG members had questions on this licence condition and emphasised that the DN sales team was of the opinion that this was a reasonable position to take in view of the fact that they did not want to frustrate the private CLM. Suzanne outlined that the inclusion of the phrase ‘consequential variation’ was important to ensure that the private CLM procedure would not be frustrated.

Alison Russell asked what the provisions within paragraph 5 – 8 were intended to do. Suzanne responded that these paragraphs were intended to add clarity to the process regarding the ability of the Authority to vary the terms of the licence. She explained that paragraph 8 had been amended as previously it had picked up the terminology contained within the equivalent paragraph of Standard Condition 2 and that this had introduced confusion into the condition. She detailed, in this respect, that the phrases ‘to the extent appropriate’ had been included to provide clarity that it would not be appropriate to suspend paragraphs 5 to 7 of this condition except in situations where the entirety of Part A or Standard Special Condition A1 were switched off. She set out that she would welcome comments from DISG members if this was not clear.

Sonia considered that Standard Special Condition A1 had reached a workable point where it was striking the balance between protecting the relevant licensees and offering an equal degree of protection to the industry. She outlined that the version presented was now near final, subject to any comments received from interested parties.

Standard Special Condition A2 – Collective Licence Modification

Suzanne explained that this condition incorporated the provisions regarding the private CLM. She emphasised that this was another important condition which was under internal review and that it may therefore be subject to further future tweaks.

She outlined that the condition hadn’t changed significantly since the last time that it had been presented to DISG. She clarified that Ofgem had been keen to retain symmetry with the voting rules contained within the statutory CLM procedures and that, as such, an inclusion had been made in this regard. She emphasised that Ofgem would welcome any comments from interested parties if they did not consider that the current drafting achieved this. She stated that, as yet, Ofgem had not received any detailed comments regarding the drafting of this condition, only high level comments regarding the policy position.

Sonia asked whether DISG members had any comments regarding the drafting of Standard Special Condition A2. She highlighted that the intention of the drafting was to replicate the provisions contained within the statutory CLM. She outlined that while Ofgem had received representations from interested parties detailing that they were not in favour of mirroring the statutory CLM process currently in place, Ofgem remained of the opinion that it would be important to retain consistency between these procedures and that it was therefore firmly proceeding on this basis. She therefore clarified that comments were welcome on the detailed drafting but not on the policy position.

Standard Special Condition A3 – Definitions and interpretation

Suzanne stated that Ofgem had already given a presentation to the DISG regarding the high level principles associated with Standard Special Condition A3 regarding 'Definitions and Interpretations'. She explained that paragraph 1 was intended to provide clarification that the definitions included within A3 would apply to Parts A, B, C, D and E of the licence unless it was specifically stated, within certain conditions, that they didn't. She detailed that a number of the definitions had been highlighted within the version of the licence provided to DISG, in order to assist them in seeing where changes had been made, but that these changes would not be highlighted within the consultation document. She clarified that most of the definitions highlighted were those that had been brought forward from Standard Condition 1 to allow that Standard Condition 1 would only apply to the standard conditions and Standard Special Condition A3 would only apply to standard special and special conditions.

Suzanne set out that she would go through some of the key conditions that were highlighted and explain how they had been amended. As such, she detailed that:

- Appropriate auditors – had been amended consistent with licence drafting associated with the DPCR licence consultation. However, she explained that, in essence, the definition had not changed.
- Capacity rights – had been included within A3 as an explicit definition as it had previously been defined within a number of individual conditions.
- Constraint management / constraint management services – had been included within A3 as an explicit definition as it had previously been defined within a number of individual conditions.
- Designated registrar of pipes – had been amended to reflect the fact that the cross reference within this condition had changed as the condition, originally cross-referenced, had been switched off.
- DN operator – had been included as a new definition within A3. Suzanne stated that the definition incorporated was fairly lengthy but that this was in view of the fact that paragraphs 1 – 4 of A1, B1 and D1 would be operative in all licences.
- Domestic premises – had been modified through the removal of a time-redundant reference.
- Independent system – had been tweaked to include the phrase 'to which this licence relates' and the reference to 'relevant gas transporter' in order to reflect the new world following a potential DN sale.
- Investment grade issuer credit rating – had been amended to reflect the changes made as part of the DPCR licence consultation and, as such, to retain consistency between the licences.
- Licensee – had been defined to highlight that it would refer to the entities to which each licence relates, for example, in the case of Transco, the NTS or the RDN business as appropriate. However, she detailed that this definition would

not be appropriate for some licence conditions where references to Transco plc would be more appropriate e.g. some of the financial licence conditions and that the list of conditions within which such an alternative definition was provided was incomplete within the draft provided and would to be extended, in this regard, for clarity.

- Metering equipment – had been modified to ensure that the reference to Transco’s Network Code, at a particular point in the past, referred back to Amended Standard Condition 9 for clarity.
- Network Code – remained largely the same, with a slight tweak to reflect that it had been prepared ‘for or on behalf of’ the licensee.
- Flow flexibility – may change slightly to bring it into line with Transco’s drafting of the UNC.

Steve Gordon asked whether the definition of ‘non-domestic’ was distinct from the definition of a non domestic shipper customer. Suzanne responded that these definitions were sourced directly from the licence and that Ofgem had not been intending to make a distinction in this regard. Sonia confirmed that there had not been any changes to this definition. Chris Train pointed out that it would be necessary for a customer to be supplied by a supplier and that being the customer of a shipper was not permitted. Sonia emphasised this, stating that shippers would not be able to supply customers directly but would have to supply customers through a supplier. Steve Gordon detailed that he had thought that shippers had customers. Sonia explained that this could be a simplification as most shippers also operate as suppliers.

- Supply of transportation services – had been amended to include paragraph (c) and clarify this definition consistent with Special Condition C4 and Standard Special Condition D4 in order to clearly set out what a DN operator would be permitted to do. She clarified that this definition was also augmented by an NTS special condition.
- Transportation business – had been discussed at length at DISG 33.

Suzanne clarified that a number of definitions had been amended to confirm, in line with the obligation for Transco to separate its NTS and RDN businesses, that the requirement would be in relation ‘to which this licence relates’.

Suzanne explained that, with respect to paragraph 6, one respondent asked whether it would be appropriate to make references to ‘she’, ‘her’, ‘hers’ and ‘whom’. She outlined that she had checked this point with the lawyers and that it would be appropriate to retain this paragraph.

Suzanne set out that paragraph 15 would clarify that in the event that Standard Conditions were switched off it would be necessary to refer to the appropriate new standard special or special condition. Sonia asked DISG members whether they had any questions regarding this condition. She pointed out that it may be beneficial to look at this condition in conjunction with the presentation given at DISG 33.

Standard Special Condition A4 – Charging – General

Suzanne highlighted that this condition had not changed significantly since the last time it had been presented to DISG. She outlined that the overall policy in relation to this condition was that the NTS would be permitted to make changes to charges twice a year unless these changes were associated with changes implemented due to exit or flow

flexibility, in which case, changes would be permitted once a year. She detailed that these arrangements were also reflected in the DN licence, in which DNs would only be permitted to make changes to charges once a year. She detailed that these obligations were set out through the use of augmenters, in the form of conditions D11 and E7.

Sonia asked whether DISG members had any views on the general policy position regarding charge change windows. She set out that NGT's consultations on charge change windows may have implications for this policy position. In this regard, she detailed that Ofgem had reached this policy view on the assumption that DNs would not be exposed to commodity charge changes in a post-DN sales world. As such, she outlined that, if this were the case, Ofgem would need to amend the proposals in relation to this condition to reflect these modified assumptions.

Standard Special Condition A5 – Obligations as Regards Charging Methodology

Suzanne stated that this condition had not been amended since the previous draft was presented to DISG. She explained however that it had been modified to reflect the new arrangements with respect to independent systems. In this regard, she outlined that the highlighted sections of the draft were intended to reflect the alternative arrangements that would be put in place to accommodate independent systems. She asked whether any DISG members had comments on this.

Alison Russell asked whether the pricing consultation, associated with this licence condition, would be published by the time Ofgem's Section 8AA document was issued for consultation. Sonia responded that the DN sales team had been working with NGT to achieve an improved understanding, on behalf of both parties, regarding the appropriate timing to release this consultation. She outlined that once NGT had achieved a clear understanding of timings, in this respect, it would be in a position to let all interested parties know of its intended way forward. She stated that NGT would want to achieve clarity on this area of work prior to discussing the way forward with interested parties, in order to avoid any confusion.

Alison pointed out that the conclusions of the pricing consultation could have an impact on the responses submitted to the Section 8AA consultation. Sonia responded that Ofgem were assuming a certain baseline for the industry but that this baseline would not be confirmed prior to the release of the Section 8AA consultation. She highlighted that this was the reason why Ofgem had felt the need to flag to interested parties that this condition may need to be amended further, as part of the second Section 23 consultation, scheduled to take place between hive-down and completion.

Stephen Parker asked whether Ofgem could provide any clarity regarding what the scope of the second Section 23 notice would be. Sonia responded that, at the minimum, this document would include an industry consultation regarding the interim incentive arrangements that would be applied. She also outlined that it was likely that licence changes would be required following the receipt of responses to the formal Section 8AA consultation and that, where valid, changes would be proposed by Ofgem in this regard.

Standard Special Condition A6 – Conduct of Transportation Business

Sonia detailed that this condition had been discussed previously at the DISG.

Sonia set out that paragraph 1(a) of Standard Special Condition A6 included a reference which Ofgem intended would clarify the position of Transco's NTS and RDN businesses given the implications that business separation would have. She also detailed that paragraph 1(c) would clarify the point that the licence would apply in respect of all DN operators consistent with a comment received at DISG 29. Sonia stated that the amendment in paragraph 2 was simply to reflect the related change in the definition of transportation business given Ofgem's proposed treatment of storage provisions and that this definition included NGT's metering and meter reading businesses.

Suzanne highlighted that the condition had been clarified through the inclusion of paragraph 1 and the removal of Special Condition C18. She asked whether DISG members had any questions on this.

Standard Special Condition A7 – Transportation Arrangements in conformity with the Uniform Network Code and Network Code

Suzanne explained that previously this condition had included some lengthy wording but that this had simply been replaced with a reference to the network code which was clearly defined in Standard Special Condition A3. In this regard, she stated that there may be some issues regarding the inclusion, within A7, of references to the UNC as this could be misleading with respect to the content of the condition. As such, she outlined that a title change may be required and that even though the title was only included for information, it may be necessary to remove the reference to the UNC if this were perceived to be confusing. Sonia suggested that as the licence condition included references to the network code it may be appropriate to remove any references to the UNC in order to avoid confusion. Suzanne responded that she would do this.

Stephen Parker pointed out that a reference was made within this condition to the 'pipeline system to which this licence relates'. He asked, in this regard, whether there was any definition of the pipeline system, in terms of a map, that interested parties could refer to. Suzanne responded that the reference to 'the pipeline system' had always been included within the GT licence and that it had simply been extended to clarify, in the case of Transco's NTS and RDNs, to which party the licence was referring. Stephen Parker asked whether all obligations in this regard would relate to the pipeline system rather than specific geographic areas and Suzanne responded that they would. Sonia pointed out that the arrangements were unlike electricity in this respect and that legislation may be required to achieve geographical locators.

Stephen Parker asked whether obligations regarding meter reading and the provision of emergency services would need to be discharged on a geographic basis. Chris Train responded that these obligations would relate to the relevant licence and assets.

Tory Hunter asked, with respect to paragraph 1, whether the reference should be to the 'licensees' Network code'. Sonia responded that this had already been defined once within the definitions contained in Standard Special Condition A3.

Standard Special Condition A8 – Emergency Services and Enquiry Service obligations

Helen Connolly stated that a minor tweak had been made to paragraph 12 (actually paragraph 14 but the numbering needed reformatting) to clarify that there would be a requirement on the licensee to inform the relevant shipper where an interruption on supply were to take place.

Sue Higgins asked for clarification that the DN would have to inform the relevant shipper. Suzanne responded that Ofgem had simply amended the wording in order to clarify that the obligation would apply in all situations where safety was called into question. Sue Higgins requested confirmation that the DN would be required to inform the relevant shipper of interruption. Suzanne outlined that the obligation on the DN would remain the same as that set out in the current licence. Sonia emphasised, in this regard, that the amendment was simply meant to clarify that if another GT were to call an interruption on the network it would be the DN's responsibility to inform affected shippers. Suzanne highlighted that this obligation was essentially the same as that incorporated under paragraph 15 of this condition within the existing GT licence. Sue explained that she had been confused on this point but that she understood that this was the notice that the DN would provide to shippers. Sonia set out that, under this obligation, it would be necessary for the licensee that owns for the network affected, to inform relevant shippers of an interruption even though the licensee may not have been responsible for calling the interruption.

Standard Special Condition A9 – Pipeline system security standards

Helen Connolly detailed that this condition had previously been Standard Condition 16 and that some tweaks had been made to the condition to ensure that the safety standards remained as robust as they were within the existing GT licence. She explained that in paragraph 2 the drafting had been amended to include the reference 'pipeline system to which this licence relates' for clarity. She also highlighted the inclusion of a reference to 'aggregate peak hourly demand' incorporated to ensure that current security standards were maintained.

Sonia emphasised that it was not Ofgem's intention to make any amendments to the meaning of the obligation but that they were merely trying to clarify the requirements contained within the condition. She outlined that Transco had suggested some alternative wording, in relation to the drafting of this condition and that Ofgem was currently considering the appropriateness of this. She therefore stated that the condition could still be subject to change and that, if this were the case, the condition would be bought back to DISG.

She outlined that this condition had been discussed with the HSE and that, as such, the HSE were aware and supportive of Ofgem's proposals in this regard. She set out that the HSE had offered support in view of the fact that Ofgem was merely trying to ensure, for all licensees, that there was absolute clarity regarding the 1 in 20 obligation. She informed DISG members that Ofgem would still welcome views on this condition but that the DN sales team were still in the process of considering alternative wording.

Standard Special Condition A10 – Provision and return of meters

Suzanne highlighted that this condition had not changed significantly since the last time it had been presented to DISG members. As such, she explained that some very minor tweaks had been made, for example, to amend the reference to shipper to a reference to 'relevant' shipper and to amend some of the definitions, for consistency, to lower case definitions. In addition, she stated that the reference to the network code contained in paragraph 1A(ii) had been clarified to refer to a version of the Code at a particular point in time.

Stephen Parker set out that it was his understanding that this condition would cover situations in which requests were received in relation to the provision of a meter and that, where a request was received from a party whose premise was not connected to the licensee's pipeline, it would not be obliged to provide a meter. Sonia confirmed that, in relation to this licence condition, this interpretation was correct. Sue Higgins suggested that, for clarity, it may be appropriate for the wording to refer to the 'relevant licensee' and Stephen Parker agreed that this wording would be more appropriate. Sonia stated that she would take this suggestion back to the metering team.

Suzanne asked whether she could respond to the suggestion made by Stephen Parker that the reference within Standard Special Condition A10 should be clarified to refer to 'the relevant licensee'. She stated that this amendment would be unnecessary as the inclusion of the reference to a 'relevant supplier' would already ensure that the obligation would only be applicable in relation to suppliers connected to the licensee's network.

Standard Special Condition A11 – Network Code and Uniform Network Code

Helen Connolly highlighted that the drafting of this condition had not changed significantly since it had previously been presented to DISG. She outlined an amendment to paragraph 1(d) to make clearer the fact that the condition would apply between DN operators. She detailed that Ofgem had also received some internal comment regarding A11 which would be implemented within the licence drafting and set out that she would run DISG members through these changes.

Helen set out that, in relation to paragraph 9, a comment had been made in relation to the phrase 'The network code modification procedures shall provide for a mechanism by which any of (i)...(ii) the uniform network code may be modified and / or reviewed'. She detailed that the internal Ofgem colleague had pointed out that it would not be necessary to develop a mechanism to review aspects of the UNC.

Sonia stated that she was unsure that she agreed with this comment as, under the BSC in electricity, there was a provision for the panel to keep mod proposals under review and that, if this were the case, it would also seem appropriate for mod procedures to be kept under review in gas. She suggested that this was an area that would require further thought. Chris Train set out that Transco, as a gas transporter, was responsible for meeting obligations as set out in its licence and, associated with this, Transco sought to review any changes to processes implemented but he detailed that there was no official requirement for this. Alison Russell also outlined that there was a review group in place but that it did not review the Network Code processes as a whole, only those mods that reached the stage of a proposal.

Suzanne explained that the condition had been drafted by Transco. Sonia clarified, in this regard, that although the condition had been drafted by Transco, the drafting had been based on instruction from Ofgem to look at the equivalent conditions within electricity. Sonia emphasised that it would be necessary to reach a policy decision as to whether the Network Code should be subject a mechanism for review. Chris Train considered that an obligation of this nature would be redundant as, in their role as a GT, the DNs and the NTS would keep this under review anyway. Sonia responded that the inclusion of this provision in the electricity industry was intended to be helpful and to allow that any interested party could submit a request for an aspect of the BSC to be reviewed. She indicated that a policy decision would need to be taken as to whether

this would also be helpful in gas. Chris Train set out that it was his view that this would not be helpful.

Tory Hunter highlighted that the current mod rules in gas would allow any party to bring forward a proposal for review. Sonia responded that the distinction was based on the extent to which the mod proposal would need to be developed. In this regard she detailed that the inclusion of a review mechanism would allow parties to bring forward proposals for review that were not fully worked up. Alison Russell clarified that there was scope to propose reviews of this nature through the current mod panel but that in order for a proposed review to be investigated, it would be necessary to achieve unanimous approval for it.

Sonia set out that Ofgem would look into this issue further once the mod rules had been finalised. Sonia outlined that all of the Network Code had interactions with the mod rules and that, as it was unlikely that Ofgem would see these rules prior to publication of the Section 8AA notice, it would be necessary to include a number of modifications within the second Section 23 notice to accommodate any changes that may be required in this regard.

Stephen Parker asked whether paragraph 1(d)(c) was intended to incorporate provisions regarding capacity trading and Sonia confirmed that it was.

Helen stated that, in paragraph 15 (b) a suggestion had been made that as a reference was included in relation to paragraph 7 which incorporates a further reference to the Gas Act, it would be sensible to simply include the direct Gas Act reference within paragraph 15 (b). She also outlined that a recommendation had been made to delete 'in so far as' from paragraph 22 of this condition and add, after 'the authority so consents', 'and subject to such conditions that Authority may specify' as this would clarify the requirement. Sonia set out that the internal comments received were mostly legal comments that had been suggested to tighten the provisions of the condition and asked whether DISG members had any comments on these.

Standard Special Condition A12 – Joint Office Governance Arrangements

Helen Connolly set out that paragraph 5, containing a waiver regarding Authority enforcement, had been removed following comments received from respondents in this regard. She also outlined that paragraph 4, regarding the requirement to prepare a copy of the Network Code, had been clarified to highlight the way in which compliance with this obligation could be achieved. Sonia stated that the issue had related to the number of copies of the Network Code that would need to be prepared.

Chris Train asked what the definition of the network code would refer to in this regard and Sonia responded that Ofgem would look into this.

Standard Special Condition A14 – Availability of data formats

Suzanne explained that concerns had been expressed by a number of respondents regarding the need to retain consistency between data formats. She highlighted that the existing Standard Condition 38 had been switched off and that although A14 was largely the same, an additional paragraph (b) had been included to clarify the licensee's duty to comply with obligations under the network code and the Agency Services Agreement.

Standard Special Condition A15 – Agency

Suzanne set out that DISG members had already seen a draft of this condition and that this remained largely unchanged. She outlined that Ofgem had received some comments in relation to this condition which had been considered. She highlighted that a typographical error would be amended in paragraph 6(b)(ii) to change the reference to 'any'. She also explained that a modification had been made within paragraph 3(ii) to clarify what was meant by 'activity cost basis' such that it referred to 'the services and system costs associated with each activity, as set out within the uniform network code as being within the scope of the agency, are separately assessed and reported'. Sonia clarified that if shippers were to continue to have concerns regarding these provisions then they would have the ability to raise modifications in this regard.

Suzanne detailed that paragraph 4 had been tidied and clarified and that in paragraph 6(b)(ii) the additional 'and' would be moved. She stated that the waivers previously included within this condition had been removed and that, as the standard condition regarding the Supplier of Last Resort had been switched off, the relevant cross-reference to this condition had also been amended. Suzanne also noted that there had been some reordering of paragraphs in this condition in response to respondents' views.

Standard Special Condition A16 – Independence of the Independent Market for Balancing

Suzanne highlighted that a draft of this condition had previously been presented to the DISG and that the only change to the draft presented had been a clarification of the definition of energy balancing. She outlined that it was intended that this would clarify things but that, if it didn't, Ofgem would welcome any comments that DISG members had in this regard. She emphasised that the spirit of the condition was to ensure the independence of the independent market for balancing and that the key paragraph, within this condition, was paragraph 3.

Standard Special Condition A17 – General obligations in respect of gas transporters' pipeline systems

Helen detailed that there had been some minor tweaks to the Network Code and the pipeline system. She set out that because transporters would also be acting, in some respects, like shippers it would be necessary for them to have this obligation. She outlined that a number of respondents had raised concerns regarding the fact that there was no requirement on GTs not to prejudice their own system but highlighted that this concern was addressed through the requirement in the Gas Act for transporters to operate their systems in an efficient and economic manner.

Helen explained that Ofgem had not changed its position in relation to this condition and set out that as GTs would effectively making arrangements in a similar respect as shippers, it would be necessary to retain this condition.

Standard Special Condition A19 – Services for persons who are of Pensionable Age or Disabled or Chronically Sick: Arrangements in respect of meters

Helen detailed that there had not been any changes to this condition since the last time it was presented to the DISG.

Standard Special Condition A20 – Services for Persons who are Blind or Deaf

Helen set out that there had been a minor tweak to this condition to achieve greater clarity regarding the provisions included.

Stephen Parker asked whether it would be possible to get rid of the inclusion of the reference to November 2001 and Sonia responded that this would not be possible. Stephen Parker considered that it would be more oblique to spell out what this date was referring to and Sonia detailed that Ofgem would not be willing to make changes to the licence which would not specifically associated with the DN sales project.

Stephen Parker suggested clarification that the obligation only applied to domestic customers of the licensee would be relevant as it would define the nature of the obligation on the licensee. Suzanne explained that this would have the effect of excluding the NTS from the obligation and Ofgem would not want to do this. She set out that a similar discussion had taken place at DISG 29.

Sonia highlighted that IGTs were also subject to this condition and therefore indicated that if it was not necessary for Ofgem to clarify the obligations for them, she did not understand why this clarification would be required in respect of the DNs. She outlined that this condition contained exactly the same wording as that in Standard Condition 18 except that Ofgem had tried to deal with the date issue in order that DNs would not be in automatic breach of their licence. She stated that Ofgem would not want to tweak the condition further as it had to be mindful of the continuing obligations on IGTs and the preference to retain this obligation. She set out that a reasonable regulator would have a reasonable interpretation of what this condition would mean.

Suzanne noted that the 'one or more domestic customers' caveat previously included had been removed following discussions at DISG 29, given that the NTS would be responsible for the 0800 number.

Standard Special Condition A22 – Arrangements in respect of powers of entry

Helen detailed that there had not been any changes to this condition since the last time it was presented to the DISG.

Standard Special Condition A22A – Authorisation of officers

Helen outlined that this was not a new condition but that it had simply been moved from the existing GT licence into the revised drafting as it referred to conditions that had been switched off. She indicated that no changes had been made to this condition apart from the amendment of certain cross references.

Standard Special Condition A22B – Exercise of Powers of Entry

Helen highlighted that this condition had previously referred to the provisions contained within Standard Condition 19A and that the cross reference had been updated to reflect the condition's conversion into A22A. She stated that no additional amendments had been implemented.

Standard Special Condition A23 – Complaint Handling Procedure

Helen detailed that there had not been any changes to this condition since the last time it had been presented to the DISG, except for the removal of a caveat that restricted the obligation to licensee, with one or more domestic customers, consistent with the approach to A20 and discussions at DISG 29.

Stephen Parker asked, with respect to the complaint handling procedure, whether this would include the scope for complaints regarding metering and meter reading as the definition of transportation business did not cover these areas of the business. Sonia responded that this condition would remain a Standard Condition and that, as such, it had not been amended and there would not be a tweak to the relevant definition.

Standard Special Condition A24 – Preparation, Review of and Compliance with Statements and Codes

Helen outlined that there had not been any changes to this condition since the last time it had been presented to the DISG and asked whether there were any comments on this.

Standard Special Condition A25 – Record of and Report on Performance

Helen set out that a new paragraph 6 had been inserted within the condition to ensure that the obligation would apply in respect of each DN.

Standard Special Condition A26 – Provision of Information to the Authority

Helen explained that provisions relating to LNG storage, previously included in paragraph 10, had been removed. She also detailed that the definition of transportation business in paragraph 9 as the term was not used in this condition.

Standard Special Condition A27 – Disposal of Assets

Suzanne set out that the main amendment that had been implemented within this condition, since the publication of the Next Steps document in November, related to the changes that would be made with respect to alternative arrangements given the disposal of independent systems. She highlighted that the DTI had issued a position paper in this regard which had detailed that the provisions currently incorporated within Special Condition 18, relating to independent systems, would sit outside of the licence but that the licence would retain various hooks in relation to these provisions.

Suzanne explained that the licence condition currently only captured those systems that were independent on 1 March 1996 and that this definition therefore included the independent system at Stranraer which was connected after this date. She outlined that it had been difficult for the DTI to reach a definition of a 'class' of people that benefited from this cross subsidy. As such, she stated that DTI were proposing to disapply the cross subsidy in relation to those customers connected to the independent system at Stranraer. She set out that paragraph 2A incorporated a reference to a system 'which remains an independent system' in order to retain consistency with the approach adopted by the Secretary of State in this regard.

Suzanne detailed that a number of tweaks had been made to include hooks in the licence to the provisions associated with independent systems and to remove any remaining references to Special Condition 18.

She highlighted that a clarification had been incorporated within paragraph 2A(b) to include a reference to 'and / or the person to whom the independent system will be disposed of, will not apply with such suitable alternative arrangements as the Secretary of State shall determine'. She explained that this was intended to clarify the enforceability of the arrangements in relation to both the buyer and the seller of these independent systems.

Stephen Parker asked whether the Authority was intending to apply any directions, in this regard, within Transco's licence and Sonia responded that it was her understanding that they were not. She clarified that she did not consider that this would likely be an issue in relation to the disposal of assets but that issues would be more likely to arise in relation to the way in which the potential purchasers intended to operate their networks. She outlined, in this regard, that a general issue had been raised by respondents in relation to the SOMSAs and whether the operation of these agreements would amount to a relinquishment of operational control. She indicated that she considered paragraph 1 to be very clear on this point and that, if it were the case that the SOMSAs were viewed as a relinquishment of operational control then interested parties may raise issue in relation to this condition. She set out that it was the responsibility of individual licensees to reach a judgement regarding the SOMSAs and whether they could be viewed as a relinquishment of operational control. She considered that, if they were to reach such a conclusion it would be the licensee's responsibility to request consent from the Authority in this regard and satisfy themselves of their compliance with all of the conditions of their licence.

Stephen Parker therefore asked for confirmation that the Authority was not intending to publish any directions relation to Standard Special Condition A27 and the disposal of assets and Sonia responded that they would not be issuing any such directions at the present time.

Suzanne stated that additional definitions had been included within A27, in relation to relevant premises, alternative arrangements and the appointed day.

Alison Russell asked whether any timescales had been defined for the implementation of the alternative arrangements. Suzanne responded that these timescales had not yet been defined but that Ofgem were hoping that the detail of the alternative arrangements would be publicly available prior to the publication of the Section 8AA consultation. Sonia asked whether there were any further questions on this condition.

Standard Special Condition A29 – Change of Financial Year

Suzanne explained that this was a revised version of Standard Condition 30A which had been switched off as it had incorporated a number of references to other conditions within the existing licence which had also been switched off. She detailed that, as part of the DPCR licence consultation, a number of changes had been implemented in relation to the financial licence conditions in electricity and that, as such, modifications had been made to the equivalent conditions in gas to retain consistency between these licences.

She also outlined that an amendment had been made to paragraph 6 to clarify that references to 'licensee' would refer to both Transco's NTS and RDNs as they would remain a single legal entity and would not therefore have a requirement to produce separate statutory accounts.

Standard Special Condition A30 – Regulatory Accounts

Suzanne highlighted that this condition had also been subject to consultation through the DPCR licence consultation and that, to retain consistency, Ofgem had attempted to standardise these conditions between gas and electricity. She stated however, that this had proved difficult and that, as such, although the licence conditions remained largely the same, some of the existing obligations contained within the GT licence had been retained where this was not the case in electricity. She set out that the structure mimicked that incorporated within the electricity licence as part of the DPCR.

Suzanne explained that paragraph 1 placed an obligation on the licensee to require that it must produce, unless consented by the Authority, regulatory accounts for:

- The transportation business of each DN.
- Suzanne set out that although paragraph 1(a)(ii) was not used, this was augmented by Special Condition C1 for the NTS, in relation to LNG.
- The metering business. She outlined that a separate requirement had also been included to identify the services included in Standard Special Condition A10 and the Meter Provider of Last Resort requirement. She stated that this obligation would only impact upon DNs to the extent that they were not providing Meter Provider of Last Resort services and that it would place a requirement on Transco to identify its provision of Meter Provider of Last Resort services.

Stephen Parker asked whether the obligation in the DN licence related to the provision of non domestic metering equipment. Suzanne responded that the provision of these types of meters would not fall under the Metering Provider of Last Resort obligation and that the intention of this inclusion within the licence was to allow Ofgem to compare the provision of these services across DNs.

- The meter reading business. Suzanne stated that Ofgem would want Transco to submit separate regulatory accounts in relation to the NTS and RDNs but that Ofgem anticipated that the accounts regarding the metering business would be submitted as part of the distribution business regulatory accounts submission.
- The de minimis business. Suzanne explained that it would be necessary for licensees to directly identify the allocation and apportionment of revenues in relation to such businesses.
- The activities that the Authority has exempted from inclusion as a de minimis business. Suzanne outlined that the Authority would issue a direction in this regard, exempting certain de minimis activities until the next price control. She detailed that these provisions were included within subparagraph 3(d) of A36.

Suzanne set out that subparagraph (1)(b) of the condition would apply to Transco but that the inclusion of this condition would ensure that an additional augments would not be required within the licence, in order to achieve the same purpose. Sonia clarified that SSE should not be captured by this paragraph and that this obligation should not therefore apply to SSE. Suzanne emphasised that if DISG members did not consider that the provision was achieving this then comments would be welcome.

Suzanne explained that subparagraph 1(b)(i) included a provision to ensure that licensees included all items, within the regulatory accounts and clarified that Ofgem would not permit licensees to include 'free floating' information within the reconciliation rather than the accounts. She outlined that subparagraph 1(b)(ii) would ensure that, as Transco would be required to produce two regulatory accounts but only one statutory account, it would be under an obligation to provide Ofgem with reconciliation data. She also clarified that the final sentence of this subparagraph was intended to capture a slight complicating clause in relation to the provision of information to Ofgem regarding the de minimis business of associates. Suzanne emphasised that this would not have the required effect of including the de minimis businesses in relation to all relevant associates but that this provision may need to be moved to paragraph 1(a) so that it was applicable to other GTs.

Stephen Parker asked what the reference to a 'relevant associate' would mean. Suzanne responded that it would refer to an affiliate or related undertaking of the licensee.

Suzanne stated that the rest of the changes to the condition had been made to reflect consistency with the licence changes made within electricity as a result of the DPCR, as well as clarifying the parts of the business to which the obligations, contained within paragraph 1 of the condition, would refer. She suggested that it may be appropriate for DISG members to take a look at these changes and bring back any comments that they may have to DISG 35.

Suzanne outlined that the definition of de minimis business, included within the condition, was fairly complicated due to the fact that it had incorporated references to affiliated businesses. She set out that this was included as Ofgem would want to receive information in relation to regulatory accounts at various levels of the business.

Sonia clarified that this condition would be key to allowing Ofgem to try to achieve benefits for customers associated with comparative regulation. Sonia requested that shippers bring comments back to Ofgem as soon as possible and that comments from buyers and Transco would be needed early the following week.

Standard Special Condition A31 – Supply Point Information Service

Suzanne detailed that a revised version of this condition had previously been presented to the DISG, which included a tweak to include a reference to the agency condition. She also outlined that a few additional changes had been implemented in relation to the Network Code conditions and to refer to the 'pipeline system to which this licence relates' but that the condition remained largely unchanged and should therefore be relatively uncontroversial.

Alison Russell asked whether the amendment to paragraph 1 would place a requirement on licensees to require that they procure their agency services from a single coordinated service provider. Sonia responded that this reference was included to ensure that the agency provisions would be included within the Network Code, especially where these provisions were in relation to Transco.

Sue Higgins considered that clarity was required in relation to where the obligation to procure agency services from a single, coordinated provider would sit. Sonia responded that this was incorporated within Standard Special Condition A15 which included a

requirement on the licensee to provide services consistent with the provisions established within the Network Code. Sue was of the opinion that incorporation of these details within both the Network Code and the licence may foster confusion. Sonia explained that, within the Network Code it should be clear that agency obligations would replicate those requirements set out in Standard Special Condition A31 of the licence and that, if it were the case that a change to the UNC was implemented in this regard, it would be necessary to propose an associated modification to the licence.

It was agreed that paragraph 1 should refer only to A15 and not the UNC as well.

Standard Special Condition A32 – Definition of Permitted Purpose

Suzanne highlighted that, within this condition, the only changes had been that a few typos had been corrected. She detailed that Ofgem had previously flagged that the condition may need to change to reflect provisions regarding business separation but that Ofgem had since reached the conclusion that this would not be necessary given clarification to A3 definitions.

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

Sonia outlined that this was the first of the business separation licence conditions in the GT licence. She stated that she would go through some of the key changes that had been made to this condition. She set out that paragraph 2 of the condition no longer included a subparagraph (c) following comments received from Transco regarding the implications that inclusion of this paragraph would have.

Sonia clarified that the provisions of paragraph 7 deviated from those included within the electricity licence as part of the DPCR but that it was important that these revisions were in place. She also explained that an amendment had been made to paragraph 9 as the timescales included within this paragraph were previously incorrect and, as such, it had been necessary to correct the reference to '15 working days'.

Standard Special Condition A34 – Appointment of Compliance Officer

Sonia detailed that there had not been any significant changes to this condition. She outlined that an amendment to a cross reference had been made and stated that two typos had also been corrected. In this regard, she highlighted that a reference to 'investigations' had been included in paragraph 7(c) as well as the incorporation of the phrase 'referred to' in paragraph 7 (b).

Standard Special Condition A35 – Prohibition of Cross-Subsidies

Sonia set out that there had not been any significant changes to this condition. She explained that Ofgem were satisfied that the provisions of this condition would remove the ability for licensees to operate cross subsidies. Suzanne also pointed out that the condition had been reworded to ensure its consistency with the definitions in Standard Special Condition A3 of the licence.

Standard Special Condition A36 – Restriction on Activity and Financial Ring-Fencing

Suzanne explained that the intention of this licence drafting was to retain consistency with the amendments made to the electricity licence as a result of the DPCR. She detailed that Ofgem had tried to make it clear, within the drafting, which of the amendments had been implemented in accordance with changes made in relation to the DPCR and that, as such, these changes were highlighted in a lighter colour whilst those changes that diverged from the DPCR were outlined in a darker colour.

She stated that the main change to the condition was evident within paragraph 4 with the incorporation of the reference to 'relevant associate' and that this would impact on the condition, both with respect to paragraph 4 itself and outside of this paragraph.

She outlined that paragraph 3(d) would allow the exemption of the new de minimis activities as discussed earlier. She highlighted that paragraph 4(a) defined activities that were excluded from the definition of de minimis business and set out that these services were the reason why an additional paragraph was required within Standard Special Condition A30 (in order to capture regulatory information in this regard).

Suzanne set out that a change had been made within paragraph 4(d) to hardwire the relevant date into the licence. In this regard, she clarified that previously the reference incorporated within this condition had been to 'the date on which this licence became effective' but that, if this phrase were to be retained, it would refer to 1 May 2005 where the correct date was 13 December 1999.

Suzanne also detailed that the reference to 'the licensee' within paragraph 6 was meant to specifically refer to Transco plc. She clarified that the changes to the electricity licence, made in accordance with the conclusions of the DPCR, had only been implemented recently and that some further amendments may therefore be required which would have corresponding knock-on effects in relation to the GT licence.

Standard Special Condition A37 – Availability of resources

Suzanne highlighted that although Ofgem did not flag it in the Next Steps licence consultation document, Ofgem were intending to retain consistency between this licence condition and the corresponding electricity licence condition and, as such, would be making changes to this condition in accordance with the DPCR amendments. She explained that a change had been implemented in relation to the date included within paragraph 2 and that slightly more onerous obligations had been incorporated towards the end of the condition but that, on the whole, the condition had not been amended significantly.

Tory Hunter asked why the reference within paragraph 1(b) had been reverted back to 'economical'. Suzanne responded that this reference was also incorporated within Standard Special Condition A11 and that its inclusion within this condition was mainly an attempt to retain consistency across the licence.

Sonia asked for clarification regarding when the final version of the DPCR licence conditions would be published and Suzanne responded that this was scheduled for publication on 14 February, in conjunction with the formal Section 8AA consultation. Sonia set out that Ofgem would endeavour to keep publication of the formal Section 8AA consultation on track with the timetable. She clarified that if any relevant

amendments, associated with the DPCR, had been missed by the DN sales team these would be accommodated in the subsequent Section 23 consultation.

Sue Higgins detailed that she was happy to see that the requirements regarding the management of resources had been removed from paragraph 2 but asked why these had not also been removed from paragraph 1. Suzanne responded that this change had been implemented by the DPCR team and that she would look into the inconsistency here.

Suzanne explained that although paragraph 8 was denoted as 'not used' the provisions of this condition were contained within C1 as an augments to the NTS licence. Suzanne also detailed that the reference to 'the licensee' within paragraph 9 was meant to specifically refer to Transco plc.

Standard Special Condition A38 – Credit Rating of the Licensee

Sonia highlighted that this was another licence condition which incorporated a read-across from the DPCR licence amendments. She stated that, consistent with the other financial licence conditions, the reference to 'the licensee' within paragraph 4 was meant to specifically refer to Transco plc.

Standard Special Condition A39 - Indebtedness

Suzanne set out that this was a further financial condition and that there had previously been a number of proposed tweaks in relation to this condition regarding cash lock up. She outlined that, following respondents views, the majority of the amendments made had been in line with the changes proposed for the electricity licence as a result of the DPCR.

She explained that the main change to this condition had been made to paragraph 3(b) in which the full names of the ratings agencies had been incorporated. She suggested that DISG members may like to have a look through the changes proposed but that these did not include any changes that the DPCR team were not already proposing.

Julian Bagwell pointed out that there was a problem with the number formatting and that paragraph 3 on page 141 should actually be paragraph 6.

Standard Special Condition A40 – Price Control Review Information

Suzanne stated that the revisions to this licence condition had not previously been presented to the DISG. She explained that, as part of the amendments to Standard Special Condition A30, the licensee would no longer be required to submit current cost accounts to Ofgem which would weaken the regulatory accounts condition and that, as a result, it had been necessary to introduce a new condition regarding price control review information. She detailed that a similar condition would be introduced within electricity as part of the DPCR licence consultation and that compliance with the condition was dependent on the cost RIGs in electricity. In this regard, she outlined that equivalent RIGs did not currently exist within gas and that, as such, it would not be possible for this condition to become effective from day 1 as the necessary guidelines would not have been drafted.

Suzanne highlighted that the Authority would be required to issue a direction to activate this condition once the relevant requirements were put in place. She set out that the aim of these provisions were simply to make the process more transparent and indicated that the Authority already had the power to request such innovations and that, as such it was not an extension of licence obligations per se.

Stephen Parker asked whether the intention was that the draft licence would be finalised in electricity and then adapted, as appropriate, to apply within the GT licence. Sonia responded that, following a potential DN sale, a new gas distribution directorate would be created within Ofgem. She outlined that as part of the work that the gas distribution directorate would be required to undertake, it would be responsible for looking into the information necessary to carry out the next gas DPCR. However, she stated that, until then, Ofgem would not have the relevant resources available to establish a parallel team to look into the gas DPCR requirements. In this regard, she detailed that as the gas industry was in a different stage of development, with respect to comparators etc, it may be necessary for Ofgem to collate different types of data to that collected in relation to the electricity DPCR and that, as such, these reasonable differences would be reflected within this condition.

Sue Higgins asked for clarification regarding the way in which Standard Special Condition A30 would be weakened. Suzanne responded that the current cost accounting provisions would be removed. Sonia set out that it was important to note that Ofgem would retain the ability to request information in any event and that it would be crucial to retain this provision to allow Ofgem to obtain any required information associated with the gas DPCR.

Stephen Parker pointed out that Ofgem had previously stated that it would be reluctant to establish requirements related to regulatory accounts before the arrangements regarding DN sales had properly 'bedded in'. Sonia responded that Ofgem was simply seeking to apply lessons learnt, from the electricity DPCR, to the gas industry and, in this respect, to make the best use of the comparative information that would be available.

Standard Special Condition A41 – Emergency Services to or on Behalf of Another Gas Transporter

Helen Connolly stated that there had not been any changes to this condition since the last time it had been presented to the DISG.

Sonia asked whether there were any comments on this condition.

Standard Special Condition A43 – Provision of Metering and Meter Reading Services

Suzanne explained that there had not been any significant changes to this condition and that the most notable amendments had been the revision of a number of definitions into lower case.

Stephen Parker suggested that it might be more appropriate to make the reference to a supplier in paragraph 1, a reference to a *relevant supplier*. Sonia responded that she was not sure that this amendment would be appropriate as the reference was intended to encompass all suppliers. Stephen Parker asked for clarification that if a DN were to receive a request for the provision of meter reading services outside of its area, it would

be required to provide terms on which it would be willing to provide these services. Sue Higgins set out that this was only in relation to the relevant DN's regulated service.

Sue detailed that she still had concerns regarding that Ofgem did not intend to include a reference to the 'relevant licensee' within Standard Special Condition A10 and asked for clarification of why Ofgem was content with the current wording. Suzanne responded that the reference to a 'relevant supplier' would automatically be a shipper associated with premises connected to the licensee's pipeline system and that it would not therefore be necessary to include an additional reference to the 'relevant licensee'.

Julian Bagwell asked for clarity regarding A43 and set out that, as currently drafted, it appeared that the provisions of this condition would require that if a DN were to receive any request for a meter or in relation to meter reading services from suppliers outside of its DN area, it would be required to respond to these requests. Sonia responded that this was correct. Julian asked what would happen in a situation in which a supplier bombarded a DN with a huge volume of requests for metering services outside of its area. Sonia clarified that Ofgem was not intending to amend the provisions contained within this condition and that it would continue to refer to the licensee's regulated and unregulated metering business. In response to the point raised by Julian, she stated that, if a dominant supplier were attempting to impose additional costs onto a particular DN business, this would be a general competition point which Ofgem would have to look into. She set out that, under the shipper licence, this may not be permitted by its licence condition relating to a prohibition on the provision of false or misleading information. Sue Higgins pointed out that this prohibition would not place any restrictions on suppliers potentially engaging in behaviour of this nature. Sonia considered that if a situation such as this were to arise then it would be left to the discretion of the DN as to the quotation that it would provide to the relevant supplier and that if it were the case that suppliers were of the opinion that these offers were anti-competitive they would have the ability to raise a complaint in this regard.

Standard Special Condition A45 – Assignment of Licence

Helen Connolly stated that there had not been any changes to this licence condition since it had previously been presented to DISG.

Standard Special Condition A46 – Non-discrimination in the provision of metering activities

Suzanne set out that this condition had not changed significantly since the publication of the Next Steps consultation document. She clarified however that references, within this condition, to 'shippers' had been amended to refer to 'suppliers'. She explained that this was not strictly a DN sales related amendment but was a housekeeping change following comments from respondents in this regard.

Standard Special Condition A47 – Charging of Gas Shippers – Domestic Infill Premises

Suzanne detailed that the only minor tweaks to this condition had been to update a cross reference and amend a typo.

Standard Condition A48 – Last Resort Supply: Payment Claims

Suzanne highlighted that this had previously been Standard Condition 48 and that it had been switched off and inserted as a Standard Special Condition for two reasons:

- As a Standard Condition it would need to include a cross reference to Standard Special Condition A4 which would not be possible.
- It was necessary to introduce an additional paragraph 16, in relation to the agency, in view of concerns expressed by respondents regarding the way in which this provision would be managed going forward.

Tory Hunter asked for clarification regarding why this was necessary. Sonia responded that some shippers had raised concerns that the payment claims in relation to SOLR services would not be administered by the agency and set out, in this regard, that the inclusion of this provision would provide some comfort to shippers that GTs would not operate ad hoc billing systems. She also detailed that it would provide comfort that if a Network Code mod was raised, regarding a proposal to amend the scope of the agency, an additional licence modification would be required to permit this Network Code mod to be accepted. Alison Russell clarified that the concerns had related to the process by which shippers could make a SOLR claim in an environment where independent DNs were in operation. Stephen Parker also set out that it would avoid problems associated with geographical bias in relation to the way in which costs would be recovered.

Standard Special Condition A49 – Designated Registrar of Pipes

Suzanne explained that this had previously been included as Standard Condition 33 and that this condition had been switched off to make the provision a standard special condition. She clarified that the original drafting of the standard condition had not envisaged a multi-transporter environment and therefore talked about *the* designated registrar of pipes. She outlined that the revised condition would allow the Authority to designate more than one registrar of pipes. In this regard, she stated that there had been some minor changes to the condition to change ‘the’ to ‘a’. She highlighted that Ofgem would be consulting on whether it would be necessary for the Authority to designate a registrar of pipes.

Sue Higgins pointed out that the decision on this would be heavily dependent on any views expressed by the HSE as any decision to designate a registrar of pipes would have implications for the safety case. Sonia responded that prior to the implementation of any licence mod in this regard, the HSE would need to approve this.

Julian Bagwell asked whether there was any indication of when this consultation may take place and Helen responded that it was intended that this consultation would be published during February.

Standard Special Condition A50 – Information to be Provided to a Designated Registrar of Pipes

Suzanne outlined that this condition had been incorporated within the existing GT licence as Standard Condition 5A and that it had been switched off to allow some minor tweaks to be made, in line with the fact that if a registrar of pipes were to be designated it would likely be the case that there would be more than one.

Other conditions in Part A

Sonia clarified that there was a slight caveat to the licence drafting that had been presented to DISG members in that, as part of its conditional consent to a potential DN sale, the Authority may choose to implement further conditions within the licence. She

set out that if this were the case, these licence conditions would be brought to DISG 35. Stephen Parker asked whether it would be possible for any such licence conditions to be circulated to DISG members prior to DISG 35 to allow them to comment. Sonia responded that, as these would be conditions to the Authority's consent, it would not be possible for interested parties to comment upon the policy position although Ofgem might consider accepting comments on the actual drafting of the conditions.

Alison Russell asked whether any such conditions would be available prior to DISG 35 and Suzanne responded that this would depend on whether they had been finalised within Ofgem.

Sonia detailed that a key licence condition, in this regard, was the condition requiring licensees to use their best endeavours to implement the offtake arrangements by September 2005. She emphasised that this decision had already been reached by the Authority and that it would not therefore be possible for Ofgem to take comments on this policy position.

Standard Special Condition B1 / B2 – Switch on/Switch off / CLM

Suzanne set out that these conditions were, in essence, the same as A1 and A2, except that references to part A in A1 and A2 would be references to part B in B1 and B2.

Special Condition C1 – Amendments to Standard Special Conditions relating to LNG

Suzanne explained that this condition only included LNG related tweaks to provide clarity on this issue and in order that the condition would not frustrate the private CLM.

Special Condition C1A – NTS definition of supply of transportation services and balancing management

Suzanne detailed that this was a new condition which would act as an augments for the NTS licence regarding the definition of supply of transportation services.

She clarified that Ofgem had been intending to remove the reference to 'Top-up Manager' incorporated within subparagraph 1(ii), to reflect comments received by respondents, but that the reference had been retained as she understood that Transco were intending to raise a mod to reinstate this.

Special Condition C2 – Long Term Development Statement

Jason Mann stated that there were two key points in relation to this licence condition:

- Ofgem were looking to obtain some feedback regarding whether the dates that the LTDS should be undertaken should be hardwired into the licence. He clarified that it was Ofgem's view that these dates should not be hardwired within the licence.
- That the references to the term 'high pressure' had been removed from the condition.

Sonia emphasised that the new gas distribution directorate would be required to undertake analysis to achieve an improved understanding of the most appropriate time for work regarding the LTDS to be undertaken and the scope of the work that would need to be carried out in this regard.

Tory Hunter asked for clarification as to why the drafting of paragraph 2 had been amended. Suzanne responded that the existing version of the licence had been drafted so that paragraph 1 required the licensee to compile an opening LTDS while paragraph 2 placed an obligation on the licensee to provide yearly updates in this regard. She detailed that, following revision of this condition, paragraph 1 would require the licensee to provide yearly updates in relation to the LTDS while paragraph 2 placed a reasonable endeavours obligation upon the licensee to keep the LTDS up to date. She clarified that if the dates were to be predetermined, this would mean that if additional information, associated with the LTDS, was to become available it may not be possible to incorporate this within the annual statement and therefore an update would be desirable.

Special Condition C3 - Restriction of Prices for LNG Storage Services

Jason Mann explained that there had not been any changes in relation to this condition, since the last time it had been presented to DISG. Suzanne clarified however, that some changes may be made to this condition at the time of the subsequent Section 23 consultation to reflect the changes to the storage facilities at the Isle of Grain.

Special Condition C4 - Prohibited Procurement Activities

Jason detailed that the only change to this condition had been that some of the definitions previously included had been incorporated within the definitions set out in Standard Special Condition A3.

Special Condition C5 - Licensee's procurement and use of system management services

Jason stated that this condition provided details of the scope of the relevant services and that there had not been any changes to these provisions. Sonia clarified that one change had been made to this condition to include a reference to the phrase 'pipeline system to which its licence relates' and that this inclusion was intended to clarify, with respect to Transco, whether the obligation would relate to its NTS or RDNs.

Special Condition C6 - Independent Market for balancing

Suzanne set out that this condition had previously been presented to the DISG. She explained that it augmented the provisions of Standard Special Condition A11 in relation to the NTS and that, in this respect, it drew on the wording contained within Standard Special Condition A6.

Special Condition C7 – Charging Obligations

Suzanne outlined that there had not been any changes to this condition but that it provided the basis for the drafting of Standard Special Conditions A4 and A5 regarding the charge change obligations. Sonia clarified that this condition may have to be amended at the subsequent Section 23 to reflect the outcome of Transco's pricing consultation.

Sonia set out that Special Conditions C8A to C10 were price control licence conditions and that these would be discussed as part of DISG 35.

Special Condition C12 – Restriction of prices in respect of tariff capped metering activities

Suzanne stated that this condition was simply a transfer of Special Condition 31 from the existing GT licence. She highlighted that a tweak had been made in relation to daily metered supply points in order to clarify this in relation to the Network Code. She emphasised that if any DISG members had any comments or concerns regarding this condition Ofgem would be happy to receive them.

Sonia set out that Special Conditions C14 to C16 were price control licence conditions and that these would be discussed as part of DISG 35.

Special Condition C17 – Exit Code Statement

Suzanne detailed that the trigger paragraph had been removed from this condition and replaced with a commitment on the part of Ofgem to remove this condition as part of the same Section 23 process that introduces the enduring offtake arrangements. She outlined that paragraph 3 included references to definitions within the price control conditions.

Special Condition C19 – Undertaking from Ultimate controller concerning non-discrimination between the NTS and DNs

Sonia highlighted that this condition incorporated provisions regarding the business separation conditions for Transco. She stated that the condition had not changed significantly since it was last presented to the DISG and that, as such, only small amendments had been incorporated to ensure consistency of the definitions throughout the condition. She indicated that if any DISG members had further comments in this regard, Ofgem would be happy to receive these.

Special Condition C20 – Separation of NTS and DN businesses

Sonia set out that this condition had previously been discussed at the DISG and that there were two key issues that DISG members should be aware of:

- Paragraph 5 determined that the managerial boards for the NTS and DN businesses should have at least two members and at least two of these should be directors of Transco plc.
- Paragraph 7 had been amended to require that the licensee must use 'all best endeavours to ensure compliance with the terms of the statement' where previously this was a reasonable endeavours obligation. Jason outlined that this modification had been made in response to concerns expressed by respondents.

Sue Higgins asked what the relevant obligation was in electricity. Sonia responded that it was her understanding that Ofgem was looking to tighten the current obligation within electricity. She suggested that it might be appropriate for Transco to look at the interpretation of best endeavours as this may offer some reassurance regarding the scope of the obligation. She highlighted that Ofgem had looked very closely at what this requirement would entail and considered that it would be appropriate to retain it.

Sue asked whether Ofgem considered that there was only a marginal distinction between references to reasonable endeavours and references to best endeavours. Sonia

acknowledged that there was a distinct difference between these requirements but detailed that, with respect to business separation, it would be important to include the reference to best endeavours. Sue Higgins set out that she remained of the opinion that this wording went beyond what was necessary within the licence condition and that it would, as such, impose disproportionate costs.

Julian Bagwell asked whether the wording within paragraph 5 may conflict with the provisions of the Companies Act. Sonia responded that a lawyer had looked into this and had confirmed that the wording was fine.

Special Condition C21 – Appointment and duties of the business separation compliance officer

Sonia explained that this condition had been discussed at DISG 33 and that there had not been any change to the drafting since then. She stated that she did not intend to take DISG members through the drafting of the schedules associated with this condition.

Standard Special Condition D1 / D2 – Switch on/Switch off / CLM

Suzanne set out that these conditions were, in essence, the same as A1 and A2, except that references to part A in A1 and A2 would be references to part D in D1 and D2.

Standard Special Condition D3 – Long Term Development Statement

Stephen Parker pointed out that in subparagraph 1(a) it made reference to ‘any individual pipeline system which includes pipelines to which this licence relates’ and asked what the boundary of this definition would be. Suzanne explained that, within the current licence, a reference was made to ‘any individual pipeline system which includes high pressure pipelines operated by the licensee’. As such, Sue highlighted that the existing condition had a greater focus on the high pressure system.

Sonia stated that the DN sales team would look again at subparagraph 1(a) to ensure that a distinction was made that the reference should be to the pipeline to which this licence relates. She considered that something more distinct than the wording in the existing GT licence would be required and that, as such, a sensible balance would need to be reached on this.

Standard Special Condition D4 – Prohibited Procurement Activities

Jason Mann outlined that it was important to note that DNs would be permitted to procure shrinkage gas for themselves or in conjunction with another DN but that this licence condition would prohibit DNs from procuring shrinkage gas in conjunction with the NTS.

Standard Special Condition D5 – Licensee’s procurement and use of system management services

Jason set out that the provisions of this condition were essentially the same as those contained within Special Condition C5 and that the wording of this condition had not changed significantly since the previous draft that was presented to DISG.

Standard Special Condition D6 – Provision of First Call Emergency Response to the NTS operator

Helen Connolly stated that the comments made at DISG regarding the inclusion of a reference to the fact that ‘the licensee shall not be required to carry out any work on...any part of the NTS’ and making clear that this requirement did not involve any physical work had been considered by the DN sales team. She detailed that, in this regard, an amendment had been made to this condition. She highlighted that the opening phrase in paragraph 2 which stated that ‘save to the extent required to avoid risk to life or property’ had been removed to make it clear that the licensee shall only undertake physical work if requested and/or authorised to do so by the NTS. Helen highlighted that this has been agreed with the HSE.

Furthermore, she highlighted that the opening phrase in paragraph 2 which stated that ‘save to the extent required to avoid risk to life or property’ had been removed with the HSE’s agreement.

Standard Special Condition D7 – Exit Code Statement

Suzanne detailed that the trigger paragraph had been removed from this condition and replaced with a commitment to remove this condition as part of the same Section 23 consultation that will introduce the enduring offtake arrangements, in line with the changes made to C17.

Standard Special Condition D8 – Reform of Distribution Network Interruption arrangements

Jason explained that this condition had not been amended since it was previously presented to the DISG and that, as such, it incorporated a reasonable endeavours obligation to implement reformed interruption arrangements from 1 April 2006.

Standard Special Condition D9 – Distribution Network transportation activity incentive scheme and performance reporting

Jason highlighted that this condition has previously been mislabelled and that this had been corrected. He also outlined that the condition had been amended slightly to recognise specificities within it.

Helen clarified that, under the definition of ‘specified information’, in paragraphs (b)(i) and (b)(ii) the details of the number of the survey questions had been incorporated within the licence, in line with views expressed by respondents to the relevant consultation document.

Julian Bagwell asked whether a number of amendments would need to be made to this condition as part of the second Section 23 notice in order to accommodate conclusions reached regarding incentives. Sonia responded that incentives did not relate to this area and that this was an area that was more closely related to IIP arrangements.

Tory Hunter highlighted that this condition required that the licensee must appoint a relevant person to fulfil these obligations but that, in the equivalent electricity distribution condition, the relevant person would be appointed by the Authority. Sonia responded that it was not essential that continuity was retained within these conditions

but that the DN sales team would take these comments back to the quality of service team within Ofgem and gauge their views on this.

Standard Special Condition D10 – Provision of Connections information

Sonia set out that Sean O'Hara had held a workshop regarding this licence condition on 26 January and that, as such, the relevant drafting of this condition would be brought back to DISG 35. Helen clarified that Ofgem would circulate the drafting of this condition prior to DISG 35.

Standard Special Condition D11 – Charging Obligations

Suzanne stated that this condition had previously been included within the licence as Special Condition E7 but that, apart from the change to the reference, there had not been any amendments to the condition.

Special Condition E1

Suzanne explained that this condition was not used for the reasons discussed regarding the exempting of certain de minimis activities in paragraph 3(d) of Standard Special Condition A6.

Sonia set out that Special Conditions E2A to E9 were price control licence conditions and that these would be discussed as part of DISG 35.

Special Condition E10

Suzanne detailed that this condition included similar provisions to Special Condition C20 in relation to the business separation licence conditions.

Sonia highlighted that this was the end of the licence.

Alison Russell asked what provisions were contained within Special Condition E9 and Sonia responded that this was not used.

Sonia requested that Transco and DN buyers should get their comments to Ofgem by Wednesday 2 February. Stephen Parker asked whether a copy of the composite licence would be placed onto the Ofgem website for reference and Suzanne set out that she would email a copy to DISG members and ensure that an additional copy was placed on the Ofgem website.

Sue Higgins asked how Ofgem would like to receive comments regarding the licence conditions. Sonia responded that if interested parties were to provide comments regarding policy positions it would be more helpful if they did not provide them in track changes. She emphasised that this did not foreclose DISG members from expressing views regarding various policy positions but outlined that it would be more helpful if they could go through any comments that they had on a condition by condition basis, clearly stating the condition and subparagraph to which their views related. She clarified however, that Ofgem did not want to receive any further comments regarding the Ofgem position on the private CLM as it was not prepared to revise its approach on this.

She set out that Ofgem would not want to receive any further comments on the licence drafting after 8 February 2005.

Suzanne clarified that although Ofgem had said that it would direct the Section 23 notice on 27 January this had not yet been done but that Ofgem would ensure that it did this during the following week.

Sonia distributed copies of the minutes from DISG 33 and suggested that, rather than going through them at the meeting, it would be more helpful if DISG members could send any comments that they had to the DN sales team.

Sue Higgins asked what Ofgem intended to do in relation to the actions from DISG 33. Sonia responded that as these were fairly wide-ranging, Ofgem would go through these at a future DISG.

Sonia clarified that the agenda for DISG 35 would involve going through the price control licence conditions in the morning and the actions log, with respect to the UNC, in the afternoon.