

Appendix 2 Minutes of DISG 29, DISG 30, DISG 31, DISG 32, DISG 33, DISG 34, DISG 35

DN Sales Development & Implementation Steering Group Minutes Meeting 29

7 December 2004, 10:00 am-4:30pm
Ofgem's office, 9 Millbank

Attendees

Sonia Brown	Ofgem (chair)	Sue Higgins	Transco
Jason Mann	Ofgem	Peter Bingham	Transco
Philippa Pickford	Ofgem	Mike Ashworth	Transco
Karen Gribben	Ofgem	Martin Kinoulty	United Utilities
Suzanne Turner	Ofgem	Alex Wiseman	United Utilities
Helen Connolly	Ofgem	Dawn Wetherall	United Utilities
Mike Young	BGT	Tory Hunter	SSE
John Costa	EDF Energy	Julian Bagwell	Macquarie
Nick Wye	Macquarie	Alison Russell	Centrica
Christiane Sykes	E.ON –UK	Rob Lally	DTI
		Radhika Sriskandarajah	DTI

1. Review of items from DISG meeting 28 (held on 30 November 2004).

a. Additions to the agenda

Sonia Brown asked if anyone wanted to make any additions to the agenda. No-one responded with any additional agenda items.

b. Review of minutes

Alison Russell asked when the minutes were circulated. Sonia Brown stated that Tracy Hunt had circulated the minutes and if members of DISG did not receive the papers then they should e-mail Tracey Hunt to ensure that they were on the circulation list. Nick Wye stated that the 5th page of the minutes did not accurately reflect the discussion about the incentives. Nick Wye stated that he had asked whether there would be two independent incentive schemes – an interim incentive scheme and a long term incentive scheme. Nick stated that Sonia Brown had responded that there would be a single incentive scheme in place. Sonia Brown stated that since then, Ofgem's view had changed in relation to this issue and it was now Ofgem's intention for there to be two distinct incentive regimes.

There were no further comments on the minutes.

c. Actions of previous meeting

- Ofgem updated the previous minutes
- Transco provided an updated version of its licence issues list
- With respect to the NGT paper on UNC, Sonia Brown stated that Ofgem was still in discussions with Transco and therefore a new action upon Transco was set in this regard for DISG 30.

Action: Transco to bring UNC paper to DISG 30.

2. Update from Exit Reform Development Forum (Transco)

Peter Bingham stated that there were two main messages coming from the Exit forum. Firstly, the industry regards the flexibility product as overly complex and secondly, that the industry has no desire for the product. Peter stated that, generally, the industry accepts the need for consistency and unbundling of capacity products, but thought that the mechanism for flexibility should be an NTS internal matter. Peter Bingham stated that NGT does not concur with this view. He accepted that there was an additional burden for the industry but the reforms would be to the long-term benefit of the industry. Peter further stated that once the industry understands the product it will not seem as complex.

One forum member had queried whether the exemption would cover the trading of capacity products. Sonia Brown asked who raised this issue. Tory Hunter stated that she had raised a concern over this and asked, what was the legal status of the list of bullets, attached to the DTI exemption. Tory Hunter stated that the bulleted list at the back of the exemption did not cover the potential for DNs to sell back capacity to the NTS. Sonia Brown stated that NGT had seen the list and signed the list off as fit for purpose and complete. Tory stated that she would raise her concern in SSE's formal response to the DTI on the exemption consultation. Nick Wye raised the issue as to whether DN to shipper forward trading was allowed as the DTI exemption list was clear. Peter Bingham responded that shippers were not affected by the exemption proposals as they already held a shipper licence that permitted them to undertake such activities.

Peter Bingham detailed that the Exit Reform Forum website went live on Thursday (2 December).

Tory Hunter raised a concern over an element of overrun charges, in particular the hourly flow rate overrun charge. Tory stated that she didn't think there should be an hourly overrun charge, that it added an additional layer of complexity and that there was some surprise within the exit forum at its introduction. Sonia Brown also expressed surprise at these proposals. Peter Bingham highlighted that these hourly overrun charge proposals were there to provide future protection and that it was highly unlikely that such a facility would be required. As such, this element of the charge would not be binding in the short-term, and would effectively be set at zero. It was noted that it was these specific proposals that were raising a lot of the concerns regarding complexity mentioned earlier. Jason Mann asked DISG whether anyone was able to see Transco's concerns in relation to this issue and why Transco was seeking future protection. John Costa raised an additional concern in relation to this product and highlighted that there was no 'use it or lose it' provision. Sonia Brown stated that this should be included within the product as hoarding was not desirable. Nick Wye raised a question of whether such provisions should apply to the original location or traded location. Jason Mann and Sonia Brown responded that it would make sense for such provisions to apply to the traded location with the relevant exchange rates applied as appropriate.

John Costa raised a further point regarding the categorisation of offtake points and shippers' desire for a split product that distinguishes between DN connects and NTS direct connects. Sonia Brown noted shippers' concerns in this area, but emphasised the importance of ensuring no undue discrimination concerns amongst users of the NTS.

John Costa raised an additional point regarding governance. He noted that there were already two working groups set up to address exit profiling regime reform and scheduling charges and that these groups should be used, and as such, Transco was not following correct procedures. John suggested that these existing working groups should be used to undertake a consideration currently being considered in the exit development forum.

Peter Bingham stated that it was not possible to use existing Network Code modification groups to transform it into a multi-transporter agreement. Therefore, the process of consideration of the issues being discussed in the exit development forum could not be discussed within the auspices of the existing network code based groups, because what was being developed would not, directly, be part of the network code. The network code would be modified through the normal process into a short form network code that would reference the newly developed UNC. That was why whilst not part of the formal network code modification process, Transco were attempting to mimic the network code process for the purposes of considering the development of the UNC. Sonia Brown stated that if people disagree with the process then they should highlight why they disagree, in particular if they disagree with Transco's analysis of the need for a multi-transporter contract. John Costa stated that they had raised their concerns. Sonia Brown pointed out that they had stated that they disagree with Transco but had not outlined the reasons why and reiterated that they should explain why they disagreed.

Action: Transco to take away concerns with the hourly overrun charge.

Action: Shippers to come back to explain why they disagreed with Transco's view on due process.

3. Update from UNC Development Forum (Transco)

Peter Bingham outlined the issues which were discussed at the UNC Development Forum – these included Section U and ancillary documents, and a presentation on the obligation to pay invoices through the transitional period from hive down. Peter stated that no further changes with respect to Section U and ancillary documents were raised and that they would therefore proceed to the first stage of drafting. Peter stated that no issues were being referred to DISG. Peter pointed out to the group that the first bits of legal drafting were placed on the Transco website on Friday and that more documents would be placed on there later this week.

Sonia Brown asked Mike Ashworth whether anyone had taken him up on his offer to walk through the UNC. Mike Ashworth said no one had taken him up on his offer. Tory Hunter pointed out that people would want to view the draft first before having a meeting and highlighted that she wasn't aware this was now on the website. Sonia Brown requested that people should contact Mike Ashworth if a meeting is required.

Mike Young stated that a lot the action points raised at the various work groups had been placed in a log and had been parked with no indication of when they were being discussed. Sonia Brown stated that it would be necessary to go back through these outstanding issues and that Transco should provide dates of when these outstanding issues will be addressed.

Tory Hunter asked if Transco were still on target to issue all UNC offtake flexibility rules for consultation before Christmas. Peter confirmed that they were.

Action: DISG members to get back to Transco by the end of the week to let them know if a meeting is needed.

Action: Transco to provide copies of the action log and dates as to when these issues will be discussed for DISG 30.

4. Gas Act exemption (DTI)

Rob Lally presented the outline of the DTI's consultation on Proposed Exemption For Certain Gas Transporters From Prohibition on Conducting Particular Shipper Activities. There were no questions raised. Rob reminded DISG members of the close date on the consultation document.

5. Run through of draft restructured licence (Ofgem).

Tory Hunter asked why Appendix 7A had been taken off the Ofgem website. Sonia Brown stated that there was a mistake with the PDF formatting and that the document would be put back on the website later today. Dawn Wetherall asked whether there was a need to go through the Standard Conditions of the licence. Sonia Brown stated that there was a need as some Standard Conditions were being amended elsewhere in Ofgem which should be brought to the attention of DISG members and to explain what will be happening to this licence going forward.

Karen Gribben outlined to the group that Ofgem and the Authority's comments should not be taken as legal advice. The purpose of this read through process was an informal tool to help DISG members to understand the changes being proposed. Ofgem noted that failure to comment on a particular condition would not preclude DISG members from commenting at a later date.

Philippa Pickford detailed that the standard conditions would be reverting to the designated state. The table of contents highlights what will be switched off, either because the standard conditions require amendment or they are not needed. Philippa Pickford highlighted that some of the standard conditions would be changing in parallel to the DN Sales process. Standard Condition 3 would be subject to amendments with regards to the appeal rights process as per the Ofgem and DTI consultation document. Standard Condition 16 might need some technical tweaking to ensure that the 1 in 20 obligation relates to hourly rather than peak aggregated daily demand. Standard Condition 30A may be subject to parallel changes brought about by the Distribution Price Control Review to ensure that changes made to the electricity DNO licence are replicated through the gas licence.

Alison Russell asked, in relation to Standard Condition 16, whether it was intended to detail how the 1 in 20 obligation should be calculated by each network. Sonia Brown responded that each DN would be responsible for determining their 1 in 20 obligation and that there would be no national methodology. Sonia further highlighted that there would be no deterioration to the 1 in 20 obligation it is purely technical tweak to ensure this. Sonia stated that once there was a clearer view of the flexibility product, Ofgem would ask Transco to bring the drafting of this condition back to DISG.

Alison Russell further asked whether it would be appropriate for DNs to share (and make transparent) the methodologies that they applied. Sonia responded that the

transparency of methodologies applied may need to be considered by Ofgem, and whether any further transparency over and above what would already be provided within the ten year statements was required.

6. Run through of draft restructured licence (Ofgem).

Condition	DISG comments
<p>Standard Special Condition A1. Application/Dissaplication of standard conditions in Section A (interpretation and Payments) and Section B (General) and Application /Dissapliction of Standard Condition applicable to both NTS and DN licensees</p>	<p>Suzanne Turner explained that this condition allows for the ability to switch off certain standard conditions and replace with standard special conditions. This conditions means that conditions can switched off without having a replacement and likewise switched on if needs be. The condition also allows for the ability to switch off certain parts of conditions. The current provision in the existing licence applies to Section C of the Standard Conditions only which is why a change is needed.</p> <p>Dawn Wetherall /UU asked about the timing of switching conditions on or off. Sonia Brown stated that Ofgem is still working though sequencing with Transco. Karen Gribben said that A1 will be switched on automatically. Once the direction to implement the modification has been granted, then switch on and off will occur very quickly after this direction, although the possibility of switching some conditions on at a later date (in a similar process to that used by NETA) was a possibility. Sonia Brown noted that business separation will be an issue that needs to be taken into account in determining the sequencing of obligations.</p> <p>Tory Hunter/SSE asked, linked to A2, whether new standard special conditions could be introduced by the private CLM, but to switch this condition on it will have to directed by the licensee (negating the point of the private CLM process). She particularly highlighted the provisions of A1, paragraph 2.</p> <p>Dawn Wetherall /UU asked if it should only be an issue when you assume that the condition is switched off, A1 needs to be written like this.</p> <p>Ofgem noted this point and stated the intent that the new Standard Special Conditions would be introduced as “switched on”.</p> <p>Action: Ofgem will go away and double check this issue. Only need to use A2 if you are switching off.</p>
<p>Standard Special Condition A2: Private Collective licence modification procedure in respect of Standard Special</p>	<p>Suzanne Turner stated that this condition is reproducing all aspects of the statutory CLM procedure.</p> <p>Alison Russell /Centrica asked if the intent of A2 is to modify existing or new conditions – Ofgem stated that it related to</p>

Conditions applicable to both NTS and DN Licensee	<p>both. Ofgem noted that in previous responses that UU and Macquarie had concerns over statutory thresholds.</p> <p>There were no further comments on the drafting of this condition.</p>
Designated Standard and Standard Special A3 (and Special Condition C1 for LNG)	<p>Suzanne Turner stated that Amended Standard Condition 1 had reverted to designated Standard Condition 1, but that this Standard special Condition has been introduced to capture the additional definitions required.</p> <p>Suzanne noted that the treatment of definitions will be kept under review and dealt with towards the end of the process.</p> <p>Suzanne noted the definitions that were new or amended relative to ASC1, such as “Network Code” and “Network Code Modification”, “Relevant objectives” and “Uniform Network Code”.</p> <p>Suzanne also highlighted those areas which will need tweaking such as definitions which refer to Section C of the Standard Conditions. Further, the definition of “Independent systems” will need to be tweaked to reflect the fact that they will be independent, not only from Transco plc’s network, but those of other DNs. Suzanne also pointed out that the definition of “Transportation arrangements” would need to be changed to reflect the role of GTs should they receive an exemption.</p> <p>Alison Russell/Centrica stated that she could not find the definition of “consolidated transportation business” within A30 as indicated by A3. Suzanne stated that Ofgem would look into this.</p> <p>Tory Hunter/SSE asked whether a number of definitions had been missed e.g. “code modification rules” and “Transco plc”. Suzanne Turner stated that in general those definitions which were absent, were absent on the basis that they were either included within Standard Condition 1 or were no longer needed. Karen Gribben stated that Ofgem was looking at this issue.</p> <p>Alison Russell/Centrica asked why “Transportation business” appears to be defined in 5 ways. Karen Gribben said that Ofgem is looking at ways to make it more user friendly. Table may be used for example to explain this better.</p> <p>Action: Ofgem to look at “consolidated transportation business” definition and generally review use of definitions.</p>
NTS and DN Standard Special A4 (and Special C1 for LNG): Charging Gas	<p>Sonia Brown highlighted that the proposals have changed since publication of the September document. In the “Next Steps” consultation document, Ofgem stated its proposal for</p>

Shippers - General	<p>changes twice a year to reflect responses received.</p> <p>However, Sonia Brown stated that Ofgem was still not 100% sure on this issue and that different NTS and DN obligations with respect to charge changes may yet be needed. Sonia Brown noted that the NTS has more volatile changes so twice year changes may be more appropriate here, and stated that Ofgem would welcome views in this regard.</p> <p>Sonia further noted that the word "coordination" had been removed because this may have anti-competitive implications.</p> <p>Sonia also noted that the storage provisions within paragraphs 9 and 10 are reverting back to standard form. Tory Hunter/SSE asked why Ofgem have done this. Sonia Brown stated the policy of reverting to standard wording where possible, and the need to ensure that no potential purchasers have such storage assets. Tory Hunter/SSE to speak to Sonia after meeting.</p> <p>Julian Bagwell/Macquarie asked whether the Joint Governance Arrangements had been made available yet. Transco took away an action in this regard.</p> <p>Alison Russell/Centrica asked about transparency in relation to 'reasonable endeavours'. Sonia noted that if the reasonable endeavours obligation was not met, this should be justified to the Authority as per the Income adjusting Events drafting.</p> <p>Julian Bagwell/Macquarie stated that we need to make clear whether it is subject to Authority approval. Sonia Brown stated that if you don't use reasonable endeavours then you are answerable to Authority - it is a compliance issue for the potential purchaser. The Authority should be aware of reasons as to why there is a change. This should be linked to notification to shippers as well.</p> <p>C Sykes/E.On asked whether there would be separate charging methodologies. Sonia noted this and stated that Ofgem was in the process of checking through the licence to pick up where obligations should per network or aggregate.</p> <p>Action: Ofgem to review policy with respect to charge change provisions.</p> <p>Action: Ofgem to review policy with respect to storage.</p> <p>Action: Transco to outline at the next DISG meeting when</p>
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	<p>all the relevant agreements would be made available.</p> <p>Action: Ofgem to consider transparency of reasons for failure to meet the reasonable endeavours obligation.</p> <p>Action: Ofgem to consider where obligations should be per RDN network.</p>
NTS and DN Standard Special A5 (and Special C1 for LNG): Obligations as Regard Charging Methodology	<p>Sonia stated that Ofgem need to reach a firm decision in relation to charge change methodology - we welcome responses from shippers in relation to this. Sonia stated that in relation to the provisions within paragraph 2A(b) Ofgem has not changed its mind in relation to the need to “keep the charging methodology at all times under review”, consistent with electricity licence obligations. In general this idea is to ensure that the licensee has an ongoing obligation in this regard, but that it should not be taken literally that the charging methodology should be reviewed on Christmas Day.</p> <p>Alison Russell/Centrica asked whether we mean that changes to charging methodologies included structural changes to charges as well. Sonia replied that yes, structural changes would fall under the methodology change.</p> <p>John Costa/EDF asked how this fits in with UNC. Ofgem stated that there was no issue here, with paragraph 2A(c) requiring the same arrangements regarding Joint Governance Arrangements.</p> <p>Sonia stated that the storage arrangements with paragraphs 11 and 12 were again reverting back to designated standard wording.</p> <p>There were no other comments on this condition.</p>
NTS and DN Standard Special A6 and Special Condition C18 for NTS (and Special Condition C1 for LNG): Conduct of Transportation Business	<p>Jason Mann stated that this condition relates to meters and meter reading services and it is important in this condition that we need to be clear about affiliates etc.</p> <p>Alison Russell/Centrica asked whether paragraph 1 should include a similar obligation with respect to other GTs and whether 1(a) should be clarified for NTS / RDNs.</p> <p>Ofgem noted that clarification of paragraph 1(a) was a business separation issue that is addressed by Special Condition C18.</p> <p>It was noted that any potential purchasers who may have IGT businesses these would be covered as “affiliated businesses”. Ofgem noted that a specific provision with respect to other GTs was not needed as this would be covered by section 9 of the Gas Act and Competition Act.</p>

	<p>However, Ofgem stated that they would review the provisions here in the context of a general review of symmetry of shipper and GT obligations in the light of the new industry structure were appropriate. Mike Ashworth said the only other potential area is in relation to exit arrangements where you have shippers and DNs.</p> <p>Dawn Wetherall /UU asked about storage arrangements and how is it both a trading business and transportation business as A33 defines it as a trading business and A6 a transportation business. Ofgem stated that it will have a look at this issue as part of its general review of definitions - although this reflects our policy view in the consultation document, of which, was a view that everyone supported.</p> <p>Ofgem noted the drafting error in the presentation of paragraph 2(d).</p> <p>Action: Ofgem to consider applicability of paragraph 1 provisions to other GTs</p> <p>Action: Ofgem to correct typo in paragraph 2(d).</p> <p>Action: Ofgem to consider storage in the context of trading and transportation business definitions.</p>
NTS and DN Standard Special A7 and Special C1 (for LNG): Requirement to Enter into Transportation Arrangements in Conformity with Network Code	<p>Jason Mann stated that this condition replicates amended standard condition 4E. One main issue was whether it is necessary to reflect offtake code arrangements. Ofgem noted that it had now been agreed that there was not going to be a separate Offtake Code and hence there was limited changes required to 4E.</p> <p>Alison Russell requested that Transco publish a document setting out how it intended to respond to customers on the border of DNs on an ongoing basis.</p>
NTS and DN Standard Special A8: Emergency Services and Enquiry Service Obligations	<p>Sonia Brown highlighted that this condition is replicating what is in Amended Standard Condition 6.</p> <p>Alison Russell/Centrica asked whether this condition related to emergency issues at DN boundaries. Ofgem stated that Transco have assured Ofgem that the safety case covers this. Given this, Ofgem does not believe that it needs to be duplicated in a licence if it is already in a safety case. Sonia stated that Ofgem would be double-checking this with the HSE. Alison Russell/Centrica stated that given the safety case isn't a public document shouldn't Transco do a paper so people can see what is covered by the safety case. Sue Higgins asked what further was required given the presentation already given to DISG on this matter. Ofgem stated that while a presentation had been undertaken it may need to go into more detail.</p>

	<p>Action: Transco to provide further details on safety and procedures at DN boundaries if required.</p>
NTS and DN Standard Special A10: Provision and Return of Meters	<p>Ofgem stated its policy position that this condition should apply to all NTS and DN-GTs including both RDNs and IDNs.</p> <p>Julian Bagwell/Macquarie stated that paragraph 4 requires the licensee to keep meters in safe custody. He asked whether the new licensee be required to comply with this obligation. Ofgem stated that yes it would be the new licensee's responsibility. Ofgem stated that in principle Transco has to provide information to ensure that licensees can comply with the licence conditions. It is for potential purchasers to ensure that they get the right information at hand down to ensure that they are compliant with their licence going forward.</p> <p>Tory Hunter/SSE asked how this worked as Transco isn't providing meters. Ofgem stated that this was a matter for buyers to raise with Transco. Sonia noted that there would be a condition of consent (should consent be granted) on Transco up to share sale, to ensure that the licences are in order at that stage.</p> <p>No-one had any further comments on this condition.</p>
NTS and DN Standard Special A11 (augmented by Standard Special A16, Special Condition C6 and Special Condition C1): Network Code	<p>Jason Mann stated that there were now separated relevant objectives in this condition, plus a number of changes and additions to the relevant objectives.</p> <p>Jason outlined that other changes to this condition ensured the creation of Short Form Code and set out Uniform Network Code provisions. The final changes relate to modification procedures, paragraph 8 gives Authority discretion reinforcing that we expect to see modification changes in the UNC, but highlights high level principles as to how modifications procedures should work. Ofgem highlighted that it found some drafting of paragraphs 8 and 9 tricky to construct. Ofgem also highlighted that it also needs to look at whether a shipper can propose changes to arrangements, to a GT's Short Form Code for example, and would welcome comments in this regard.</p> <p>Dawn Wetherall /UU asked in relation to the Short Form Code who should be able to modify it, i.e. DN GTs if modification rules in it are only relevant to DN, and should DNs acting as shippers be able to modify the NTS Short Form Code? Ofgem stated that further consideration is needed and additional work to ensure that only signatories to a particular network code can change it. Julian Bagwell/Macquarie asked whether this is captured into 9b2</p>

	<p>– Ofgem stated that it was. Tory Hunter/SSE asked whether in relation 13a, would that not be more in accordance to code rules and not licence as this is how it presently works. Alison Russell/Centrica asked if individual Network Code is the official term for Short Form Code – Ofgem states that it was. Dawn Wetherall /UU stated that Network Code reference is confusing - 22b in particular, not sure why it is needed. Ofgem will need to check all the references to individual Network Code and Network Code. Ofgem reiterated that it was incumbent upon shippers to check the proposed terms of the offtake code and to alert Ofgem to any particular aspect they might be uncomfortable with.</p> <p>Action: Ofgem to check all Network Code definitions and references are clear in their meaning.</p>
NTS and DN Standard Special A12: Joint Office Governance Arrangements	<p>Jason Mann explained this new condition.</p> <p>Alison Russell/Centrica asked what Network Code relates to - it has flexibility to relate to Network Code or Uniform Network Code. If modification to individual Network Code, would it be dealt with by an individual transporter or by this condition. Ofgem stated that individual codes modification will be via UNC governance arrangements.</p> <p>Mike Ashworth stated that administration of modification rules would go through the Joint Office.</p> <p>Julian Bagwell/Macquarie asked in relation to paragraph 3, whether Ofgem would be designating what the JGA Agreement would look like? Ofgem stated that we are still trying to reach conclusion in relation to these issues. Once a decision is reached Ofgem will inform DISG.</p> <p>Action: Ofgem to check all Network Code definitions and references are clear in their meaning.</p>
NTS and DN Standard Special A14: Common Systems Obligations	<p>Jason Mann stated this condition is to ensure that all GTs operate common systems and that these are operated effectively, costed on an activity basis and allocated in a transparent manner. Transco are producing papers in relation to this and they will issue a timetable indicating the timing of this.</p> <p>Julian Bagwell/Macquarie asked whether it would be possible to merge the provisions of Standard Condition 38 – availability of data formats into this condition. Ofgem stated that the provision of SC38 were wider than those of A14 (which were restricted to Network Code related issues) and as such, this would not be appropriate.</p> <p>No-one had any further comments on this condition.</p>
NTS and DN Standard Special A15: Agency	<p>Jason Mann outlined the provisions of condition A15.</p>

	<p>C Sykes/E.ON raised a query with respect to the commentary text for this condition. Karen Gribben stated that this is just explanatory and not binding and this would be removed before the formal section 8AA consultation.</p> <p>Jason emphasised that the intent of the condition was to ensure that GTs did not opt out of the agency agreements without the Authority's consent and that the scope of the agency as per Option C (of the Agency RIA) would be embodied within the Uniform Network Code, and as such, consent from the Authority would be needed for any changes to scope.</p> <p>Peter Bingham noted that shippers could propose Network Code modifications to expand the scope of the agency, and that this would have potential price control implications. Ofgem highlighted that Transco already conduct that activity so the revenue is already allowed for. If circumstances were to change, it would be possible to request an income adjusting event.</p> <p>No-one had any further comments on this condition.</p>
NTS and DN Standard Special A16: Independence of the independent market for balancing	<p>Ofgem stated that this condition replicates the provisions in paragraphs 3A to 3D of Amended Standard Condition 9. This is to ensure that all GTs, including the NTS, are independent from the independent market for balancing. The effect being that neither DN-GTs nor the NTS can run the OCM.</p> <p>No-one had any comments on this condition.</p>
NTS and DN Standard Special A17: General obligations in respect of gas transporters' pipe-line systems	<p>Ofgem noted that the provisions of this condition were designed to replicate the provisions of Standard Condition 3 of the shipper licence. It was noted by Ofgem, that given the offtake arrangements, these provisions were needed as GTs would be acting as defacto shippers.</p> <p>No-one had any comments on this condition.</p>
NTS and DN Standard Special A19: Provision of Services for Persons who are of Pensionable Age or Disabled or Chronically Sick: Arrangements in Respect of Meters.	<p>Suzanne Turner highlighted that this was an Amended Standard Condition in Transco's licence, and that the amendments made as part of RGMA would be retained, and as such were included as a Standard Special Condition applicable to all NTS and DN-GTs.</p> <p>No-one had any comments on this condition.</p>
NTS and DN Standard Special A20: Provision of Services for Persons who are Blind or Deaf	<p>Suzanne Turner outlined that small changes had been made to the drafting of what was Standard Condition 18 to add a caveat in paragraph 1 about needing one or more domestic customers. This caveat relieved the NTS licensee of its obligation to submit a code of practice, where it has no domestic customers. Suzanne outlined that further changes included an adjustment to allow a later date to be specified by the Authority to avoid an automatic breach.</p>

	<p>Furthermore, consequential cross-referencing changes had been made.</p> <p>Alison Russell/Centrica asked if the NTS was the party who would continue to operate the 0800 number, if so, then they required a code of practice detailing the arrangements put in place to deal with any service provided to blind or deaf customers by the licensee.</p> <p>Ofgem noted that the 0800 number was dealt with within Standard special Condition A8. However, following further discussion in relation to these social conditions, Ofgem agreed that the “one or more domestic customers” caveat should be removed from Standard Special Condition A20.</p> <p>Action: Ofgem to remove the “one or more domestic customers” caveat from this condition.</p>
NTS and DN Standard Special A22: Arrangements in Respect of Powers of Entry	<p>Suzanne Turner highlighted that the changes Standard Special Condition A22 related only to consequential cross-referencing changes. Otherwise, the drafting of this condition is as per Standard Condition 19.</p> <p>No-one had any comments on this condition.</p>
NTS and DN Standard Special A23: Complaint Handling Procedure	<p>Suzanne Turner stated what was Standard Condition 21 had been amended to reflect consequential cross referencing changes, and to provide caveats regarding one or more domestic customers and the date of compliance as per Standard Special Condition A20.</p> <p>It was outlined that the caveat for one or more domestic customers to be connected before a code of practice with respect to handling domestic customer complaints meant that the NTS would not be required to submit such a code of practice. Discussion was had in relation to whether the NTS would receive domestic customer complaints. Jason Mann noted that, given the offtake arrangements, the NTS’ customers were technically the DNs and NTS direct connects rather than domestic customers. However, it was noted that the same logic could be applied to DNs to say that shippers rather than domestic customers were their true customers.</p> <p>Alison Russell asked whether the NTS still needs a code of practise to state how it will revert any customer complaints back to DNs.</p> <p>Ofgem agreed that the “one or more domestic customers” caveat should be removed from Standard Special Condition A23.</p> <p>Action: Ofgem to remove the “one or more domestic customers” caveat from this condition.</p>

<p>NTS and DN Standard Special A24: Preparation, Review of and Compliance with Statements and Codes</p>	<p>Suzanne Turner stated that, other than consequential cross-referencing changes, the provisions of Standard condition 22 remained unaltered.</p> <p>Martin Kinoulty/UU asked if Transco have got all these codes. Transco stated that they did. Martin Kinoulty/UU therefore, did not understand the consultation document comment about NGT putting codes in place. Ofgem stated that the consultation document relates to the provision of these codes to new owners. Julian Bagwell/Macquarie stated that he was happy with Transco's proposals - but what if the Consumer Council do not approve the codes or does not approve them within the relevant time period. Ofgem stated that it assumed that Transco would have taken this into account.</p> <p>No-one had any specific comments on the drafting of this condition.</p>
<p>NTS and DN Standard Special A25:Record of and Report on Performance</p>	<p>Suzanne Turner highlighted that the only changes to the drafting of Standard Condition 23 proposed were to reflect consequential cross-referencing changes.</p> <p>Julian Bagwell/Macquarie asked about transitional arrangement and the timing of compliance with obligations. Ofgem stated that this is an issue which the potential purchaser should be discussing with Transco as part of the buying arrangements. Ofgem must have compliance with all licence requirements.</p> <p>No-one had any specific comments on the drafting of this condition.</p>
<p>NTS and DN Standard Special A26:Provision of Information to the Authority</p>	<p>Ofgem highlighted that the only changes to the drafting of Amended Standard Condition 24, were to reflect the storage provisions introduced into paragraphs 9 and 10. It was noted that the same typo in the presentation of 9(d) applied as had been identified for Standard Special Condition A6.</p> <p>Alison Russell/Centrica asked what does (para1) 'as maybe necessary' operate mean. Ofgem stated that it can ask it to provide information generally and specially to comply with specific requirements of the Act. The 1st part relates to general public law duty and 2nd part specific requirements.</p> <p>Action: Ofgem to correct typo in paragraph 9(d).</p>
<p>NTS and DN Standard Special A27:Disposal of Assets</p>	<p>Sonia highlighted that provisions are the same as those within Amended Standard Condition 29 with the exception of the insertion of the designated storage provision drafting.</p> <p>Sonia highlighted that paragraph 2A dealt with arrangements for independent systems and that the DTI are currently considering those issues.</p>

	<p>Ofgem stated that during the consultation process one potential purchaser raised an issue over whether SOMAs constituted “relinquishment of operational control” as per the current ASC29. Ofgem noted that it is still considering this issue. Dawn Wetherall/UU asked whether 2a still works given reference to the “appointed day” Ofgem stated that the DTI is considering this.</p> <p>Action: Ofgem to reflect DTI policy on independent systems once determined.</p>
NTS and DN Standard Special A30: Regulatory Accounts	<p>Ofgem highlighted that at the moment this condition largely reflects current provisions, however, that Ofgem was considering regulatory accounts provisions via the DPCR settlement. As such, changes may be required to reflect DPCR proposals.</p> <p>Ofgem stated that there is a separation issue as well, which is dealt with in the drafting to paragraph 1 to ensure that separate accounts are provided by the RDN business for each RDN network.</p> <p>Alex Wiseman/UU asked what if DNs wanted to change financial year end. Ofgem stated that it needs to try and make sure flexibility for DNOs is replicated for DNs as well.</p> <p>Action: Ofgem to incorporate DPCR related changes.</p>
NTS and DN Standard Special A31: Supply Point Information Service	<p>Suzanne Turner stated that the provisions of Standard Special Condition A31 were unchanged relative to Amended Standard Condition 31.</p> <p>She noted that the commentary included a typo and that paragraph 7 should be in bold italics to indicate a previous amendment within ASC31.</p> <p>Alison Russell/Centrica asked whether this is intended to apply at the network level or whether there should be a single register.</p> <p>Ofgem stated that the obligation is on the licensee and that the expectation is that the licensee will fulfil this obligation through the agency.</p> <p>Ofgem noted that the drafting should clarify this by referring to the agency and common systems provisions of the licence.</p> <p>Action: Ofgem to consider introducing a cross-reference to the agency and common systems provisions of the licence.</p>
NTS and DN Standard Special A32: Definition of permitted purpose	<p>Suzanne Turner noted that this condition replicated the drafting of Amended Standard Condition 32, except for the fact that the name of the condition (which previously</p>

	<p>referred to Section C) had been changed for clarity.</p> <p>Suzanne also stressed that it was important to note this condition was augmented by Special Condition C1 to reflect LNG obligations on the NTS.</p> <p>Suzanne also stated that Ofgem will probably change this condition further to clarify what is meant by transportation business in the context of the RDN and NTS licences.</p> <p>Suzanne further pointed out a typo in paragraph 1, where 'in this section' needs to be deleted.</p> <p>Action: Ofgem to correct typo in paragraph 1</p> <p>Action: Ofgem to consider definitions of transportation business to address RDN / NTS issues.</p>
NTS and DN Standard Special A33: Restriction on Use of Certain Information and Independence of the Transportation Business	<p>Sonia Brown stated that this is particularly important for SSE who supported these proposals in the consultation process. This condition mirrors electricity provisions. Ofgem would welcome views in relation to this condition. Ofgem highlighted that in electricity you don't have storage or metering issues which need to be addressed in gas.</p> <p>No-one had any comments on the drafting of this condition.</p>
NTS and DN Standard Special A34: Appointment of Compliance Officer.	<p>Sonia Brown highlighted that the drafting of this condition mirrors electricity provisions.</p> <p>Alex Wiseman/UU asked if transporters don't have any other business does it still have to comply. Peter Bingham stated that as a GT you will have a meter reading business. Even if you are procuring it from someone else a compliance officer would be needed to ensure that you are procuring it correctly.</p> <p>No-one had any specific comments on the drafting of this condition.</p>
NTS and DN Standard Special A35: Prohibition of Cross-Subsidies	<p>Ofgem stated that the wording of Standard Condition 41 needs to be amended and this will be brought back to DISG so that everyone can comment.</p> <p>Action: Ofgem to provide drafting for this condition.</p>
NTS and DN Standard Special A36: Restriction on Activity and Financial Ring - Fencing	<p>Suzanne Turner stated that the ring-fencing provisions currently within Transco's licence are within Special Condition 2 (which replaces the wording of Standard condition 43).</p> <p>Suzanne explained that a policy decision was taken to revert to the wording of designated Standard condition 43 where possible, with a couple of exceptions.</p>

	<p>Suzanne highlighted the changes i.e. the reference to the definition of permitted purpose –in paragraph 1, and paragraph 4a, and the use of the definition of investment applied in Special Condition 2 within paragraph 4(d).</p> <p>Ofgem also highlighted that this condition is augmented by Special Condition E1, which is discussed later.</p> <p>No-one had any comments on the drafting of this condition.</p>
NTS and DN Standard Special A37: Availability of Resources	<p>Suzanne Turner highlighted that this condition was augmented by the LNG provisions within Special Condition C1.</p> <p>Suzanne also noted that changes being consulted upon as a result of the DPCR process may also affect this condition.</p> <p>Alison Russell/Centrica asked whether anything needs to be done here when a DN has a DNO competing for resources. Sonia Brown stated that this is the same issue as the NGT merger, very clear of obligations on each licensee it would be breach of licence. Ofgem will check files to make sure that there were no changes to NGT condition.</p> <p>Suzanne further stated, that the intention was to keep the DN and DNO obligations the same to avoid such issues.</p> <p>Alex Wiseman/UU stated that the date regarding 30 June may be a challenge. Ofgem stated that Transco should be sorting this out as they can provide a view up to completion and then you can plan from there onwards. Furthermore, Ofgem stated that there was no reason why potential purchasers could not start to plan before share sale. Ofgem stated again that compliance is required straight away.</p> <p>Action: Ofgem to reflect DPCR change proposals as appropriate.</p>
NTS and DN Standard Special A38: Credit rating of the Licensee	<p>Suzanne Turner highlighted that the drafting of this condition reflects the proposed DPCR changes, with the introduction of Fitch ratings being the main change.</p> <p>Ofgem stated that they would double check the drafting against the DPCR tweaks finally proposed to ensure full consistency where possible.</p> <p>Alex Wiseman/UU said it would be hard to get credit rating from day one. Ofgem pointed out reasonable endeavours obligation and if they were having an indicative credit rating that would be a useful way forward.</p> <p>Action: Ofgem to double-check consistency with DPCR change proposals.</p>
NTS and DN Standard	Suzanne Turner highlighted that these changes are to reflect

Special A39: Indebtedness	<p>the introduction of Fitch credit ratings and cash lock out, consistent with the DPCR changes proposed. Suzanne noted that the version published within the consultation document did not represent the final DPCR drafting changes but that the drafting would be updated consistent with the DPCR consultation.</p> <p>Action: Ofgem to reflect DPCR change proposals as appropriate.</p>
NTS and DN Standard Special A41: Emergency Services to or on Behalf of Another Gas Transporter	<p>Jason Mann stated that many representations were received on this issue. Jason explained that Ofgem set out in the informal consultation discussion that, in its view, DN Sales does not require changes to this licence condition per se. The only additional cost raised by DN sales was that IGTs might have to liaise with additional DNs - but that these costs were not considered to be excessive.</p> <p>Ofgem noted that it is aware that IGTs have a contract with Transco regarding the provision of services to it which has been extended for 6 months.</p> <p>Ofgem has stated that it will consider the provision of a range of emergency services to IGTs fully before the contract expires but has reiterated its position that, in its view, it was not part of DN Sales.</p> <p>Dawn Wetherall/UU asked will DNs be taking over existing contracts. Ofgem stated that this was a matter between potential purchasers and NGT, but that it was Ofgem's understanding that the contracts would novate to the buyers upon sale – a view which Peter Bingham concurred with.</p> <p>No-one had any specific comments on the drafting of this condition.</p>
NTS and DN Standard Special A43: Provision of Metering and Meter Reading Services	<p>Ofgem stated its policy decision that this condition should apply to all NTS and DN-GTs including both IDNs and RDNs.</p> <p>The drafting of this condition replicates Amended Special Condition 23.</p> <p>No-one had any comments on the drafting of this condition.</p>
NTS and DN Standard Special A45: Assignment of Licence	<p>Suzanne Turner stated that the drafting of Special Condition 25A remains unchanged.</p> <p>No-one had any comments on the drafting of this condition.</p>
NTS and DN Standard Special A46: Non-discrimination in the provision of metering activities	<p>Ofgem noted that the drafting of this condition replicated the drafting of Special Condition 32, with the exception of consequential cross-referencing changes.</p> <p>Ofgem further noted its policy decision that this condition</p>

	<p>should apply to all NTS and DN-GTs including both IDNs and RDNs.</p> <p>Dawn Wetherall/UU asked if reference in paragraph 2 (line 3) should be to "supplier" (currently shipper). Ofgem said this is an exact replication of Special Condition 32. Ofgem will check with RGMA colleagues that this is not a missed RGMA change.</p> <p>Action: Ofgem to check drafting of paragraph 2 with RGMA colleagues.</p>
NTS and DN Standard Special A47: Charging of Gas Shippers – Domestic Infill Premises	<p>Ofgem noted that this condition replicates the drafting of Special Condition 39. Ofgem highlighted a typo in first line of paragraph 1 – where the word “amended” should be removed.</p> <p>Action: Ofgem to remove “amended” typo in paragraph 1.</p>
Standard Special NTS B1: Disapplication of Section A (Interpretation, Application and Payments) and Section B (General) and Application of Standard Special Conditions applicable to NTS licence	<p>Same as for A1.</p>
Standard Special NTS B2: Private Collective licence modification procedure in respect of Standard Special Conditions applicable to NTS Licence	<p>Same as for A2</p>
Special NTS C1: Amendments to Standard Conditions and Standard Special Conditions applicable to the licensee relating to LNG	<p>Suzanne Turner talked about Special Condition C1. Suzanne emphasised that this was a condition applicable to the NTS that introduced LNG related provisions by augmenting, amending and deleting paragraphs in the affected Standard Special Conditions in Section A.</p> <p>Suzanne noted that Ofgem hoped to tidy this condition to make it easier to navigate and to minimise its content so that the scope of the provisions that fell outside the private CLM procedure was kept to a minimum.</p> <p>Alison Russell/Centrica suggested that the conditions cross referred to in this contained a flag that they are amended by this condition. Karen Gribben said we couldn't do this in the text but had considered footnotes, but that this was difficult because of future changes.</p> <p>Suzanne Turner said that the mapping table (Appendix 6 of the consultation document) was useful in this regard and that this would be updated for inclusion in the forthcoming consultation document.</p>

	<p>Karen Gribben suggested that formatting the condition within a table might be useful. Ofgem further stated that this condition is likely to change considerably to make it clearer and that they would be representing this to DISG at a later meeting.</p> <p>Action: Ofgem to consider ways in which this condition can be made clearer.</p>
Special NTS C2: Long Term Development Statement	<p>Jason Mann explained that this is a Special Condition obliging the NTS to provide a long term development statement.</p> <p>Jason noted that the revision marking was incorrect, and that the new drafting related only to the fact that the NTS will take account of statements produced by DNs if directed to do so.</p> <p>Ofgem questioned whether these conditions needed to be tweaked to increase transparency in methodology for compliance with this condition to enable shippers to take on this responsibility in the long term.</p> <p>Julian Bagwell / Macquarie stated that given the interaction with the DN statements, it would be helpful to include timing requirements within the condition. Ofgem agreed and stated that it would come up with sensible timings in this respect.</p> <p>Action: Ofgem to consider the timing of LTDS submission.</p>
Special NTS C3: Restriction of Prices for LNG Storage Services	<p>Suzanne Turner explained that the existing text for Special Condition 9D had been replicated as an NTS Special Condition as the provisions were LNG related.</p> <p>No-one had any comments on the drafting of this condition.</p>
Special NTS C4: Prohibited procurement activities	<p>Jason Mann outlined the provisions of this condition, which largely replicate those of Transco plc's current Special Condition 26. Jason noted that there was an associated condition applicable to DNs – (D4).</p> <p>Christiana Sykes/ E.ON asked about top up. Ofgem said there was an outstanding issue regarding top up and whether we should remove it from the licence through this process. Ofgem are still considering this.</p> <p>Action: Ofgem to reconsider top-up.</p>
Special NTS C5: Licensee's procurement and use of system management services	<p>Jason Mann outlined the provisions of this condition, which largely replicate those of Transco plc's current Special Condition 27.</p> <p>Sonia Brown pointed out that the wording in paragraph 2 is likely to be replicated in other places throughout the licence</p>

	<p>to give effect to business separation between the RDNs and the NTS. Sonia stated that she would welcome views on whether this worked.</p> <p>Sonia Brown also questioned whether we still need the definition of NTS within this NTS Special Condition as it could potentially just be "licensee's system".</p> <p>Action: Ofgem to consider need for NTS definition.</p>
Special NTS C6: Independent Market for balancing	<p>Ofgem outlined that this NTS Special Condition introduced extra obligations relating to independence of balancing mechanism operator. These provisions were based upon those that are in –paragraphs 3A, 3B, 3C, and 3D of Amended Standard Condition 9. As such, this condition augments A11 with respect to the Network Code.</p> <p>No-one had any comments on the drafting of this condition.</p>
Special NTS C8A: Revenue Restrictions Definitions in respect of the NTS transportation owner activity NTS system operation activity	<p>Ofgem noted that changes to Special Condition 28A were being consulted on via the formal section 23 consultation. Ofgem said we need to do more work on these to make sure they work effectively. Working out a way forward and will be part of licensing timetable Ofgem is drafting. Ofgem will consult on this via DISG as soon as possible.</p> <p>Tory Hunter/SSE asked for clarification re type of changes. Ofgem explained that the current s23 notice changes are intended to take place before licences are transferred to NGT's subsidiaries.</p> <p>However, further changes will be needed to accommodate incentive regimes, price control changes to reflect DN's recovering some of NTS Allowed Revenue under Option 2A. Sonia noted that all of these changes may not be included within the section 8AA notice, and that a further section 23 modification may be required between hive down and completion.</p> <p>Alison Russell/Centrica asked if the incentives consultation would be published before Christmas. Ofgem said that the intention was to get the document out as soon as possible, but that this would not happen between 23 December and the new year. Peter Bingham said we are hoping to get it out as soon as possible to get it into the section 8AA notice.</p> <p>Action: Ofgem to bring revised drafting to DISG as soon as possible.</p>
Special NTS C8B: Restriction of revenue in respect of the NTS transportation owner activity and the NTS system operation activity	<p>Not discussed as further drafting yet to be provided.</p> <p>Action: Ofgem to bring revised drafting to DISG as soon as possible.</p>

Special NTS C9: Allocation of revenues and costs for calculations under the price control	Not discussed as further drafting yet to be provided. Action: Ofgem to bring revised drafting to DISG as soon as possible.
Special NTS C10: Supplementary provisions of the revenue restrictions	Not discussed as further drafting yet to be provided. Action: Ofgem to bring revised drafting to DISG as soon as possible.
Special NTS C12: Restriction of Prices in Respect of Tariff Capped Metering Activities	<p>Jason Mann outlined that the provisions of what is currently Special Condition 31 will be a Special Condition for the NTS and mirrored in a Special Condition for DNs.</p> <p>Jason stated that this was a direct lift and so the changes should be uncontroversial. Ofgem said this was belt and braces as NTS have minimal metering responsibilities.</p> <p>Alison Russell/Centrica asked if tariff capped metering provisions should apply to NTS when they don't want domestic customers. Ofgem said they only kick in if you have domestic customers and that this was consistent with Ofgem's policy with respect to domestic customers and the NTS. Alison noted that as the charges were volume driven, this would work.</p> <p>There were therefore no outstanding comments in relation to this condition.</p>
Special NTS C14: Information to provided to the Authority in connection with the transportation system revenue restriction Special NTS C15: Licensee's methodology for determining incremental entry capacity volumes.	Not discussed as further drafting yet to be provided. Action: Ofgem to bring revised drafting to DISG as soon as possible.
Special NTS C16: NTS performance reporting	Not discussed as further drafting yet to be provided. Action: Ofgem to bring revised drafting to DISG as soon as possible.
Special NTS C17: Exit Code Statement	<p>Ofgem noted that this condition was originally introduced to increase the transparency between the NTS and the DNs with respect to exit. Ofgem noted that these transparency issues would disappear, following DN sales given the exit regime proposed.</p> <p>As such, Ofgem noted the switch that had been introduced in paragraph 3 so that this condition will cease to have effect following hive-down. Ofgem noted that rather than hive-down, share sale was the more appropriate trigger, and as such, that the drafting of paragraph 3 would be amended accordingly.</p>

	Action: Ofgem to change trigger to share sale rather than hive down.
Special NTS C18: Conduct of Transportation Business in respect of the NTS	<p>Ofgem noted that this condition augmented Standard Special Condition A6 - Conduct of the transportation business.</p> <p>This amendment makes the obligations of A6 clear with respect to the NTS / RDNs. Sonia Brown stated that there were likely to be more such conditions.</p> <p>No-one had any comments on the drafting of this condition.</p>
Special NTS C19: Undertaking from the ultimate controller concerning non-discrimination between the NTS transportation activity and the Distribution Network transportation activity	<p>Sonia Brown noted that this was the first of a suite of Special Conditions regarding Business Separation. Sonia stated Ofgem's intention to release the drafting of more such conditions in the near future aimed at non-discrimination between NTS and DNs.</p> <p>No-one had any comments on the drafting of this condition.</p>
Standard Special DNs D1: Disapplication of Section A (Interpretation, Application and Payments) and Section B (General) and Application of Standard Special Conditions applicable to DN licence	As A1
Standard Special DN D2: Private Collective licence modification procedure in respect of Standard Special Conditions applicable to DN Licence	As A2
Standard Special DN D3: Long Term Development Statement	<p>Jason Mann explained that this is a Standard Special Condition obliging the DNs to provide a long term development statement.</p> <p>Jason noted that the revision marking was incorrect, and that the new drafting related only to the fact that the DNs will be required to furnish other GTs with a copy of their statement if directed to do so.</p> <p>Julian Bagwell / Macquarie stated that given the interaction with the DN statements, it would be helpful to include timing requirements within the condition. Ofgem agreed and stated that it would come up with sensible timings in this respect.</p> <p>Action: Ofgem to consider the timing of LTDS submission.</p>
Standard Special DN D4: Prohibited procurement	Jason Mann outlined that this condition was the DN equivalent of Special Condition C4. However, in this case,

activities	<p>DNs are prohibited from performing balancing activities and so allowed activities relate to capacity / constraint management and shrinkage.</p> <p>Dawn Wetherall/UU said that the DNs may not be managing constraints, and that a DN may be trading for competitive reasons. Dawn Wetherall/UU said if DNs have excess capacity they should be able to trade to get rid of that. Ofgem agreed and said that this fell within constraint management as defined. Ofgem confirmed that the incentive scheme would prevent speculative trading.</p> <p>Tory Hunter/SSE asked whether the flexibility product constituted a capacity right. Sonia Brown responded that in her view it did, but that Ofgem would look at this again.</p> <p>Action: Ofgem to reconsider the flexibility / capacity rights question.</p>
Standard Special DN D5: Licensee's procurement and use of system management services	<p>Jason Mann explained that this condition was similar to Special Condition C5 though the definition of management systems reduced to only relate to shrinkage and constraint management.</p> <p>Suzanne Turner noted that the references to “this Special Condition” should be to this “standard Special Condition” and that references to amended standard conditions should be deleted.</p> <p>Action: Ofgem to make required cross-reference changes.</p>
Standard Special DN D6: Provision of First Call Emergency Response to the Operator of the NTS	<p>Jason outlined that this condition required the DNs to provide first response emergency services to the NTS.</p> <p>Jason highlighted an error in the consultation document and stressed that it was not Ofgem’s intention to require these services to be provided at a reasonable rate, because the cost of these services are already reimbursed to the DNs under the price control.</p> <p>Sonia Brown emphasised that it was vital that customers did not pay twice for the same service, but noted that a more formal arrangement was likely to be put in place at the next price control review.</p> <p>Tory Hunter/SSE said this was different from the proposals tabled at DISG by Transco which said that they could charge a reasonable rate until next price control and it would be factored into the next price control (i.e. the converse).</p> <p>Ofgem said that the case must be that Transco has factored this cost into the Allowed Revenue within the price control for the NTS and therefore another charge should not be allowed. Tory Hunter/SSE said she accepted this but was</p>

	<p>concerned where the money was at the moment. Ofgem said this was an issue between Transco and the buyers.</p> <p>Martin Kinoulty/UU said that given the decision (which he did not necessarily agree with) regarding DN boundaries - why was there an inconsistency between dealing with this in the safety case and the NTS provision within the licence.</p> <p>Ofgem pointed out that this decision was made on economic reasons, whereas the need for provision of ES by DNs at boundaries was a safety issue.</p> <p>Martin Kinoulty/UU asked Transco whether the training required for this work on the NTS was the same as on the DNs – Sue Higgins said yes, because the service required does not require physical work, but rather staff on the ground to keep the public safe. Sue emphasised that physical work on the NTS requires a specialist team.</p> <p>Ofgem noted that this condition could be clarified to make the nature of the work clear.</p> <p>Action: Ofgem to consider clarification to make the nature of the work clear.</p>
Standard Special DN D7: Exit Code Statement	<p>Exit code statement. Identical to the NTS provision C17. Same issue with hive down / share sale.</p> <p>Action: Ofgem to change trigger to share sale rather than hive down.</p>
Standard Special DN D8: Reform of Distribution Network interruption arrangements.	<p>Ofgem's proposals on interruption reform. Reforms would be subject to IA and the relevant time.</p> <p>No-one had any comments on the drafting of this condition.</p>
Standard Special DN D9: Distribution Network incentive scheme and performance reporting	<p>Jason Mann explained the provisions of this condition. He explained that the main changes related to the introduction of customer surveys, as presented by Richard Clay at a recent DISG.</p> <p>CKI/UU asked if there was a conflict between a quarterly survey and the need for a robust sample of numbers. Peter Bingham responded that this includes main replacement as well as interruptions so there should be no problem.</p> <p>Tory Hunter/SSE asked if the obligations applied to individual RDN networks. Ofgem said that the intention was that this applied per network but that comments on the drafting were welcome.</p> <p>The group noted that the title was wrong and that this was a Standard Special Condition rather than a Special Condition.</p>

	Action: Ofgem to amend the title
Standard Special DN D10: Provision of Connection information	<p>Ofgem noted that the connection condition was new, and had been presented by Sean O'Hara to DISG. Ofgem invited comments on this condition.</p> <p>Tory Hunter/SSE asked if this was related to the earlier Ofgem consultation on connections. Ofgem said yes, but that any views on the licence drafting should be provided as part of this licence consultation.</p> <p>No-one had any specific comments on the drafting of this condition.</p>
Special DN E1: Amendments to Standard Conditions and Standard Special Conditions	<p>Ofgem noted that Special Condition E1 augmented Standard Special Condition A36 to adjust the de-minimis cap for RDNs to reflect the proposed SOMSA arrangements.</p> <p>Ofgem stated the intention to reduce the cap when the NSAs come to an end.</p> <p>Transco noted that a similar Special Condition would be required for the IDNs to reflect the metering work that their teams would be providing at off-peak times.</p> <p>Sonia Brown stated that she was not aware of this issue, and that this issue had not been reflected in the consultation document.</p> <p>An action was put on Transco to provide the numbers and dates needed for all instances where such amendments to the de-minimis cap were required.</p> <p>Action: Transco to provide numbers and dates and provide details of IDN provisions required.</p>
Special E2A: Revenue restrictions Definitions in respect of the Distribution Network	<p>Not discussed as further drafting yet to be provided.</p> <p>Action: Ofgem to bring revised drafting to DISG as soon as possible.</p>
Special DN E2B: Restriction of revenue in respect of the Distribution Network transportation activity	<p>Not discussed as further drafting yet to be provided.</p> <p>Action: Ofgem to bring revised drafting to DISG as soon as possible.</p>
Special DN E3: Allocation of revenues and costs for calculations under the price control Special DN E4: Supplementary provisions of the revenue restrictions in respect of the Distribution Network	<p>Not discussed as further drafting yet to be provided.</p> <p>Action: Ofgem to bring revised drafting to DISG as soon as possible.</p>
Special DN E5: Restriction	Suzanne Turner explained that this condition represented a

<p>of Prices in Respect of Tariff Capped Metering Activities</p>	<p>direct lift of the text currently within Transco plc's licence.</p> <p>Tory Hunter/SSE said that there needs to be some discussion in relation to this as the level of the cap was not sufficiently high for IDN businesses.</p> <p>Suzanne Turner stated Ofgem's policy position not to re-open the price control, and that this was a commercial matter between NGT and the potential purchasers.</p> <p>Sue Higgins said that the metering contracts cover this issue so Tory Hunter needs to look at that then raise any outstanding issues with Transco.</p> <p>The group noted that the metering price cap may at some future date be disapplied as metering became more competitive, but that this was not a DN sales matter.</p> <p>No-one had any specific comments on the drafting of this condition.</p>
<p>Special DN E6: Information to provided to the Authority in connection with the transportation system revenue restriction in respect of the Distribution Network</p>	<p>Not discussed as further drafting yet to be provided. Action: Ofgem to bring revised drafting to DISG as soon as possible.</p>

DN Sales Development & Implementation Steering Group Minutes

Meeting 30

21 December 2004, 10:00 am-4:30pm

Ofgem's office, 9 Millbank

Attendees

Sonia Brown	Ofgem (chair)	Sue Higgins	Transco
Jason Mann	Ofgem	Peter Bingham	Transco
Mark Feather	Ofgem	Mike Ashworth	Transco
Karen Gribben	Ofgem	Tim Davis	NGT
Suzanne Turner	Ofgem	Elaine Calvert	NGT
Matthew Young	Ofgem	Christiane Sykes	E.ON –UK
Martin Kinoulty	United Utilities	Alex Wiseman	United Utilities
Tory Hunter	SSE	Charles Ruffell	RWE N Power
John Costa	EDF Energy	Steve Gordon	Scottish Power
Nick Wye	Macquarie	Alison Russell	Centrica

1. Review of items from DISG meeting 29 (held on 7 December 2004)

a. Review of minutes

Alison Russell highlighted that at page 7 of the minutes, in relation to standard special condition A4, she had no recollections of this comment being made. It was agreed that this comment should be deleted. Christiane Sykes stated also on page 7, in relation to standard condition A4, her comment was not quite as specific as recorded. Christiane stated that she had asked whether there would be separate charging methodologies. Alison Russell also stated that at page 9, in relation to standard special condition A7, she requested that a document should set out how Transco was going to respond to customers on the border of DN networks on a ongoing bases. Christiane Sykes had a further comment on page 11, in relation to standard special condition A15, and stated that her comment should be the other way around .

John Costa raised an issue in relation to page 2. John stated that he had made two points at the previous meeting. Firstly, whether it was unduly discriminatory for sites connected to the NTS to have different arrangements for flexibility relative to the arrangements for sites connected to DNs. Second, whether it would be better to develop NTS flexibility arrangements for DNs only and leave the NTS direct connects outside of the new flexibility arrangements. Sonia Brown asked if Ofgem could also respond to these comments in the revised minutes, noting that her response was that for the first point that as sites connected to the DNs paid DN charges as well as NTS charges, it might well be appropriate for there to be different approaches and, in the second point, it was unclear how such an approach would sit with the licensee's undue discrimination and economic and efficient licence conditions. It was agreed that Ofgem would respond to these comments in the revised minutes.

There were no further comments on the minutes.

b. Actions of previous meeting

- UNC paper to be discussed at DISG – this paper is tabled for today's meeting

- Hourly overrun charges – Peter Bingham confirmed that there would not be hourly overrun charge for flexibility. Peter stated that they would be consulting on this later but clearly stated that there would be no charge.
- Shippers to state why they disagree with Transco's view on the due process – John Costa stated that he would be putting forward their views via their response to final IA. He stated that this would be a public response however, the point that he was asked to come back on does not appear to cover this issue but he would be covering a related issue instead. No other shipper representative responded on this issue.
- DISG members to get back to Mike Ashworth regarding a meeting to walk through the UNC. Mike confirmed that no one had contacted him.

Action - DISG members to get in touch with Mike regarding a walk through meeting.

- Action log for UNC development - Peter Bingham stated that the action log had gone out the day after the last DISG meeting. Peter stated that this would be updated and released as part of the consultation. Sonia Brown requested a timetable to address these issues. Peter stated that the majority of these issues would be closed down at the next UNC meeting on 5 January.
- It was agreed there was no need to go through the licence actions points, shippers stated that they were happy.

2. Update from Exit Reform Development Forum (Transco).

Peter Bingham stated that at the last meeting, Nigel Sisman reported a quiet meeting and that a lot of participants appeared overwhelmed by the depth and extent of material being presented. Peter stated that there were concerns that NGT have not closed down the flexibility product. There was a discussion on flexibility and capacity and how the base line is derived. Sonia Brown stated that the incentive document would consult on the base line options which were a) the 1 in 20 obligation base line, b) equivalent entry base line, or c) more scenario based option where it is assumed dependency on offtake points. Sonia Brown confirmed that Ofgem considered it is a critical issue. Nick Wye stated that these three options were not discussed at the Exit forum. Nick stated that there were 4 options which were a) the 1 in 20 obligation base line, b) the 1 in 20 obligation plus interruptions, c) maximum physical, and d) maximum physical based on scenarios of offtake across the system. Sonia Brown asked why these are different to what Ofgem is consulting on. Peter Bingham stated that because these options had developed over time and the confirmed that the incentive document was the most developed thinking.

Peter Bingham stated that incentives were discussed at the meeting with a high level description of how they think incentives might operate such as efficient use of capacity. Tory Hunter stated that although Transco would be obligated to release baseline levels of capacity, the substitution process meant that there was the threat that capacity would not be available in the future. Jason Mann agreed. The proposal was to try to ensure that Transco don't start investing in capacity if they can meet customer demand for offtake rights by substituting from other unused baseline capacity of other nodes.

Peter Bingham stated that Transco would be consulting on again on the extent to which participants want to trade. Peter highlighted that the hourly overrun charge in relation to the flow flexibility product had been taken out of rules, but that some restrictions regarding Transco's liability and the deliverability of flexibility would need to be

incorporated into the arrangements. Peter highlighted that discussions for interim agreements had gone well at the meeting and the within day flexibility gate closure concept. Peter stated that there was a general push back on further meetings this side of Christmas but that a review session was welcomed in New Year. Sonia Brown asked when the timetable would be coming out. Peter stated that this would be published during consultation which was due out today. Sonia highlighted that people were keen to understand process going forward.

John Costa asked what the interim arrangements were. Peter Bingham stated that the proposals were largely based on existing arrangements such as non discriminatory access to exit capacity and flexibility. Peter stated that the interim arrangements are set out in consultation document. Sonia Brown stated that many people were confused about the interim arrangements which was apparent from some of the responses to the Final IA and stated Transco should present to DISG on 4 January to clarify these issues. Sonia highlighted that this would be needed to ensure that people understand exactly what is proposed. Alison Russell asked whether there would be a concern over the clash of meetings. Peter stated that the Exit forum meeting was on the 5 January and not the 4 January as he previously stated.

Tory Hunter asked whether it was Transco or Ofgem who would be consulting on the final UNC, Sonia stated that it would be an Ofgem consultation.

Action – Transco to prepare a presentation on interim arrangements for DISG meeting on 4 January.

3. Update from UNC Development Forum (Transco).

Peter Bingham stated that the section Y changes were outlined during this meeting. Peter highlighted that further revisions are anticipated. NGT initial proposals did not reflect DISG discussions and Peter apologised for this. Peter stated that the new rules would be presented at the 5 January meeting. Sonia Brown stated that Ofgem were disappointed that the Section Y drafting did not reflect the outcome of the DISG meetings. Sonia went on to explain that Ofgem were having an on going discussion with Transco on the scope of these rules to be included in the UNC and stated that Tim Davis will be discussing this later. Sonia Brown asked whether there would be legal drafting available at the 5 January meeting. Peter stated that only business rules would be available.

Peter Bingham stated that further information would be picked up at next meeting. In relation to the Modification Panel the voting arrangements will be brought to DISG. Peter stated that this would be discussed at the UNC forum before coming to DISG. Sonia Brown stated that what was proposed previously was not what was discussed at DISG which is why this has to be brought to DISG again.

Christiane Sykes stated that in relation to the transitional issues for dealing with modifications in flight. Peter Bingham stated that Ofgem's mod team were looking at this issue. Sonia Brown stated that there were two issues, what arrangements would need to be working for Day 1 of DN Sales and any further changes would be future looking which is what her understanding of the Jon Dixon straw man would be. Tim Davis stated that it was his understanding that Jon Dixon would not be looking at voting rights. Sonia Brown said that NGT should come forward with proposals for voting rights and it is Ofgem's remit to ensure that it is satisfied with the arrangements.

Mike Ashworth said that the legal drafting on consolidated class 2 and 3 would be made available. Mike stated that consistent with the class 1 changes, there would be an explanatory note at the front and a straw man schedule about how legal drafting will be set out. Mike stated that a note would be sent around stating that the UNC is on the web site.

Nick Wye asked about outstanding credit arrangements. Sonia Brown stated that this would be dealt with in 'any other business'. Peter Bingham went over draft agenda for 5 January meeting where Section Y and B would be discussed.

4. Commercial Framework (Transco).

Peter Bingham stated that key issues were presented at the Exit development forum. This detailed that the types of information that would be presented in the NWC and that which would be in the ancillary operating agreements. The general principles were that the NWC will set out the parameters that should be specified in the ancillary document. Site specific technical parameters and physical parameters themselves will sit within ancillary agreements. Peter went on to state that the connection points for DNs would have a similar outline in the code as to that in the current NWC Section J that details provisions relating to NExAs and CESP.s .

Peter summarised that all commercial rules for NTS offtake points will be covered in the UNC and site specific technical issues will sit in ancillary documents. Sonia Brown asked if these will be published. Peter stated that they would be, but that some site specific issues may be confidential and went on to say that, overall, in relation to the ancillary arrangements, DNs need to be able to see that they all have the same arrangements.

Sonia Brown stated that Ofgem was much more comfortable with these arrangements than what was originally proposed as it reduces the scope for discrimination between users of the NTS. Shippers were also more comfortable with these new arrangements. Peter Bingham welcomed comments on these agreements. Sonia Brown urged shipper to speak to their operations people to ensure that they were also satisfied with these arrangements and that comments should be sent to Transco.

Action - DISG members to report back on the split between the UNC arrangements and Transco's proposals on operator agreements.

5. Joint Office arrangements (Transco).

Tim Davis presented the proposed arrangements for the Joint Office. Tim noted that the presentation will be posted on the Ofgem website. Tim's presentation covered the Joint Office's constitution, arrangements agreement, how the Joint Office will be resourced as well as the proposed location of the Joint Office. The presentation further covered the next steps such as the responsibilities of the UNC. Tim also provide a hand out which looked at the Joint Office coordination/administration of the UNC modification process as well as the Joint Office administration of the charging methodology change process.

Alex Wiseman raised an issue on cost allocation for the JO as the NTS would have more modifications than DNs. Sonia Brown stated that the key point in relation to this matter is allowed revenue and whether it is possible to split this out. Sonia stated that going

forward a better way of dealing with these costs would be to split the money in the price controls. Alex asked how easy is it to tell where cost allocation is. Sonia agreed that it would not be that easy as shipper services is the only identifiable cost allocation. Tim stated that the annual operation cost of the JO would be around 1 million.

Sonia Brown suggested that DN purchasers would probably want to discuss this with NGT. However, from an Ofgem and therefore customer perspective it was clear that these costs were allowed as part of the previous price control settlements. It was stated that this would be transparent as it is part of JAA. In relation to the proposals that contain part of the modification which states that GTs must nominate subject matter experts, Sonia Brown stated that it is important to look at how material these costs are for the subject matter experts. Sue Higgins stated that there was a risk that there is duplication of work as NGT will have to ensure that a subject matter expert is available in case a shipper subject matter expert was not forthcoming.

Nick Wye stated there may be a likely event that a shipper subject matter expert will also work for GTs. Tim Davis stated that there is a restriction and code of practice to ensure that the subject matter experts are acting in the correct manner. Nick Wye stated that this seemed to be too onerous on DNs. Sonia Brown said that it is not disproportionate as this ensures that the subject matter experts would be acting in an unbiased way, acting as experts rather than representing a particular corporate entity.

Sonia stated that this has been discussed at length at many DISG meetings. Nick Wye stated that he understood this, but thinks that DISG got it wrong. Nick did state that he would be willing to sign the code of conduct but thought it unnecessary. Instead, he considered that the subject matter experts can represent its own company and JO without a code of conduct. Sonia Brown stated that Ofgem was not prepared to change the code of conduct in transporters when shippers argued that the code of conduct should be put in place. Sue Higgins stated that shippers had wanted this code of conduct and this will be reflected in the charges that they pay.

Alex Wiseman asked if, in the early days following a sale, the subject matter experts are likely to reside in Transco. Sonia Brown stated that this was not the case as some subject matter experts would need to be provided from other transporters. Whilst a choice for shippers, there would be a licence requirement on GTs to ensure that they provide subject matter experts. Sonia highlighted that it is the panel's choice as to what subject matter experts are needed.

Sonia Brown stated that the hand out of the JO coordination/administration of the UNC modification and invited DISG members to give any comments at the 4 January meeting. Sonia said the charts cover a lot of useful information and people should look through this and get back to Tim with any comments.

Alison Russell asked why this appeared to be different from what NGT provided at DISG 16, Alison stated that the drafting of the note was different in that those proposing modifications should take an active role in report drafting. Sonia Brown stated that this was because Ofgem are encouraging those that are able to propose modifications to put some thought into the proposals so that that party would take responsibility for modifications, which do, of course, carry a cost when they are considered.

Action - DISG members to contact Tim Davies for clarification on any points in the handout on the joint office and to feed any comments back to the next DISG meeting.

6. Review of licence drafting (Ofgem).

a. Business Separation conditions

Sonia Brown explained the timetable for responses. The licence drafting will be made available on Ofgem's website. Alex Wiseman expressed some concern as to whether he would be able to turn comments around in the short timescales. Sonia acknowledged that the timescales were short but it was important for Ofgem to have early comments and all the licence conditions would be subject to further consultation later in the process. Sonia additionally explained that the timescales were longer for shippers to recognise the resource constraints that they might have. Sonia further explained that the consultation on the licence was an iterative process with plenty of opportunities for interested parties to comment.

Jess Hunt explained the business separation package. Jess highlighted to DISG that some of these conditions were discussed on the read through of the conditions last week but that there were some new additions to try to ensure emulate the effects of legal separation. Tory Hunter asked whether this was included in the consultation or if it was new conditions. Jess explained that some were new conditions whereas others were contained within the section 8AA consultation.

With respect to Special Condition C20, Alison Russell asked whether the intention was to have different individuals on the boards. Sonia explained that this would not have been a requirement for legal separation and is therefore not part of what is being proposed. Jess explained that the structural separation requirements meant that it is unlikely that the same person would be on both boards.

Jess went on to explain the new role for the compliance officer within C21.

Suzanne Turner explained that there would additionally be a prohibition of cross subsidies. Jess explained that this would apply to NTS and RDNs but also between RDN networks. Suzanne stated that this condition would be posted on Ofgem's website for review.

John Costa asked whether these provisions were within Transco plc or between DN networks. Jess replied that the conditions were designed to emulate the effect of legal separation between the NTS and RDNs. John asked whether this could be extended to be between RDNs. Sonia explained that this discussion had taken place over several meetings and that it had been decided that separation of RDNs would be inappropriate to require legal or structural separation. Jess however highlighted that accounting separation was very important but that Ofgem's proposals in this area were being slightly delayed so that Ofgem could take into account new requirements that are being introduced in this area as part of DCPR 4.

Suzanne also noted that there were two business separation conditions that related to the separation of competitive and monopoly activities. She noted that, since publication of the consultation document in November, some further tweaks to these conditions had been made to ensure that the arrangements were consistent with electricity. These would also be posted on Ofgem's website.

b. Price control provision.

Elaine Calvert explained that she proposed to take people through a log of the changes that are being proposed rather than going through the licence drafting.

Alison Russell asked whether these are amendments to s23 drafting. Elaine confirmed that they were.

Elaine talked the group through the various changes made to the price control drafting, as described within the log. Suzanne Turner drew the group's attention to changes made to the principal price control formulae to reflect the Option 2A payment flows which would pass through the DNs. Elaine highlighted that there are no incentive changes to this drafting. Suzanne confirmed that it was the intention to process licence changes associated with the incentives schemes proposed in a Section 23 process once the Section 8AA consultation had closed.

Alison Russell raised a query with respect to TO commodity charges. Sonia Brown clarified that any charge changes would be consulted upon by NGT. Alison Russell asked whether the charging consultation proposed would just relate to the TO charge. Nick Wye responded that his understanding was that all charges would be subject to a charging consultation, which is scheduled for release on 21 January 2005. Sonia stated that she was not aware of this consultation.

Christiane Sykes asked for clarification of commodity changes, and whether there would be two commodity charges. Sonia Brown said she assumed that this would be part of Transco's consultation but that Ofgem's initial view was that one TO commodity charge for entry and exit would seem appropriate. Alison asked how this would flow through Option 2A. Elaine stated that this would depend on what was agreed.

Sonia Brown placed an action on NGT to present revenue flows and what is meant by the Option 2A approach. Sonia stated that this clarity would be welcomed by all parties and would help shippers to understand credit cover issues.

Action – Sue Higgins keep the road map up to date so we know when the charge change will be made.

Action – Transco to present changes to revenue flows

Elaine continued to take the group through the changes log. Suzanne explained that the prescribed rates changes were required to reflect the fact that, post share sale, the prescribed rates bill received by Transco plc would need to be spread across a different number of networks. Tory Hunter asked whether there will be more than one bill. Suzanne stated that there would be a bill for Scotland, Wales and England. Suzanne explained that, because, following sale, Transco plc's only interests in Scotland and Wales would relate to the NTS, these rates bills should be allocated accordingly. However, she stated that percentages would need to be inserted to attribute the rates bill for England between the NTS and the four retained DNs. Suzanne stated that the approach adopted could either try to maintain consistency as far as possible with the percentages within the existing licence, or could try to reflect the approach applied by the Valuation Office Agency in assessing rates for Transco plc. She stated that the percentages included within the drafting reflected the licence consistency approach, but that these percentages may change as the most appropriate approach was yet to be

agreed. Alison Russell asked whether the rates due for Scotland will go partly to NTS. Suzanne stated that the Scottish DN would receive a separate rates bill, and Transco plc would receive a rates bill for its activities in Scotland, which would be NTS specific.

Nick Wye asked what the RCOM charge is. Elaine stated that this picks up basically the SO commodity charge. Nick asked whether this is a change to methodology without consulting. Elaine stated that this was not the case as it is presently in the licence.

In relation to C14 – Alison Russell asked why it is that Transco do not report the there is commodity volume reported under the TO reporting obligations or TORCOM and RCOM terms. Elaine stated that the TO commodity charge was based on entry input volumes and the reason that the volumes are reported for the DNs is that they drive allowed revenue. Sonia stated that Ofgem would reconsider reporting requirements and get back to Alison in this regard.

Action - Ofgem to get back to Alison.

Elaine continued to run through the changes made to the IDN price control conditions. Suzanne explained that the changes to the RDN licence would be similar, but that the prescribed rates issue would need to be addressed in the same way as explained for the NTS. Suzanne also pointed out that the treatment of over and under-recovery would need to be reconsidered as part of the section 8AA process to ensure that RDNs were not treated as a single entity for these purposes. Drafting for the RDN licence will be circulated on the Ofgem website.

Sonia Brown said that as there are many changes we would be grateful for initial comments ASAP. Sonia explained that Ofgem had only just been received the drafting from Transco and therefore had not had an opportunity to review the drafting. As such, the drafting is not at an equivalent stage as other licence drafting presented to DISG by Ofgem.

Alison Russell asked, as there is a lot of information being placed on the Ofgem web page, whether it would be possible for Ofgem to send an e-mail highlighting when such documents are put on the web page. Sonia Brown stated that Ofgem do not have the resources to do this. Alison asked, in that case, whether it is possible for the drafting to have version numbers on it. Sonia stated that as far as this is possible, given issues with PDF formatting, we will endeavour to ensure that drafting versions numbers are included.

Suzanne went though the changes to standard special condition D9 which are shown in revision marking. Suzanne highlighted that some changes are to bring into line with electricity provisions. Other changes relate to tidying up some issues. Sonia Brown stated that this does not need to be commented on ASAP we are just demonstrating the changes we are making, there will be further opportunity to make comments on this draft.

Alex Wiseman asked, whether for the next DISG meeting on 4 January, the agenda would be made available as soon as possible. Suzanne highlighted that there will be licence drafting on that agenda such as storage conditions, switch on and off provision as well as the provision concerning the Collective Licence Modification condition.

7. Any other business

1. Credit rating issues. This issue has been moved to next meeting as Nick Wye had left the room briefly at this point.
2. Common systems agreement – Sue Higgins detailed business rules will be developed by 18 January DISG meeting. Sonia Brown asked when the agency agreement will be ready. –. Sonia Brown said it would be really useful if this was ready for the 18 Jan as well.

Action - NGT to get back to DISG for next meeting as to when agency agreement will be ready by

3. Conditions of Consent – Mark Feather presented a paper on the potential conditions to Authority's consent. Mark emphasised that these proposals will in no way fetter the discretion of the Authority. These are potential conditions the Authority may or may not wish to impose. A copy of the presentation was also handed out during the meeting.

Sonia Brown highlighted that until the Authority makes a decision and assuming that the decision is to grant consent it will only be at this stage that the conditions will be made publicly available.

DN Sales Development & Implementation Steering Group Minutes

Meeting 31

4 January 2005, 10:00 am-1:30pm

Ofgem's office, 9 Millbank

Attendees

Sonia Brown	Ofgem (chair)	Sue Higgins	Transco
Helen Connolly	Ofgem	Peter Bingham	Transco
Karen Gribben	Ofgem	Nigel Sisman	Transco
Suzanne Turner	Ofgem	Alan Raper	Transco (part)
Paul Hemsley	SSE	Steve Rosa	RWE N Power
Alex Wiseman	UU / CKI	Stephen Parker	UU / CKI
Julian Bagwell	Macquarie	Alison Russell	Centrica
Mike Young	BGT	Peter Bolitho	E.On
Sam Parmar	Statoil		

1. Review of items from DISG meeting 29 (held on 7 December 2004)

a. Review of minutes

Sonia Brown stated that the minutes were not available until Friday, but that DISG 30 and 31 minutes will be circulated then. Sonia explained that this was due to resource constraints as Ofgem is working hard to get the Authority papers ready for the meeting on 20 January. Sonia explained that Ofgem would ask for comments on both sets of minutes at the next meeting.

Action - Ofgem to circulate DISG 30 minutes and accept comments at DISG 32.

2. Credit

Sonia Brown stated that this was an issue that Nick Wye raised concerning the open letter Ofgem issued on Credit. Julian Bagwell stated that he understood that Nick's concerns were surrounding process. In particular regarding the principle Ofgem's open letter suggested that credit arrangements should be put in place which are still be considered by Ofgem in a separate consultation. Sonia stated that Ofgem's credit team have been leading on this work and they have carefully considered the responses to the credit document. Although there may need to be some changes to the arrangements Ofgem considered that it is prudent for Transco to assume that these arrangements should be in the baseline UNC as the new credit arrangements need to be in place across both gas and electricity by 1 April. Alex Wiseman had concerns with the credit arrangements going into the UNC as this complicates the process. Sonia Brown asked why this would complicate things as, in electricity, credit arrangements are in the CUSC and this appears to help. Ofgem is keen to see these that these arrangements are codified. Stephen Parker stated this was not true at the DNO level. Sonia confirmed that the high level principle is in the CUSC and this is consistent but at operational level this is not consistent as it is not in individual DNO codes. Sonia stated that a balance is needed as stated in the open letter. Peter Bingham stated that Transco had responded to the open letter and had agreed that the best practise is to codify the principles in the code. Sonia Brown stated that this also minimised the risk of a UNC modification later on in the process which the Authority will not be aware of and would have implications

on the overall timetable. Sonia Brown stated that Ofgem colleagues would inform all concerned parties of any changes. Peter Bingham stated that Transco do not want to use Ofgem's base line principles as a result of the present consultation document. Peter stated that Transco do not believe that these arrangements need to be in place at D1 DN Sales and that they will not be consulting on Ofgem proposals as the baseline and instead will use the current NWC rules including one out all out termination. Peter Bolitho stated that whatever process used, Transco needs to make clear what they are doing. Transco agreed to consider the open letter on credit proposals further in terms of what could be implemented for day 1 DN sales.

Action - Transco to re-consider its position on the credit proposals for day 1 of any DN sales

3. Interim arrangements (Transco)

Nigel Sisman presented a paper on interim arrangements. He explained that this paper drew on presentations that had been made in the past both to the DISG and also to the exit reform development forum.

Included in the presentation were the interim proposals for; transportation charging arrangements; emulating the unconstrained product release; interruption; payments for greater than 15 days interruption; and access to system flexibility.

Nigel explained that in the interim period the transitional arrangements would attempt to emulate the unconstrained release approach but with minimal change for shippers. Nigel explained that effectively shippers would continue to book capacity on the basis of their SOQ holdings. Sonia Brown stated that it was her understanding that it in short term DNs could request additional capacity and asked how the charging for this additional capacity would work. Nigel Sisman stated that it was an issue for the DN price control. Sonia stated that the answer must be that the costs would be recovered from shippers subject to any incentive scheme. Nigel Sisman stated that he did not consider there would be any impact as the pricing methodologies are based on long run marginal costs.

Mike Young asked whether this was also true if the DN books less capacity. Nigel stated that that would be an issue for the price control. Alison Russell asked if Nigel was saying bookings would effectively continue to be based on SOQs. Nigel stated that it is no different to what is presently in place. Alison asked who will the NTS collect it cash from as this will have implications for the drafting of the price control licence conditions? Nigel stated that it would be the shippers and that the present systems are already in place to deal with this. Mike Young stated that is was not a DN capacity model at all as shippers will book and pay for capacity. Sonia confirmed that in the interim it was not a DN booking model but rather a minimal change approach with the flexibility for DNs to book or sell capacity in appropriate circumstances.

Sonia Brown explained that she had received a question from a participant and requested that Transco re-confirm that these arrangements would apply to all DNs including RDNs. Nigel confirmed that this was correct.

Steve Rose asked whether Transco will be contracting for exit capacity buy back. Nigel stated that they would be if it is economical to do so. Steve asked whether those demand management tools, which will need to be developed, will be subject to the

economic and efficiency test. Nigel Sisman stated that they would develop arrangements similar to those at entry. Sonia explained that Transco could enter into these contracts at the moment. Peter Bingham confirmed that it is a balancing of two obligations, economic and efficiency and non discrimination. Sonia Brown stated that as it is a balance of two obligations, Ofgem will be involved in the decision where capacity is not released as it will want to understand that Transco has not acted in an unduly discriminatory manner.

Steve Rose asked if Transco could confirm whether DNs are presently in the loop today relating to NTS interrupting. Nigel Sisman stated that presently DNs are aware of what interruptions are called. The DN manages what sites will be interrupted. Steve asked, from a shippers point of view, whether the instruction to interrupt comes from the DN or NTS operations? Nigel was unsure of this and would have to check although he thought that it should come from the central control.

Action - Transco to check whether the instructions to interrupt are from the NTS or DN control rooms?

Nigel stated that there should not be any system implications for shippers. Alison Russell asked if the NTS said to DN, for example, a meter of load needs to come off the system will the DN have to sieve through the equitability algorithm. If there were 3 sites that are suitable for interruption then this would still be suitable for the new world. Nigel confirmed that this would be the case, however, the equitability tests are being reviewed to ensure that they work in the new world but there appears to be no reason for a change.

Steve Rose asked whether there is equitability between a NTS connected site and DN connected load. Nigel Sisman stated that the NTS is first looked at and then a cascade effect is put in place. Mike Young asked how many SNI and TNI sites are there on the NTS. Nigel stated that he was unsure and would find out.

Action: Transco to revert to DISG on how many SNI and TNI sites are there on the NTS.

Sonia Brown highlighted that on the administration of payments between transporters for interruption beyond 15 days it was important that was an auditable process as these costs would feed into NTS and DN incentive schemes. Nigel Sisman stated that this would not be a problem.

Nigel explained that in its consultation document, Transco were consulting on its proposals to reduce the scope for undue discrimination in the provision of short term system flexibility. Nigel stated that NGT were keen to get the community's feed back on its proposals. Steve Rose stated that the presentation appeared to be suggesting that the costs associated with balancing actions would be targeted to users. He considered that this was a significant departure from the current arrangements where participants get this flexibility for free. Nigel stated that Transco need some form of auditable method to access flexibility– either random approach or something that reflects proportionality cost. Peter Bolitho stated that if he was bidding for flexibility then he would like to be able to bid for both the price and the volume. Sonia Brown stated that it appeared from Transco's proposals that shippers would be bidding for volume and not price. Sonia asked how Transco are going to select from 2 competing bids, for say 100 units of flow flexibility, without understanding the willingness of those parties to pay. Nigel Sisman stated that NGT would assess the costs associated with allocating the 100

units to each party and then determine who to allocate the capacity to. Nigel went on to state that this was consistent with the current arrangements whereby flexibility is granted as long as in doing so no costs are generated for the community. Steve Rose stated that he would not envisage any charges for flow flexibility in the interim 3 years.

Mike Young asked if there were competing bids for flow flexibility would there be an overrun charge? Nigel stated that there would not. Mike asked whether in practise if you can't satisfy everyone what happens if they take it anyway the flexibility? Sonia Brown stated that it could ultimately be a licence breach.

Sonia Brown stated that to be clear, Transco have outlined at previous meetings that the arrangements are not quite first come first served. Instead, Transco have informed DISG that they will discriminate against DNs in favour of other direct connects to provide flow flexibility. In any post sales world this would clearly not be possible. Sonia stated that careful consideration therefore needed to be given to the arrangements given this potential change from the status quo. Alison Russell asked whether it is assumed that DN flexibility is zero value, that is between now and end of price control, will Transco be receiving an income for flexibility? Nigel stated that, no, they would not. Alison asked why it was the case that there are any provisions in the 8AA drafting for such a revenue flow? Peter Bingham stated that this is to show what the conditions may look like in 2008 after the present price control.

Julian Bagwell questioned whether in the example where you have 100 units of flow flexibility, and two bidders requesting 60 units each whether only one bidder would receive 60 units or Transco would offer one bidder 60 units and the other 40. Nigel Sisman stated that he considered that as now there would be a discussion between the operational staff of NGT and the party requesting capacity. Peter Bingham stated that in his view it would not be economic and efficient to only allocate the 60 units.

Nigel completed his presentation by stating that he very much welcomed respondent's views on all these issues which are contained within NGT's consultation.

4. Changes to revenue flows under Option 2A (Transco).

Nigel Sisman presented a paper on revenue flows. Nigel stated that this presentation again drew on previous presentations that had been given to both the DISG and the exit reform development forum.

Included within this presentation were NGT's proposals for TO and SO pricing methodology consultations which would consider, amongst other things, whether SO and TO commodity charges would be charged to DNs or shippers. Nigel stated that these consultation documents would be issued in January 2005, and a conclusion report to the Authority would be issued in April 2005.

Sonia Brown stated that the pricing consultation proposals were incompatible with the licence proposals. For example, Sonia stated that it would be necessary to understand whether the SO and TO commodity charges would be charged to DNs or shippers in order to finalise policy with respect to the charge change window. Sonia highlighted the 14 February 2005 deadline for issuing the Section 8AA licence consultation. Sonia stated that there does not appear to be any joined up working with these proposals and the licence drafting.

Suzanne Turner stated that the licence consultation document had stated two charge change dates per year on 1 April and 1 October, and that were Ofgem to move to a single charge change window, that different respondents had been in favour of either April or October, but that the strength of opinion probably lay with an October change. Suzanne also noted that the nature of charge pass through would have implications for the principal formulae of the DN price control licence conditions, which again, were scheduled for consultation on 14 February as part of the Section 8AA process

Alison Russell asked whether the January pricing consultation document will contain prices before 2008? Nigel Sisman stated that potential NTS exit capacity cost rebasing may be discussed in this consultation document.

Sonia Brown stated that Transco should be talking to Ofgem about this document to ensure that Ofgem fully understands how the proposals fit into the licence timetable.

Action – Transco need to look 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 consultation document to Ofgem before publication.

5. Income to be excluded from the de-minimis limit (Transco)

Sue Higgins presented a paper on the income to be excluded from the de-minimis limit.

Steve Rose asked what FOMSA stands for. Sue stated that it was Front Office Management Service Agreements.

Sonia Brown asked how long the duration of the SOMSA would run for. Sue Higgins stated that they would run up until March '08 but past '08 they will be recorded as zero cost.

Suzanne Turner asked what IGSA stood for. Sue Higgins stated that she was unsure and would have to get back to Suzie on that point.

In relation to the SOMSA Steve Rose asked whether the 8 million presented at 1.ii was on top of the 16 m presented at 1.i. Sue Higgins stated that was an additional cost. Steve also asked why there a big difference between iDN and RDN SOMSA costs. Sue stated that these costs were based on what has been previously agreed with DNs.

Steve Rose asked for clarification as to the treatment of the costs in relation to 2.iii , was it the case that there are no contracts for these services as the costs are too low? Sue confirm that this was correct.

Sonia Brown asked, in relation to transmission services, why there appears to be a difference in cost between RDN and iDN transmission services, £1.9 million against £3.4 million. Sue Higgins responded that this is the same issue as SOMSAs, the costs were based on what has been previously agreed.

Sue Higgins clarified for DISG that the term PEMS stands for Post Emergency Metering Services. Sue concluded that the purpose of the income to be excluded from the de-minimis limit is to preserve the status quo and not to make any money.

Sonia Brown requested that DISG members should go way and have a look in detail at the paper presented by Sue with views invited at next weeks meeting

Alison Russell asked whether Transco are earning any more than what was present by Sue, Alison stated that reallocation of costs should effectively be zero. The sum of all the costs should be zero for customers. Peter Bingham confirmed that this was correct for customer - the NTS and DNs should not be collecting any more money from shippers.

Steve Rose asked, in terms of staying within the 2.5% limit, do these costs presently fall within the 2.5% limit? Sue Higgins stated that Transco is presently within the limit but that these costs are disaggregated across all networks. Sue confirmed that a change to way the de minimis business was allocated was needed as there was a risk that one of the businesses may be outside the limit.

Stephen Parker asked whether metering revenue is included. Stephen stated that metering work is being done for other networks as well as other customers. Sue Higgins responded that if the DNs work force works for 3rd parties this will fall within the de minimis limit, not all metering costs are price controlled. Therefore, metering revenue needs to be split to ensure whoever the metering customer is, is recorded in order to see where the revenue should sit.

Action - Sue Higgins to report back to DISG what IGSA stands for.

Action - DISG members to provide any comments on income to be excluded from the de-minimis limit for the next DISG meeting.

6. Establishment of agency agreement (Transco).

Peter Bingham stated that sub contracting of the DN and the agency agreement are not public agreements but will be agreements that Ofgem will be able to have sight of. Sonia Brown asked for shippers views on this statement. Peter Bolitho stated that it was one of those things that unless you know what is in it, you know you don't need to see it. Peter Bingham stated that the service definition document has been provided.

Sonia Brown stated that as a monopoly it is important for Transco to ensure that it to be transparent, particularly as the costs that it imposes are on shippers and ultimately customers. Sonia highlighted that services provided to shippers are not set out in the UNC as Peter had stated. Section Y, of the UNC, was not what the industry was expecting to see, Sonia asked when there be a new section Y? Peter Bingham admitted that Transco recognise that section Y fell short of what was expected, but stated that section Y will include JO process and how the panel will be constituted, for example.

Peter Bolitho stated that it is the activities undertaken what need referenced in the UNC rather than how Transco provide them. Sonia Brown also highlighted that Authority wanted the scope of agency functions set out in UNC. Peter Bolitho highlighted that the activities are fundamental day to day activities that have the potential to have a significant impact upon shippers' costs if the provision of these activities were to fragment.

Sue Higgins stated that the scope of the services can be changed via a modification. Peter Bolitho noted that the Ofgem decision document went further than what is being proposed by Transco. Sonia Brown stated that it was a key part of the Authority decision, and the desire to have the scope of the agency within the UNC was to explicitly allow flexibility for change if issues arose as the arrangements bedded in. Sue Higgins stated that a modification could change that. Sonia noted that not if the scope is not defined. Sonia Brown said that what was requested by Ofgem was for who is providing the services and the scope of the services the agency is conducting to be clearly defined in the UNC

Peter Bingham said that the scope of the agency would be embodied within the Common Systems Arrangements agreement which lists what the services and common systems are. Sonia Brown stated that this was not acceptable from an Ofgem point of view. Alison Russell stated that so far as the licence drafting dealt with the provisions of the CSA, it did not cover the scope of the services as well as the systems. Peter Bolitho stated that agency services were the glue that holds everything together, and that the cost benefit case for DN Sales would be jeopardised if these arrangements were to fragment. Peter stated that the potential costs of fragmentation were highlighted within the Oxera report commissioned by the Gas Forum.

Sonia stated that she felt that it was extremely important the Authority's decision that the scope of the Agency was contained within the UNC was implemented. Peter Bingham stated that he clearly now understood the importance of this issue and Transco would go away and reflect further on its position.

Action - Transco to reflect on this discussion and report back by next meeting.

7. Review of Licence drafting.

a. Storage provisions.

Suzanne Turner presented an amended draft, from the November document, of the relevant conditions. Suzanne highlighted that changes in blue reflect changes from 21 December DISG meeting. Suzanne stated that the two documents circulated included (1) a revision of C1, which is the NTS Special Condition that augments NTS and DN Standard Special Conditions by introducing LNG related provisions, and (2) early drafts of the NTS and DN Standard Special Conditions which are augmented by C1.

Suzanne emphasised that these additional conditions provided were merely for reference to aid understanding of C1, and show the treatment of storage related provisions. Suzanne emphasised that the drafting of these conditions had moved on significantly and, as such, that these conditions should not be reviewed or commented on in and of themselves.

Suzanne Turner stated that improvements had been made to drafting to C1 which is a NTs only condition. Suzanne highlighted that following concerns raised at the DISG 29 meeting, the designated standard wording had been removed from the NTS and DN Standard Special Conditions within Part A, and as such, C1 was now more of a true augmentor. Suzanne stated that the changes to C1 were to (1) make the condition easier to navigate by flagging the conditions being augmented more clearly (2) to clarify definitional issues (3) to minimise the augmentation text and hence reduce the extent of the text that may be outside the scope of the private CLM procedure as well as making it clearer what the extent of the changes were. Suzanne noted that in any event some

complexity would be required to manage the differential treatment of the DNs and the NTS. However, Suzanne noted that a decision had been reached, in conjunction with Transco, that the burden of this complexity should rest with the NTS rather than the DNs.

Suzanne Turner stated that there were previously two definitions of transportation business which had been tidied up to make it clearer to the user. The definitions in A3 will make this clearer this will be brought to DISG in the coming weeks. A26 changes highlight the recent amendments based on comments received to the November licence document. A respondent highlighted that the definition being augmented by C1 was not used in the A26 condition – as such, the definition and the associated augmentation provisions have been deleted. Suzanne requested comments on condition C1 and emphasised that many of the conditions C1 is augmenting will likely to change over time so C1 will need to evolve as and when the conditions it arguments changes.

Action - Comments requested by Transco and potential buyers by next DISG, everyone else comments are needed by 14 January .

b. Switch on/switch off condition & Private CLM condition

Karen Gribben presented the switch on and off condition and private CLM A1 and A2. Karen highlighted that respondents' comments have been included and stated that there seemed to have been some confusion in relation to how A1 and A2 interacted. Concern had been expresses that if a new conditions was introduced via private CLM then you would need to switch that condition on via A1 before the new condition could become operative placing another hurdle in the way which is not the intention and text has been amended to take into consideration this issue.

Karen Gribben stated that other parts of the conditions have also been changed, namely Paragraphs 3 and 5. The requirement for the licence to consent to the use of the switch or a variation had been removed. As the draft stood, Paragraph 5 could have been interpreted as meaning that additional consent may be needed from licence holder where a condition has been varied and this could mean that private CLM would not work properly; therefore, this consent provision has been changed to reconsider this issue.

Karen explained the switch on and off condition and how it would be used via the direction to be issued under section 23 and section 8AA in the event the Authority gave its consent. Karen explained there are three stages to the process. Firstly, stage 1 will be to introduce the new conditions (such as A1, A2 etc), stage 2 will be switching on the new conditions by exercising the direction under A1, B1 and D1 and stage 3 will involve switching off conditions which are no longer required.

Stephen Parker asked in relation to paragraph 5 changes it appears that it appeared to give Ofgem the right to change the whole licence. Karen Gribben stated that this was not the case. Sonia Brown agreed with this. It only gives Ofgem the right to make consequential changes.

In relation to condition A2 Karen Gribben highlighted the changes to the relevant licence holders, to clarify drafting changes when it comes to voting. Alison Russell asked whether there are 6 licence holders? Karen confirmed that there are 6 categories of licence holders.

Sonia Brown highlighted that Ofgem is being as open and transparent as possible which is why drafting changes are being presented at DISG as and when the conditions are being amended.

Action - Comments requested by Transco and potential buyers by next DISG, everyone else comments are needed by 14 January .

c. Section 23 responses.

Suzanne Turner presented a paper on respondent's views.

Suzanne summarised respondents' views to the Section 23 consultation. She stated that none of the respondents raised any objections to the Section 23 changes proposed, but described some of the points raised in relation to the Section 8AA changes required, and comments raised in other areas.

Suzanne highlighted that one respondent had requested an audit trail particularly in relation to the derivation of the DNZt-1 term for the year commencing 1 April 2004 for each DN. Peter Bingham stated that he had already provided something to Ofgem. Sonia Brown highlighted that something was needed to be placed in the public domain for the benefit of buyers

Sonia Brown highlighted that Ofgem colleagues in markets will be directing changes on 26 January and the DN Sales team will be directing on the 27 January should the Authority have consented to DN Sales on 20 January.

Action - Transco to compile a definition of derivation of the DNZ term to be placed in the public domain.

8. Any other business

Sonia Brown stated that Ofgem is still waiting responses to final IA summaries and urged DISG members to respond to Ofgem's e-mail on summaries of response as soon as possible.

Peter Bolitho asked for confirmation that the full responses would be made available for the Authority. Sonia confirmed that the full responses to the Final IA will be made available to the Authority.

Sam Parmar asked, in terms of the Authority decision, how will it be notified? Sonia Brown stated it is price sensitive and therefore there will be a stock exchange announcement. Peter Bolitho asked how quickly the decision will be publicised. Sonia stated as soon as possible following the meeting but the Authority may wish to consider issues further so it is therefore difficult to predict.

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 augmenters. She explained that a similar approach had been used with respect to the drafting of Standard Special Condition A5.
- The inclusion of augmenters to place the relevant obligations onto the DNs and NTS. She detailed that, as drafted, there were currently two augmenters – 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.

DN Sales Development & Implementation Steering Group Minutes

Meeting 33

18 January 2005, 10:00 am – 2:00 pm

Ofgem's office, 9 Millbank

Attendees

Sonia Brown	Ofgem (chair)	Leah Fry	NGT
Jason Mann	Ofgem	John Costa	EDF Energy
Suzanne Turner	Ofgem	Alison Russell	Centrica
Hannah Cook	Ofgem	Julian Bagwell	Macquarie
Peter Bingham	NGT	Alex Wiseman	United Utilities/CKI
Sue Higgins	NGT	Peter Bolitho	E.ON UK
Tim Davis	NGT	Marie Clark	ScottishPower
Mike Ashworth	NGT		

Sonia Brown opened the meeting by informing attendees that if at the Authority meeting a decision was reached to consent to a potential DN sale, Ofgem would undertake a financial health-check. She detailed that the terms of reference for the consultants that may be contracted to undertake such a review would be placed on Ofgem's website later in the day. She clarified however, that if the Authority were to decide against a potential DN sale these terms of reference would be removed from the website and Ofgem would not proceed with this area of work. She set out that if DISG members had any questions regarding this process, they should be directed toward Matteo Guarnerio.

Sonia explained that the minutes from DISG 32 had not be finalised but that these would be circulated as soon as possible.

1. Review of items from DISG 32

- Transco to reconsider its credit proposals for day 1 of any DN sale and report back to DISG 33. Transco to bring this back to DISG 35.
- 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. Peter Bingham detailed that he had brought the relevant information to the meeting.

Peter Bingham stated that prior to August 2005, the current processes would continue to operate and that, as such, where a DN wished to interrupt a site it would be necessary to direct this through the GNCC. He explained that, under this process, the GNCC would notify the relevant shippers and then issue a formal notification. He set out that this would mainly be carried out using faxed communication and that it would also involve directing two flows through the IX system. He detailed that the process would be modified post August 2005 and that, following this date, where Transco is required to undertake interruption on a site, it will be necessary for the relevant information to be flowed through the GNCC. However he highlighted that, subsequent to August 2005 where DN interruption was required, it would be necessary for the relevant DN to

instruct this through the DNCC. He noted that, with respect to the way in which this process would operate, DNs would be required to have their own systems to accommodate this obligation but that this system would simply be a duplicate of the GNCC and that the majority of communications would still take place using fax. He therefore outlined that shippers should not be aware of any changes in the information interfaces, in relation to interruptions, that they currently use. Peter stated that the processes that he had outlined were summarised by the final slide included on the handout.

Jason Mann asked how Transco envisaged that this would operate following expiry of the SOMSA agreements. Peter Bingham responded that DNCCs would need to use the same file formats as are currently used in Transco's operations. He highlighted, in this regard, that shippers would not experience any change or fragmentation as a result of this change in arrangements. Sonia asked where these arrangements would be governed and whether anything of this nature had been formally written down. Mike Ashworth pointed out that the provisions of the Network Code prescribe a form of communication that should be adopted for this notice. Sonia considered that what it would ultimately come down to the party responsible for the UK link manual. Mike Ashworth stated that Transco would adhere to a principle of 'no change' in relation to the form of communication used to inform shippers of an interruption.

Alison Russell asked whether this would form part of the common communication protocols and Peter Bingham confirmed that it would. Sonia clarified that these provisions would need to be placed within the UNC and the licence. She set out that, as such, it would be necessary to look at the drafting of the Common Systems Agreement and the agency agreement to ensure that it was made an enduring arrangement. Peter Bolitho highlighted that the communication should take a common format and that it should also be communicated from a common location.

Sonia detailed that the agency condition had been recently redrafted and therefore suggested that it may be appropriate to incorporate this issue after DISG members had gone through this drafting during the meeting.

Action – Transco to look at the issue of the way in which common communication formats could be maintained with respect to the notification of interruptions following expiry of the SOMSA arrangements.

Sonia suggested that shippers should ensure that they provide Transco with any comments regarding this issue as soon as possible. Peter Bingham informed DISG members that he would be on holiday from the following week and that Nigel Sisman would be the best person to contact in his absence.

- 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. Peter Bingham detailed that he had provided a note to Suzanne Turner in relation to this issue.
- Transco to present an updated roadmap for DN sales at DISG 33. Peter Bingham stated that he had provided this, for information, to the DISG and clarified that it was a draft roadmap in view of the imminent Authority decision.

Peter explained that the licence workstrand remained unchanged on the revised roadmap but clarified that the timetable for the incentive consultation had been

incorporated and that the Initial Thoughts document would be published in January if the Authority were to reach a positive decision at its meeting on 20 January. Peter detailed that the Initial Proposals on incentives would be issued in March with the Final Proposals published in May. He acknowledged that there was an error on the current version of the roadmap in that it only showed the Final Proposals consultation to be running throughout April when there was a possibility that it may have to run through May as well. Sonia clarified that the consultation period would be running through May as this would not only be a Section 23 to implement licence related changes but would also require additional licence changes to 'mop up' after the Section 8AA. She stated that if this were not the case, Ofgem would not have sufficient time to consider all of the responses that would be received in relation to the formal Section 8AA consultation.

Peter Bingham highlighted that the timetables for workstands on the DTI exemption and the Safety Case would remain as anticipated on previous roadmaps provided to the DISG. He set out that a number of workshops would be undertaken, during January and February, regarding the UNC and that Ofgem would be publishing a consultation document regarding the form of the UNC at the beginning of March. He outlined that Transco would be releasing a pricing consultation at the end of January. In addition, Peter stated that Transco would be releasing a consultation on the SFCs at the beginning of March and that this would be running in parallel with the Ofgem consultation regarding the UNC. He detailed that these consultations were set to run in parallel in order to allow interested parties to have access to all of the relevant information when submitting a response to either publication.

Peter Bolitho asked, in relation to the Network Code to create SFC workstrand, what the reference to 'prepare draft mod report' meant. He outlined that raising the draft mod and then having the discussions on this would effectively amount to 'putting the cart before the horse'. Peter Bingham responded that the intention had initially been to raise the draft mod in January and that the bar had simply not been moved along. Peter Bolitho pointed out that the timescales from 10 February to the end of May appeared to be very tight considering the importance of the mods to be raised. John Costa stated that the mod raised may not go to consultation and that it might therefore be appropriate to remove these steps from the roadmap. Sonia highlighted that it would be necessary to look again at all of the issues following the outcome of the Authority meeting. Peter Bolitho suggested that in order to draw attention to this, it may be appropriate to represent the mod process with a dotted line. Peter Bingham detailed that he would amend the roadmap to reflect this.

In relation to the agency and joint office workstrands, Peter Bingham set out that Transco had bought the CSA business rules along to the DISG to discuss and that Tim Davis would be giving a presentation regarding the joint office.

With respect to the industry seminar workstrand, Peter Bingham detailed that, if the Authority were to grant consent to a potential DN sale, Transco would be holding a seminar on 27 January regarding the various aspects of a potential sale.

Suzanne Turner clarified that, with respect to the exemptions workstrand, the DTI have not yet provided clarification as to when any exemption would come into force but that, it was anticipated, that the grant of a potential exemption would be scheduled in order to coincide with the transfer of licence that would take place under the Section 8AA process. Sonia stated that the reason this was anticipated was that a number of changes to the GT licence had been proposed to provide clarity regarding the party referred to

under the provisions of an exemption and that it would be sensible for these to be implemented within the licence as part of the Section 8AA notice.

Alex Wiseman asked, on the assumption that the Authority were to reach a favourable decision at the meeting on 20 January, what the nature of the decision taken on 25 April would be and whether this would effectively amount to consent on sale completion. Sonia responded that Ofgem had always been very clear that if consent were to be granted, in relation to the application for disposal made by Transco, this would be subject to the achievement of a number of conditions. She detailed that some of these conditions would need to be met prior to hive-down, whilst compliance with others would need to be demonstrated prior to the grant of consent to sale share. She therefore set out that the decision to be taken on 25 April would effectively determine whether Transco was to be given the 'green light' to hive-down. She highlighted that further consent would be required for share sale. Mike Ashworth asked for clarification regarding the type of conditions that would need to be met in the period between hive-down and completion. Sonia explained that she did not want to go into this at DISG 33 but outlined that if the Authority were to reach a positive decision on 20 January then she would hope to be able to provide interested parties with an outline of what the conditions may be. She set out that any conditions may however, need to be finalised first as although Ofgem had made recommendations to the Authority in relation to the conditions they may attach to their consent, it would be an Authority decision as to what these should ultimately be.

John Costa asked what the next steps would be if the Authority did not reach a final decision at its meeting on 20 January. Sonia responded that Transco had made an application for consent to dispose of transportation assets and that the Authority would have 60 days to consider this application. In this regard, she detailed that if the Authority did not respond to the application within 60 days then Transco would automatically assume consent had been granted on an unconditional basis. She explained that the Authority would need to make this decision within the allocated timeframe and clarified that any delay would have an impact upon certain aspects of the current timetable. John Costa asked for clarification that the decision to be taken on 25 April would be in relation to whether the Authority were to consent to hive-down and Sonia confirmed that it was.

Alison Russell asked whether it was likely that if the Authority did not reach a final decision during its meeting on 20 January, interested parties would be provided with notice of this. Sonia detailed that if this were to be the case the Authority would have to give some consideration to its communications strategy at this time and that there would be several handling interactions, in this regard, that they would have to consider.

Julian Bagwell asked whether Transco would be able to provide the roadmap in soft copies and Peter Bingham stated that he would update the roadmap and send it round to DISG members. Sonia suggested that it might be easier to place it on the DN sales website.

- Transco to report to DISG 34 regarding whether it intends to exclude non transitional services from the de minimis limit. Sonia detailed that this would be discussed at DISG 34.

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

- 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. Peter Bingham set out that this information was contained within Appendix 2 of the open letter regarding DN price controls, issued by Ofgem in March 2004.
- DISG members to bring back any comments regarding Transco's presentation on the derivation of the DNZ term to DISG 33. Alison Russell asked what exactly this action was in relation to. Peter Bingham set out that it was in relation to the letter published by Andrew Walker in March 2004 regarding the separation of DN price controls and the way in which the relevant items within the price controls had been apportioned between the DNs. Alison asked whether, with respect to the mains replacement adjustment within year, this was a one-off figure within the paper which had been allocated to the system as a whole in equal percentage proportions and, as a measured figure in future years. Peter Bingham responded that in the first two years it had been allocated to the DNs in aggregate and that K would vary for DNs depending on the relative amount that they spent. Alison asked for confirmation that the proportions had been split between DNs equally and Peter stated that it had been split within K, which gets divided up in the same way. He stated that any further questions should be directed toward him.
- Shippers to come back to Ofgem with any representations regarding the definition of relevant transporter by DISG 33. A number of shippers explained that they had not yet had a chance to look at this and therefore the deadline for responses on this was extended to DISG 34.

Action - Shippers to come back to Ofgem with any representations regarding the definition of relevant transporter by DISG 33

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

Alison Russell detailed that she had a couple of comments to make on this:

- A4 (2) – Alison set out that although it appeared that the intention of this provision was to oblige both the DNs and the NTS to use the joint office, from the way she had read it she did not perceive that it went as far as to oblige them to do this.
- A5 – Alison highlighted that, given that A5 related to both DNs and the NTS, it was unclear why it contained provisions in relation to auction reserve prices.

Sonia responded that Ofgem considered, with respect to Alison's second point, that this would be the least change position. She outlined that she would be happy to have a look at this but that Ofgem would not want to have to implement additional Standard Special Conditions. Peter Bingham pointed out that this was the way in which the obligation operated at present. Sonia also emphasised that the provision was not active within the licence in view of the fact that there aren't any auction prices. In addition, Mike Ashworth commented that this approach would save Ofgem and Transco from having to draft a separate licence condition.

- A7 – Alison stated that she had the same problems with A7 as she had outlined with respect to A5.

Sonia asked DISG members whether they had any response to the proposals to allow two charge changes a year for the NTS and only one for the DNs, pending the outcome

of the NGT consultation on changes to charges. Alison Russell detailed that she was in support of retaining as much stability as it would be possible to retain with respect to these types of issues. Peter Bolitho set out that proposals to make changes to charges once a year would be more favourable and asked whether it would be possible to revisit this decision. In this regard, he asked whether any other approach could be adopted to reconcile the fact that E.ON continued to be in favour of an obligation to only change charges once a year and, under which, if it were necessary for charges to change more than once a year then this would come under the reasonable endeavours obligation. Sonia set that it would not be possible to revisit this policy area. Peter Bolitho outlined that, for E.ON, a once a year change would be a preferential option as far as customer views were concerned. Sonia highlighted that the proposed obligation on the DNs was already to only make charge changes once a year. She explained that, under its statutory duties, Ofgem would have to look at the costs for customers of placing an obligation on DNs to only change their charges once a year and that, on this basis, Ofgem would not be prepared to pursue a licence amendment of this nature at this time.

- Ofgem to speak to the DTI regarding their timetable in relation to the exemptions consultation. Suzanne Turner set out that the DTI would be considering hard the decision that it would have to take in relation to the exemptions consultation, as well as its decision regarding whether to grant its consent to a potential DN sale.
- 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.

Sonia detailed that she assumed that DISG members did not have any further comments regarding the licence drafting presented at DISG 32 in view of the fact that she had not received any. Peter Bolitho stated that he was intending to submit some comments to Ofgem regarding the drafting of alternative mods under Standard Special Condition A11.

Alison Russell set out that, with respect to the drafting of Standard Special Condition A8, the definition of relevant customer did not appear to include domestic customers. In this regard, she detailed that it differed from the definition included in Condition 21B. Sue Higgins suggested that Alison may have been thinking of priority customers as there are two groups of these. She explained that the group of priority customers referred to under the provisions of this condition were those sites that would need to be provided with priority access to gas in the event of a national emergency e.g. hospitals. She explained that another group of priority customers also existed and that these referred to domestic customers to whom it was crucial that a constant energy supply was maintained.

Alison pointed out that it was clear, from the drafting of this licence condition, that the provisions regarding the availability of an emergency services telephone number was intended to apply to domestic customers, yet the definition of 'relevant customer' did not appear to include domestics. Sonia responded that the drafting referred to 'any person' and that this provision would be much wider than that of 'relevant customer'. She clarified that the inclusion of a definition of 'relevant customer' had been made in relation to interruption and that, as such, the definition was not intended to refer to domestics. Alison stated that domestic customers could, on occasion, be instructed not to use gas in emergency situations. Sonia asked for clarification that Alison was referring to the DTI's priority list which includes a number of large gas customers and Sue Higgins confirmed that she was. Sonia asked whether this list also covered

domestic customers. Sue detailed that it covered customers that the DTI had an interest in and that the provisions regarding call-outs to domestic customers were covered by paragraph 8. Sonia explained that as paragraph 1 referred to 'any person' and paragraph 8 referred to 'any premises this condition would apply to all customers and that concerns regarding the coverage of this condition would therefore go away. She clarified that paragraph 15 was referring to certain classes or definitions of customers.

2. Joint Office Association Agreement (JOAA) presentation

Tim Davis explained that, in December, DISG had participated in discussions regarding the role of the JO and that the JOAA was an agreement established in recognition of the fact that the DN licences would include Standard Special Conditions to oversee the operation of the JO. He clarified that this was an agreement to which NGT and the IDNs would be signing up to and that it would clearly set out who the signatories to the agreement were. Tim stated that issues of timing were also evident and that this was why provisions had been incorporated within the agreement to require that parties would be obliged to sign up to the UNC as well as the JO.

Tim set out that the JOAA would provide details of what the joint governance arrangements were and would require that the signatory would be obliged to comply with provisions contained within the GT licence. He also highlighted that the JOAA would allow the coordinated administration of the GT licence by requiring that this would be undertaken through the JO.

Tim outlined that, as part of the JOAA, each party would acknowledge their dependency on one another. He explained that the agreement would also go into the mechanics of coordinated administration of the licence e.g. the establishment of a committee and the way in which that committee would be operated. He clarified that the committee would meet periodically and be responsible for taking decisions on an economic and efficient basis.

Tim detailed that the Joint Governance Agreement would also be established which would name both the chairman and the joint secretary, as well as establishing the way in which the JO would be operated. He stated that the committee would also be responsible for preparing a pro forma resource plan which would be paid for between the signatories.

Tim outlined that the schedules had not yet been drafted but that they would include provisions relating to:

- The form of the accession agreement to admit new parties;
- Network Code procedures;
- Recovery of expenditures;
- Resources plan;
- Prohibited acts; and
- Terms of secondment.

Peter Bolitho asked for clarification regarding the schedules and the Network Code procedures that they referred to. Tim responded that some areas of the offtake rules still incorporated aspects relating to governance arrangements. Peter Bolitho asked whether any commercial arrangements would be incorporated within the agreement and Tim clarified that there wouldn't be.

Peter Bolitho asked why there were not any non-GT representatives on the committee and pointed out that other structures had been developed to allow representation of all affected parties and to have panel representatives involved in the decision making process e.g. Elexon. Sonia explained that the DISG had gone over these issues previously and that there were good reasons why the committee had been structured in the way that Tim Davis had set out. She clarified that these issues would need to be carefully reconsidered at the next price control. Peter Bolitho outlined that he was simply trying to make the distinction between governance of the JO and that of xoserve. He stated that he understood Ofgem's position from a regulatory perspective and set out that these arrangements should be reconsidered at the next price control review. Sonia asked whether it would be possible to have shipper representatives on the committee if shippers were clear that this would be necessary and Tim responded that it would be.

3. Common Systems Agreement (CSA) presentation

Leah Fry set out that the CSA was a simple agreement between GTs which would serve to support their licence obligations, as well as the provisions of the UNC and the Agency Services Agreement. She detailed that the parties to the agreement would include GT licence holders and that there would therefore be eight DN's and the NTS. She outlined that the purpose of the agreement was to provide Common Systems Arrangements (systems and processes), as identified in the Statement of Common Systems, for the administration of the UNC, in accordance with Standard Special Condition A14 of the GT licence.

Leah presented a diagram to DISG and explained that the CSA was represented by a blue box. She detailed that the diagram was intended to highlight how the CSA, as an agreement between the network operators, would link into the regulatory structure.

Peter Bolitho asked why it would be necessary to have a CSA and agency services contract separately. Leah responded that the CSA would be a contract between network operators whereas the agency services agreement would be outside of this. Sonia explained that Ofgem were currently having discussions with NGT regarding the drafting of the agency licence condition and clarified that the presentation was not quite updated to reflect this. She stated that the revised obligation would be for DN's to put in place one set of arrangements to cover both systems and services and therefore the concern that Peter Bolitho had expressed should no longer be evident. Peter Bolitho clarified that he didn't see the need for bilateral contracts in this respect and that any such contract should remain multi-party otherwise it could be seen to be a vehicle for fragmentation. Mike Ashworth responded that a licence condition had been put in place to preclude this occurrence.

Mike pointed out that the issue was mainly one of commonality, particularly with respect to the technical aspect of the systems agreement which was currently outsourced. In this respect he detailed that, in the context of the UNC, the systems employed should be the same and that, as such, the contracts established should be the same but not necessarily multilateral. He explained that it may be appropriate to have a CSA to establish commonality of terms. In line with Peter Bolitho's comments, Mike stated that it may be possible to merge the agency licence conditions and change the current agency contract to make it multilateral. Peter Bolitho expressed support for this idea as he considered that it would keep the arrangements simple by establishing one multilateral contract.

Sonia highlighted that some relevant GTs may opt to employ the services of xoserve to undertake incremental obligations on their behalf in order to benefit shippers. In this respect Sonia pointed out that while some fragmentation could be detrimental to the industry, certain types of fragmentation could occur in a positive way and, as such, create benefits for customers. Sonia therefore stated that Ofgem would not want to preclude the possibility of GTs establishing ancillary documents. Peter Bolitho asked whether there was the potential for this under the UNC and that if there were not, whether the possibility existed that the two provisions could be reconciled. Sonia detailed that it would be necessary for GTs to provide services and systems governed by the agency agreement through the agency itself but that, in the future, it could be possible that annexes to the agreement may be established, effectively creating bilateral agreements. Mike Ashworth considered that the contracts were essentially bilateral already as GTs would be paying the agency directly for its services.

Peter Bolitho expressed concern at having such a multitude of different contracts. Sonia responded that this was why Ofgem considered that these types of services should be clearly defined and that these definitions should be in the public domain. Sonia suggested that it may be appropriate to refer to these issues when looking at the drafting of the agency licence conditions.

Suzanne Turner clarified that the current drafts of the agency licence conditions no longer referred to CSAs.

Leah Fry provided an outline of the types of things that would be included within the CSA:

- Statement of Common Systems – Leah stated that the last slide in the presentation would provide DISG members with more information on this area. She highlighted that this would describe the purpose of the common systems established rather than a list of the system names. She clarified that this list would take on board the implications of Ofgem’s RIA regarding Agency & Governance;
- Governance Group – Leah explained that this would be formed of a GT representative from each DN and that it would convene once or twice a year to discuss any significant issues affecting the parties;
- System Cost Recovery – Leah set out that this would detail the basis upon which systems would be allocated between DNs and the NTS;
- Prioritisation of system changes – Leah highlighted that although Network Code system changes would be progressed through the joint office, problems may be experienced with respect to the priority given to any changes required e.g. Network Code changes Vs licence mods;
- Appointment of Network Operator Representative – Leah outlined that the role of this representative would be to coordinate changes to the Network Code;
- Long Term plan for system investment – Leah detailed that this would provide an opportunity to establish a long term for system changes e.g. replacement;
- Disputes – Leah noted that this would mostly be associated with resolution. She envisaged that any dispute that may arise would likely be fairly significant and that it was likely that the GTs would try to resolve the dispute prior to involving a third party.

John Costa asked whether the representatives on the governance group would be GTs and Leah confirmed that they would. John Costa asked whether there would be scope for shippers to be included within the scope of the agency. Sonia suggested that it may

be the case that shippers would be invited to attend meetings in an advisory capacity. Mike Ashworth clarified that this would be dependent upon the way in which the obligation regarding the provision of this service was established. He clarified that the governance group would simply be established to allow GTs to discuss their licence obligations and the way in which they were discharging them. He also detailed that it would enable them to discuss issues regarding the services that they had received from the agency.

John Costa asked for clarity that the governance group would not have any specific powers but that it would simply be established to allow GTs to make recommendations to xoserve. He asked where any related decisions would be made. Mike Ashworth responded that the group would be established to allow GTs to discuss any relevant issues with their service provider.

Sonia considered that the development of a long-term investment plan would likely serve to make shippers nervous that GTs may plan amendments to the system without consulting them. She stated however that the hierarchy, with respect to the decision making process, would ultimately relate to the part of the framework with which it was concerned, for example, if it related to the Network Code this would be subject to the existing Network Code industry governance procedures. In this regard, she set out that safeguards would be available for shippers. Mike Ashworth emphasised that, in terms of implementation of changes to the framework, this forum would simply provide an opportunity for the GTs to discuss their requirements. Sonia set out that she was simply trying to make clear the fact that this process would be subordinate to the provisions of the UNC.

Peter Bolitho acknowledged that this process would be ok if it remained subordinate to the UNC but that more robust governance arrangements may need to be developed to deal with system changes. Sonia Brown suggested that, if this were the case, then it would be possible for shippers to raise a mod to the Network Code mod rules. Peter Bolitho responded that before pursuing this potential avenue, he intended to await the decision, to be reached by the mod panel, regarding the mod raised in relation to the governance of ancillary documents. He set out that it would all be dependent on timings and ensuring that decision makers were comfortable with the proposals put forward.

Sonia explained that she wanted to ensure that DISG members had clarity regarding the governance group and the fact that it would simply involve GTs getting together to discuss their obligations and coordinate with respect to the way in which they intend to fulfil these obligations.

Alison Russell asked whether, if a change to the industry framework were required which GTs were not keen to implement, this would fall under Section T of the Network Code. Sonia responded that it would be at the discretion of the Authority as to the way in which this type of decision should be reached. In this respect, she detailed that if the GTs were required to ensure direct delivery then they would be in breach of the relevant obligations if they did not fulfil this. Alison asked whether, if the appropriate GT was happy to pay compensation instead of implementing the desired changes, the only recourse to this would be through the UNC. Sonia clarified that if the Authority were to reach the decision that a relevant mod would be required, it would be within its remit to direct the GTs to implement this.

Alison Russell stated that looking at the way that some of these industry groups operate, they are sometimes inefficient and this can have a detrimental effect upon shippers and market participants. She detailed that she had a genuine concern that the industry processes developed may not actually work in practise in the way currently envisaged. Mike Ashworth set out that there were protections within the current framework for shippers and that arrangements developed for GTs to meet and discuss the industry processes would not be over and above the existing provisions.

Peter Bolitho asked what type of changes may be put through on shippers systems. Sonia responded that the issue mainly concerned whether the services that Transco currently provided to shippers were codified or not and that issues of this nature had previously been identified in a matrix developed by the SPAWG. She outlined that a decision had previously been reached regarding the way in which these potential issues should be dealt with and, in this regard, it had been decided that these services would not need to be codified. As such she stated that it had been envisaged that if Section Y of the UNC were effective this would enable shippers to progress any required mods. Peter Bingham confirmed that this was his recollection.

Peter Bolitho set out that a number of issues were currently being considered by the shipper community and that these issues were being contemplated in a logical way such that that the most important issues were considered first. Sonia emphasised that the matrix, developed by the SPAWG, had been compiled by defining every service that involved an interface between GTs and shippers. She clarified that only a small subset of services had been identified as not codified. Peter Bolitho responded that a number of shippers were looking at potential mods.

He detailed that he did not have an argument against this process but that he had concerns regarding amendments to the processes through which changes to the system were managed. Sonia pointed out that if services were already codified it would not be possible for GTs to operate these processes differently following a potential DN sale and that the number of services that operate which were not already codified was very small. Sonia stated that Ofgem would look to review these issues if the shipper community considered them to be significant. Peter expressed concern regarding the establishment of a Governance group formed of GTs which would examine the need for system changes. Sue Higgins clarified that the group would only be established to allow GTs to meet and consider, as one body, system changes identified as a possible desired market development. Sonia set out that Section Y of the UNC would include various provisions regarding the way that the governance provisions would work and detailed that she understood that xoserve had provided a commitment to the industry that it would govern system changes. Mike Ashworth outlined that the UK link committee would be retained and that, in addition, various user groups would also be established.

Peter Bolitho emphasised that he did not consider substantive changes to the way that governance processes operate with respect to system changes were required. However, he said that shippers do want a real say in such decisions. Sonia acknowledged that she had some sympathy for the issues that Peter was raising but detailed that these were not strictly DN sales related and therefore should not be addressed as part of this project. She suggested that it would be helpful if NGT could revise the diagram that they had presented to the DISG to match the licence requirements and the hierarchy for decision making. As such, she stated that the diagram should be shuffled around by NGT and then brought back to DISG for further discussion.

Action - NGT to revise the 'Common Systems Agreement – interfaces' diagram that they had presented to the DISG to match the licence requirements and processes and the hierarchy for decision making.

Marie Clark asked whether the database that NGT operate to assist in the production of CSEPs Invoices in relation to IGT networks would be included within the CSA following a potential DN sale. Mike Ashworth responded that the UNC would be the place where details of this relationship would be set out. Marie explained that IGTs have an obligation under the CSEP NExA to provide weekly AQ updates to Transco. These values are used by Transco to allocate energy values to Shippers who operate over IGT Networks and to assist in the production of the Ad-Hoc CSEP Invoices.

Action – NGT to investigate whether the services that NGT currently provides for IGTs e.g. CSEP would continue to be provided under the CSA following a potential DN sale and report back to DISG 34.

Marie Clark highlighted that Transco include within their Transportation Costs an admin charge of £1.20. This charge is applied by Transco to account for the additional administration processes to manage the daily operation and invoicing of CSEP and include the operation of the NGT CSEP Database. She therefore asked whether this database would be supported, going forward under the provision of the CSA.

John Costa suggested that, on the diagram regarding the interfaces that would operate under the CSA, it might be helpful to also illustrate what all of the lines between the boxes actually mean e.g. payments, subordinate. Sonia considered that this would be helpful.

Action - NGT to revise the 'Common Systems Agreement – interfaces' diagram that they had presented to the DISG to reflect what the lines between the boxes mean.

4. Gas Connections – Standards of Service

Sean O'Hara set out that a draft licence condition regarding connections was to be implemented together with the Standard Special Conditions for DN sales. He detailed that this was Standard special LC D10 in relation to the Provision of connections information. He stated that this condition would apply to both new connections and alterations and would require overall standards with proposed 90% targets to be met. He outlined that the exclusions from these standards would need to be agreed with Authority. In addition, he highlighted that it would contain a scheme to allow customers to challenge the accuracy of quotations received as well as an accuracy audit requirement.

He indicated that respondents were generally supportive of the need for this condition but that they had concerns about:

- Audit / information requirements being too onerous
- Combination of land enquiry with design approval
- Application to DNs and not just Transco
- 7bar limit too high
- Post acceptance more important than quotations

Sean explained that the draft statutory instrument was published on 10 January with responses due by 7 February. He detailed that the comments on the draft GSOP in the

December Licence Condition consultation were similar to those for draft Licence Condition as well as including details regarding:

- Whether payment levels are too high or too low
- Whether payment levels discourage competition
- Customer information
- Whether some targets are easier than under the Order

Sean set out that a gas connections workshop was to be held at Ofgem on 26 January. He outlined that the target date for revocation of the Order and introduction of the new statutory instrument was 1 April 2005 and that the new licence condition would come in to force with other standard specials for DN sales.

Peter Bolitho asked whether there were any substantive instances of revised drafting as compared with the September document. Sonia responded that the first document had steered policy while the November document had provided details of the licence changes to find out whether interested parties had any more substantive comments. Suzanne emphasised that if DISG members had any further comments they should let a member of the DN sales team know.

Sonia stated that she recognised that some DISG members had found it difficult to comment on the November licence consultation due to the parallel consultation regarding the Final IA. She therefore detailed that it would be important to discuss issues regarding the licence at the DISG in order to supplement this consultation. She set out that Ofgem would prefer to have meetings of this nature prior to the deadline for the formal Section 8AA consultation, scheduled to be published on 14 February, to identify any outstanding issues. She clarified that although Ofgem would have a second opportunity to implement any additional licence changes required, through the second Section 23 consultation, it would prefer to direct as many licence changes as possible at the Section 8AA stage. She outlined that Ofgem had a preference for interested parties to come to the DISG in order that all DISG members were made aware of views but that Ofgem would also be happy to have bilateral meetings.

5. General principles and proposed treatment of definitions within the licence

Suzanne Turner outlined that the relevant definitions had not, as yet, been fully developed and that, rather than confusing DISG members with various drafts of definitions Ofgem thought it would be more helpful to outline the key principle upon which Standard Special Condition A3 would be based.

She explained that within the November licensing consultation Ofgem had set out that the definitions included within Standard Condition 1 of the existing licence would apply across the Standard Conditions as well as the Standard Special Conditions and Special Conditions. She stated that in order to include new definitions to apply to the Standard Special Conditions and Special Conditions within the licence a new Standard Special Condition A3 would be implemented. She set out that Ofgem's position with respect to definitions within the licence had changed since the publication of the November document. In this respect, she highlighted that it was intended that Standard Condition 1 would only apply to the existing Standard Conditions and that Standard Special Condition A3 would apply to the Standard Special Conditions and Special Conditions. She outlined that Ofgem was not proposing to switch off Standard Condition 1 as it was needed in order to give the licence context and meaning but that assuming this

alternative position would provide greater clarity regarding the definitions applicable within the licence.

Suzanne set out an overview of the changes that Ofgem intended to make in relation to Standard Special Condition A3. She explained that Ofgem had bought forward, into A3, the definitions used in Standard Condition 1 that were also required for Standard Special Conditions and Special Conditions. She detailed that clarification had been attained that definitions in A3 would apply to Parts B, C, D, and E of the licence, as well as Part A. She outlined that, in general, definitions used in more than one condition would be bought forward into A3 but clarified that there would, however, continue to be condition specific definitions.

Suzanne highlighted that Ofgem had deleted the definitions in A3 that were not used e.g. consolidated transportation business and introduced new definitions as appropriate. She set out that in looking at these conditions Ofgem had also addressed issues associated with capitalisation of definitions and made it clear that cross-references to Standard Conditions in the licence should be to the replacement Standard Special Condition or Special Condition if that Standard Condition is switched off.

Suzanne stated that Ofgem had implemented the GT / shipper distinction as discussed at DISG 32. She also outlined that clarification had been provided in relation to Transco's business separation to make it clear that there would be 2 licences within the same legal entity and that Transco plc would have 1 short form code. She detailed that small tweaks had also be undertake to clarify Network Code definitions and references.

Suzanne explained that Ofgem had talked through the new definitions of the GT / shipper at DISG 32 and that, in line with this a new definition of 'DN Operator' had been included:

- means a licence-holder who is obliged to comply with one or more conditions in Part D: Standard Special Conditions (in whole or in part) applicable to all DN licensees as a result of any direction issued pursuant to Standard Special Condition D1 (Application/Disapplication of standard conditions in Section A (Interpretation and Payments) and Section B (General) and Application/Disapplication of Standard Special Conditions applicable to DN licensees)

Julian Bagwell asked whether it might not have been sensible to have limited the definition to 'means a licence-holder who is obliged to comply with one or more conditions in Part D: Standard Special Conditions (in whole or in part)' as this would give essentially the same meaning. Suzanne responded that the remainder of the definition would need to be included for clarity as paragraphs 1 to 3 of D1 would be effective in both NTS and DN licences. Sonia explained that Ofgem had tried to 'push back' on their lawyers in this regard but they have been very clear that the entirety of this definition would be required. She clarified however, that the definition only appears once within the licence.

Suzanne set out that, in line with the new GT / shipper definition a revised definition of the 'NTS Operator' had also been included:

- means a licence-holder who is obliged to comply with one or more conditions in Part B: Standard Special Conditions (in whole or in part) applicable to all NTS licensees as a result of any direction issued pursuant to Standard Special Condition B1 (Application/Disapplication of standard conditions in Section A (Interpretation and Payments) and Section B (General) and

Application/Disapplication of Standard Special Conditions applicable to NTS licensees)

In addition, she detailed that a new definition of 'Relevant gas transporter' would also be implemented within the licence:

- means the licensee and any other gas transporter who is a DN operator or NTS operator

Suzanne outlined that, for absolute clarity regarding business separation, the existing definition of 'licensee's pipe-line system' had been amended to clarify that, in relation to Transco, the licence is referring to the respective NTS or DN pipeline system and, as such, the definition had been revised to:

- pipe-line system to which this licence relates

In a similar vein, Suzanne stated that the definition of the licensee had also been amended to refer specifically to the NTS or DN. She set out that, as such, the definition was drafted to state:

- means the holder of this licence in its capacity as:
 - (i) NTS operator; or
 - (ii) DN operator;

and, for the avoidance of doubt, nothing in this definition shall prevent a single legal entity being both an NTS operator and a DN operator.

She highlighted that, in situations where it would not be necessary to refer specifically to the NTS or RDNs, for example with respect to the SFCs or some of the financial conditions, this would be dealt with in the specific conditions.

Suzanne explained that further clarification of key definitions had also been undertaken to reflect the separation between the NTS and RDN businesses:

- Transportation arrangements
 - Definition tweaked to incorporate relevant gas transporters
 - Pipe-line system to which this licence relates
 - Update cross-references within definition
- Transportation system
 - Means the facilities to which this licence relates which are used by the licensee for the conveyance of gas within Great Britain
- Transportation business: Current licence has two definitions (one in lower case and one in upper case)
 - transportation business: means the activities of the licensee connected with the development, administration, maintenance and operation of its pipe-line system....
 - Transportation Business: means the Transportation and LNG Storage Business except the LNG Storage Business
 - Transportation and LNG Storage Business: means the activities of the licensee connected with the development, administration, maintenance and operation of:
 - (a) the Transportation System and with the Supply of Transportation Services; and
 - (b) the LNG Storage Facilities and with the Supply of LNG Storage Services

But excluding the Metering Business and the Meter Reading Business Suzanne set out that, with respect to the definition of 'Transportation business', the amendments made had not been specifically DN sales related but that due to

the inconsistency contained within the definitions, this was not something that Ofgem wanted to retain.

- Transportation business:
 - Means the activities of the licensee connected with the development, administration, maintenance, and operation of the transportation system and with the supply of transportation services but excluding the metering business and meter reading business.....
 - Update cross-references within the definition

Suzanne clarified that if any of the DISG members had any objections to this they should inform the DN sales team.

Suzanne detailed that there had been a number of Network Code related tweaks to the licence definitions in response to views expressed by respondents to the November document that the definitions were unclear. She explained that, in this respect, a number of definitions had been rationalised:

- “uniform network code”: definition remains largely unchanged
- “individual network code” definition removed
- “network code” (A11): “references in the conditions of this licence to the network code include the uniform network code (as the same may be varied from time to time) as so incorporated, unless otherwise stated”.
- Short form code: “network code prepared for or on behalf of each relevant gas transporter (excluding the terms of the uniform network code incorporated within it”.
- References throughout licence reconsidered and tweaked as appropriate

Suzanne clarified that, with respect to definitions incorporated within the licence regarding the Network Code, there were two main definitions. She set out that the first referred specifically to the UNC while the second referred to the Network Code and therefore incorporated both the UNC and associated short form codes. As such, she explained that this meant the short form codes were not explicitly defined within the licence but could be referred to as the Network Code excluding the provisions of the UNC. She stated that if DISG members had any representations against this then should be happy to hear any views but that views would be welcomed sooner rather than later as any amendment required would have ramifications throughout the licence.

Peter Bolitho expressed support for the implementation of Network Code definitions with a clear demarcation and an approach which would ensure no overlap between these conditions. Sonia detailed that Ofgem was also happy with the definition conditions that had been developed but that she would also be happy to hear the views of any interested parties.

Suzanne highlighted that, throughout the licence, references to specific sections of Transco plc’s Network Code at particular points in time were made. She explained that Ofgem had considered incorporating within the licence exactly the wording included within the Network Code reference but that this had not, in practise, been possible as many of the references to the Network Code also included further cross references. She directed DISG members to a handout outlining this problem. Suzanne detailed that a number of respondents had raised concerns regarding the definition of Meter-Related Services Business (A33). She stated that this had been defined by reference to a definition in A10 which included a further reference to Section M, paragraph 1.2 of Transco plc’s Network Code as at the date the paragraph became effective (12 July 2004). She clarified that this definition had been reached through the inclusion of a reference to the ‘Metering equipment’ definition in A3 which then references Section M,

paragraph 1.2 of Transco plc's Network Code as at the specific version issued on 1 April 1997. In this regard, she explained that much of the confusion surrounding this condition stemmed from the way in which the definition had been framed by making references to different snapshots of the Network Code. As such she explicitly detailed that the definition of Metering Business was not the same as the definition of Meter-Related Services Business.

Suzanne clarified that the definition of daily metered supply meter points included in C12 and E5 was meant to refer to a supply meter point which is read on a daily basis in accordance with section M paragraph 1.3.1 or section G 1.5.1(b) or section G paragraph 1.5.3 of the licensee's Network Code having effect as such on 1 April 2002.

Suzanne explained that a few remaining definitions had also been amended. As such she set out that the definition of domestic premises had been moved into A3 and that sub-paragraph (a) had been removed as it had time-expired post January 1 2002. She also highlighted that the definition had been revised to state that domestic premises 'means premises at which a supply is taken wholly or mainly for domestic purposes'.

Suzanne also outlined that the definition of independent systems had been tweaked and that this would be discussed in greater detail as part of the next agenda item. In addition she detailed that the definition of investment & permitted purpose had been amended to remove definitions to Section C and refer instead to Standard Special Conditions affected.

Julian Bagwell asked whether, in line with the new structure of definitions, it would in theory be possible for certain services or parties to be defined differently in different parts of the licence. Suzanne responded that there were some examples of this and that this was why Ofgem had sought to make it clear that different definitions would be applicable within different parts of the licence. She clarified that this approach had been adopted in order to avoid the difficulties associated with switching off Standard Condition 1.

6. Network Code and Agency Conditions

Suzanne Turner stated that there was a whole suite of conditions associated with the Network Code and Agency provisions but highlighted that **A11** was the main condition. She outlined that an earlier version of A11 had been discussed at DISG 32. She explained that paragraph 1(d)(iii) had previously been incorporated within the licence as a provision to secure effective competition between shippers / suppliers and that, in light of a potential DN Sale, this would be amended to also include a reference to DN operators.

Julian Bagwell detailed that he considered that the changes discussed at DISG 32 had been key changes and asked what the purpose of introducing 'and / or Uniform Network Code' within sub paragraph (f) had been. Suzanne responded that this would ensure that where a mod proposed in relation to an individual SFC could cause difficulties in relation to implementation of the Network Code, it would be possible for Ofgem to respond that this would not facilitate the relevant objective set out under paragraph (f). She outlined that this was intended to ensure that there would be no fragmentation within the industry.

Peter Bolitho pointed out that in paragraph 1(d)(iii) 'DN operators' had been added and asked whether references within this paragraph, to shippers and suppliers, had always been included. Suzanne responded that the paragraph had been inserted as a consequence of DN sales.

Suzanne detailed that an insertion had been made at the beginning of paragraph 3 of A11 to include the phrase 'Subject to paragraph 4, in respect of the pipe-line system to which this licence relates, the licensee' to address the issue that Transco will only have one SFC applicable to both of its licensees. She also highlighted that, throughout the condition, reference had been made to 'the Network Code...prepared by or on behalf' in order to address the same issue of Transco only having one SFC applicable to the NTS and DN-GTs e.g. paragraph 6 (b).

Suzanne pointed out that paragraph 10 had been inserted to set out the process that would be adopted in respect of modification of the UNC. In a similar respect, she stated that paragraph 11 had also been inserted to establish the mod process with respect to SFCs and outlined that this also provided an example of the way in which the SFCs would be referred to using the long-hand definition.

She explained that in sub-paragraph (a)(i) a reference had been made to the ability of the licensee to be able to raise a mod 'to the extent that the modification proposed relates to the pipeline system to which this licence relates'. Suzanne set out that this provision had been included in order to prevent either the NTS or the RDNs from raising a mod to the SFC relating to the other part of the business. Sonia clarified that this was a 'belt and braces' approach and that it was intended to provide a clear signal that it would only be possible to raise a mod in relation to its part of the business.

Sue Higgins suggested that this was not the case as either party would be able to raise a mod in relation to the provisions of the UNC. Sonia responded that any signatory would be permitted to raise a mod in respect of the UNC but that, given that they would be structurally separate, it would be strange if the RDNs or the NTS were permitted to raise a mod in relation to provisions contained in Transco's SFC relating to the other party. For clarity, Sonia detailed that it would not be possible for more than one DN to operate under the provisions of one SFC except in the case of Transco.

Suzanne stated that the reference to 'relevant shipper' had been clarified such that it was only shippers affected that would be able to raise an SFC mod. She also set out that paragraph 11(iii) served to introduce DN operators as exempt shippers.

Suzanne explained that there was also a general question regarding the establishment of relevant arrangements and whether there should be a drop-dead date for this. Peter Bolitho suggested that it could perhaps be a condition of sale that it would be necessary to have the arrangements in place for day 1 of DN sales. Sonia responded that Ofgem were intending to have relevant licence conditions in place for day 1 which would require that associated arrangements would be implemented for day 1 of DN sales. She clarified that this had been one of the recommendations made to the Authority regarding any conditions that they should attach to their consent but that it would be left to the discretion of the Authority to decide what these conditions should be. Sonia asked whether, in view of the imminent Authority decision, Peter Bolitho would like her to make clear to the Authority his views on the matter or whether he was satisfied that any associated conditions would be considered by the Authority as part of the consent that they may grant to a potential DN sale. Peter Bolitho stated that he wanted to be sure

that an appropriate process was in place but that he was satisfied that the Authority would consider any required conditions.

Alison Russell asked whether some of the changes had already been reflected within the drafting of A11. Suzanne responded that, for clarity, some of the drafting changes had already been accepted but that the rest of the proposed changes were highlighted in revision marking. Alison highlighted that paragraph 14 made it clear that where the HSE provided a relevant GT with a safety notice it would be necessary for the relevant GT to raise a consequential mod in this regard and asked whether there were any other areas where principles of this type would be applied. Sonia responded that Ofgem would not want to start placing this type of conditionality within the scope of licence provisions but stated that the situation would be different in relation to the HSE. Alison asked whether a UNC mod in this regard would require consequential amendments to the relevant SFCs. Sonia explained that this was one of the areas that Ofgem had looked into with respect to the hierarchy of documentation. She explained that this was one of the underlying reasons behind the implementation of paragraph 1(f) within A11 as if a modification required by the HSE were to place the UNC in conflict with the relevant SFC, the mod could be rejected under the provisions of paragraph 1(f).

Sonia clarified that there would not be any formal follow through of changes made to SFCs through to the UNC. Peter Bolitho considered that the UNC would be the driving document. Sonia detailed that it would be key to the continuity of arrangements that the SFC would incorporate the provisions of the UNC. She clarified that, from a user perspective, the UNC would be the key document but that from a licence perspective, it would simply need to be the case that Ofgem would be able to take action against licensees where a breach were to take place.

Sonia explained that if it would cause conflict and confusion to reject a modification on the basis that it did not fulfil the provisions set out under 1(f) of A11 and it was clear that it was in line with the other UNC objectives then it may be appropriate for shippers to raise an associated mod in order to avoid conflict and confusion. Peter Bolitho asked whether this meant that there would essentially be two different processes for approval in operation. Sonia responded that it simply meant that there was an additional layer of approval necessary in relation to mods proposed to the UNC and SFC in order to provide affected parties with additional protection.

Alison Russell asked whether the provisions in paragraph 17 meant that each GT would be required to compile summaries of the UNC essentially meaning that five separate but potentially identical summaries would be established. Sonia responded that this query would be answered by Standard Special Condition A12.

Peter Bolitho pointed out that paragraph 11(b) contained provisions relating to the raising of alternative mod proposals. He expressed concern that the drafting of this proposal may conflict with the proposals put forward to the UNC development forum by the Gas Forum. He clarified that this concern was really related to the definition of an alternative mod contained within the condition and set out that he would come back to Ofgem with some more detailed comments in this regard following the DISG meeting.

John Costa asked why the condition had been drafted in such a way so as to preclude the original proposer from proposing an alternative mod. Mike Ashworth responded that this was an efficiency point in that the original proposal put forward should have

been sufficiently researched to ensure that it captured all of the desired provisions. John Costa considered that it would be more efficient to raise an alternative mod rather than requiring the original proposer to develop a completely new proposal. Sonia set out that if it were the case that when the final detailed draft of the mod rules were made available to the industry these were to contain provisions stating that only 1 alternative could be raised with respect to a mod proposal, Ofgem did not want it to be the case that the original proposer would block this route for all other parties. She stated that the preclusion of this would ensure that other parties would be permitted to raise alternatives.

Peter Bolitho considered that it could be the case that there was a distinction between raising an alternative and refining the original proposals. Sonia responded that Ofgem would look at these points more carefully once the base mod rules had been developed.

Sonia clarified that in relation to any mods in flight it would be necessary for Ofgem to know the drafting of these very soon in order that any implications for the UNC could be incorporated.

Suzanne Turner explained that Standard Special Condition **A12** had been tweaked to clarify the relationship between the JGA and the JGAA. She detailed that paragraphs 1(c) and (d) stated that the GT should provide or publish copies of the relevant documentation and clarified that this obligation would not require that it would be necessary for each of the GTs to provide the Authority with a copy of the relevant joint governance documentation. In this respect she highlighted that the provisions of A11 had been inserted within paragraph 4 to allow the obligations regarding publication of documentation in relation to joint governance to be discharged through the joint office. She set out however, that even though these obligations could be discharged jointly, Ofgem would still retain the ability to take action against individual licensees for non compliance.

Suzanne set out that A14 would no longer be used as A14 and A15 had been merged and essentially rewritten. She detailed that the new condition would establish the services and systems that would be subcontracted to the agency. She stated that the new condition still contained paragraphs 1(i),(ii) and (iii) incorporating the costing requirement. She explained that one respondent considered that this provision might not have been clear and that Ofgem welcomed views in this regard. She set out that paragraphs 2 and 3 were intended to expand on the provisions contained within A15 and, as such, this would require that DNs would not be permitted to opt out of the agency arrangements without consent.

Mike Ashworth highlighted that there were minor services that xoserve would provide to GTs which were not related to the Network Code provisions and set out that there was an assumption that if the DNs wished to arrange provision of these services for themselves there would be no reason why this should not be permitted. Suzanne clarified that A15 only referred to services that would be provided in accordance with the requirements of the UNC. Sonia stated that there may be concern amongst shippers that if these services were provided by individual GTs these could cause inefficient market fragmentation and she therefore asked whether Transco could provide a list of the services that would be likely to be provided outside of the agency.

Action – Transco to provide a list of the services that would be likely to be provided outside of the agency.

Suzanne explained that paragraph 4 had been inserted to address shipper concerns regarding the Supplier of Last Resort and to provide clarity that this service would be provided by the agency. She set out that paragraph 5 contained provisions regarding the requirement for GTs to request permission in the event that they wish to opt out of the agency and the need for stringent transparency requirements in this regard. Sonia clarified that the reason for the insertion of these provisions was to provide comfort to shippers in a similar regard to the transparency provisions contained under the income adjusting event provisions.

Suzanne detailed that paragraph 6 and 7 would require the GTs to enter into agency service arrangements although she clarified that this paragraph assumed that the CSA would be merged. She explained that paragraph 8 was a waiver against the possibility of assuming joint liability.

Suzanne asked whether it would be appropriate to include an additional clause within the licence regarding the need for common communications and data formats. Julian Bagwell responded that such a clause would be necessary in order to address concerns that affected parties have expressed regarding the divergence of data formats. Peter Bingham stated that this was something that NGT was intending to include as part of the CSA and so anticipated that this should not be a problem. Sue Higgins clarified that this should be ok as long as the requirements were not too restrictive. Sonia reassured Sue that the obligations regarding data formats would be subject to approval.

Alison Russell considered that the data formats should be consistent between GTs and that any change should be subject to approval. Suzanne asked whether any such change to these data formats would be required to go through the process detailed in paragraph 5. Sonia clarified that there were certain areas regarding changes which Ofgem would not want to be involved in. However, she emphasised that Ofgem would want to see that sufficient consultation on these matters had been undertaken with shippers in order that they could attain a degree of comfort from NGT. Mike Ashworth also considered that administration of these changes should not be a job for Ofgem, but for the AT link committee. Sonia suggested that it would be appropriate for NGT to give some thought to these issues.

Action – Transco to give some consideration to issues regarding the change process in relation to data formats and potential self governance of the arrangements.

Alison Russell detailed that it would be necessary to ensure that GTs would not be permitted to implement divergent data formats without prior approval from a governing system. Peter Bolitho clarified that shippers would not want data formats to be changed even where the process through which this was undertaken was coordinated. Sonia stated that NGT would think of a sensible way in which these issues could be addressed for discussion at DISG 34.

Suzanne Turner set out the **A16** had been essentially rewritten as the condition that was originally included within the November licensing consultation had not been very clear. She detailed that paragraph 1 included provisions regarding NTS energy balancing and set out that, under this paragraph, the NTS would be required to balance both its own system and that of other GTs. Mike Ashworth stated that the definition of the whole system used as part of Network Code discussions should refer to inputs and offtakes from the whole system. John Costa asked whether this would capture trading at the NBP and Mike Ashworth responded that it would. Suzanne explained that paragraph 3

remained largely unchanged and that the key paragraph within it would require GTs to be independent from the independent market for balancing.

Suzanne explained that **C6** was related to the provisions contained within A16 which augmented A11. She detailed that this would only apply to the NTS and would need to be inserted after paragraph 22 of A11. Sonia pointed out that this may need to be amended to reflect the discussions at DISG on energy balancing and set out that Transco would need to provide this to Ofgem by 19 January.

Peter Bolitho set out that he was unsure as to whether the shrinkage provisions within this condition would be effective and Sonia responded that she considered this to be more of an issue in relation to C4 and C5 and the procurement of systems.

Suzanne detailed that there had also been some consequential tweaks to **A7** in relation to the Network code references included and **A31** which had been amended to make it clear that it was consistent with the obligations contained within A15 which had been implemented to address concerns expressed at DISG 29.

7. Long term development statement condition

Suzanne explained that although there had not been many tweaks to this condition, they were significant, in that it would be important to allow the Authority, when directing coordination, to direct the timing as well as the scope of such statements. She outlined that in 1(a) of both of the conditions the words 'high pressure' had been removed.

Sonia suggested that it would be sensible for DISG members to go away and consider the changes made.

8. Independent Systems condition

Suzanne set out that a number of changes had been necessary to accommodate the treatment of independent systems. She explained that under the current terms of Transco's licence Special Condition 18 includes provisions to allow those connected to independent systems to enjoy the benefits of a cross subsidy. She highlighted that, in the November document, Ofgem had outlined that the DTI would be considering this issue as Special Condition 18 had originally been inserted into the licence at the DTI's request.

Suzanne said that the drafting presented was based on the assumption that the 'alternative arrangements' with respect to independent systems would no longer be within the licence (i.e. Standard Condition 18 would be deleted) but that, to ensure the enforceability of arrangements, consequential licence mods had been made to A27 and A5, as well as amending the definition in A3. Suzanne detailed that the drafting presented was a draft and would need to be revisited once the DTI's proposals in this area were confirmed. She outlined that the DTI were intending to publish a separate document to which this drafting would relate.

Suzanne explained that there were some issues arising from the definition of the 'appointed day' as an additional independent system had been connected since this date and, as such, there were difficulties in establishing an appropriate class definition for exemptees. Sonia clarified that Suzanne was only informing DISG members of the

position that the DTI had assumed on this issue and that the position could still be subject to change.

Sonia emphasised that it would be important to have a clearly defined group of customers to whom the cross subsidy would apply under EU law and that, as such, this was what both Ofgem and the DTI were trying to achieve. She explained that, as part of its consideration of the disposal of independent systems, the DTI would look at alternative arrangements proposed by Transco and the Secretary of State would consider whether these could be deemed appropriate. She detailed that the DTI wanted, as far as possible, to retain consistency with the current arrangements. She stated that once the DTI consultation document regarding independent systems had been published Ofgem would send an email to DISG members informing them of this.

Action – Ofgem to inform DISG members, via email, of when the DTI consultation regarding independent systems is published.

Suzanne set out that as well as removing Standard Condition 18, a few further tweaks may be made to licence conditions in this regard. As such, she highlighted that in paragraph 2(a) of A27, in view of the DTI's position regarding the exclusion of the network connected subsequent to the appointed day, the consents required had been tweaked so that if Stranraer were to be sold in the future further consent would not be required. She clarified that sub paragraph (c) would place an obligation to comply with the alternative arrangements not only on the owner but also on the party buying the independent system.

Suzanne detailed that the definition of 'relevant premises' had been clarified to refer to 'the premises of the system to which this licence relates' and reflect the inclusion only of independent systems that remain independent.

Suzanne outlined that a hook would be placed within the alternative arrangements to allow consequential changes to be made to charging methodologies within **A5** and that additional amendments had already been implemented within this condition in order to reflect the changes to charging arrangements. She set out that Ofgem were hoping that the DTI would have reached more definition proposals in this regard by DISG 34.

Sue Higgins asked why there would be consequential changes in the charging methodologies. Sonia responded that the DTI would want assurance that the cross-subsidy would go to the customers to whom it was intended to be directed. Sue Higgins asked what arrangements would be put in place with respect to cost recovery and Sonia detailed that she had presumed that these were discussions that NGT would be having with the DTI.

Alison Russell asked, subject to the outcome of the Authority decision, whether the DN sales were aware of when clarity would be achieved regarding Standard Condition 21 of the supply licence. Sonia clarified that it would be more likely that the markets team would be dealing with this. She set out that she would speak to her colleagues in markets about this but that it was unlikely that there would be any surprises.

Alex Wiseman asked for confirmation that DISG 34 would be a long meeting and Sonia clarified that it would.

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 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(iii) 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 augment 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 augmenter 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.

DN Sales Development & Implementation Steering Group Minutes

Meeting 35

4 February 2005

Ofgem's office, 9 Millbank

10:00 AM – MORNING SESSION – LICENSING

10:00 am – 2:00 pm

Attendees – Morning Session

Sonia Brown	Ofgem (chair)	Julian Bagwell	Macquarie
Jason Mann	Ofgem	Tory Hunter	SSE
Suzanne Turner	Ofgem	Charles Ruffell	RWE npower
Helen Connolly	Ofgem	James Lawson	Centrica Storage
Amit Pathare	Ofgem	Peter Bingham	NGT
Indra Thillainathan	Ofgem	Bob Bruce	Glenton Bruce Ltd
Caroline Whitfield	ILEX	Alan Raper	NGT
Mike Young	Centrica	Alex Wiseman	CKI/UU
Peter Bolitho	Eon	Nick Wye	Macquarie
Sean O'Hara	Ofgem		

Sonia Brown opened the meeting, explaining that it would be conducted through the day in two halves. The morning session would entail the discussion of licensing issues, and the afternoon session would focus on the uniform network code (with a break between these two sessions). She asked if anyone had any comments before the session began. On receiving none, the DISG began the licensing issues session with a review of items from previous DISG meetings.

1. Review of items from DISG meetings 33 and 34

a. Review of minutes

Mike Young started by saying he had no comment on DISG 34 (28th January) but had a comment on the minutes of the DISG 33 (18th January) meeting. Drawing attention to a quote attributed to Alison Russell on page 10, he pointed out that the words "relevant shipper" be corrected to "appropriate GT". The sentence should therefore read, "Alison asked whether, if the appropriate GT was happy to pay compensation instead of implementing the desired changes, the only recourse to this would be through the UNC."

b. Review of actions

Sonia Brown then referred back to the action taken away by Transco in DISG 33 on how common communication formats could be maintained with respect to the notification of interruptions following expiry of the SOMSA arrangements. Peter Bingham replied that the Common Systems Agreement effectively binds all

GTs together, so that all GTs would use common data formats, which would apply to interruptions as well. Peter clarified that Transco was not planning any system changes following expiry of SOMSAs. Sonia concluded that based on the information from Transco, shippers would hence see no changes in this regard.

The group next discussed the action on Transco following DISG 34, related to the exclusion of non-transitional services, i.e. services that would be required on an ongoing basis between networks and hence should be included as de minimis sources. Peter Bingham stated that Transco had no problems with this approach. Tory Hunter said she was not sure of how this issue is being treated. Sonia stated that Ofgem would come back to the DISG with proposals on finalising the process.

She said that shippers were to come back to Ofgem with the definition of “relevant transporter”, but there had been no representation in that regard.

On the issue of charge change licence drafting, Sonia said that there were no changes, and that respondents’ views had been considered and taken into account where appropriate.

There had also been an action on NGT to revise the common system interface diagram. Peter Bingham stated that he had a new diagram to share with DISG. This followed the presentation made by Leah Fry in DISG 33, explaining that the diagram described how the CSA, as an agreement between the network operators, would link into the regulatory structure. Sonia stated that the DISG 33 diagram presented was not consistent with proposals in the agency agreement; hence Ofgem had created a modified version of the diagram to simplify things. Tory questioned whether there should have been a link between UK Link (following the modification) and the Agency. Sonia responded that the “one way” arrows should be “two way” arrows. However, she requested the attendees to examine Ofgem’s version of the diagram and comment.

Action: Attendees to offer comments on the common system interface diagram.

The next outstanding action was on NGT from DISG 33 to investigate whether the services that NGT currently provides for IGTs (c-sep) would continue to be provided under the CSA following a potential DN sale and report back to the DISG. Peter Bingham replied that the Agency would continue to administer an ad-hoc billing process for IGTs; hence there would be no changes for shippers.

The group then discussed the action on NGT from DISG 33 on issues regarding the change process in relation to data formats and potential self-governance of the arrangements. Sonia asked if NGT could address the shippers’ concerns. Peter Bingham replied that the self-governance process would continue to work in the future through the AT link committee. Changes to the UK Link manual and data formats would be resolved by consensus. In the absence of a consensus, the matter would be pushed upwards to the UNC committee. If still disputed, then the UNC committee would refer the issue to the Authority as a last resort for ultimate resolution. Peter expressed the view that this procedure

would address Ofgem's concern that it would have to address all data format issues.

Peter Bolitho asked who would make the decisions – GTs or the industry. Peter Bingham responded that it would be the UK Link committee and therefore include industry participants.

Alex Wiseman confirmed his understanding of the issue as explained by Peter Bingham. Peter Bolitho and Mike Young expressed their concern that although class 1 changes affect only Transco systems directly, they do have an impact on shipper systems (the Gemini issue), which should be discussed by the governance committee under the current code. Sonia however interjected that class 1 changes are definitely not a DN sales issue.

Caroline Whitfield reminded the group that they had not yet discussed the action on Transco from DISG 33 to provide a list of the services that would be likely to be provided out of the Agency. Peter Bingham replied that Transco had addressed this issue and had copies of the services matrix to distribute. Sonia asked if this was the same as that presented to the SPAWG, and whether this could be checked. She expressed her concern (mirrored by shippers) of "scope creep", i.e. that some services are falling out of UNC and going into the category of non-governed services. She made the point that if this were to continue, Transco would need to be questioned further on the issue.

Action: Transco/Ofgem to check that more services have not been added to the "non-governed" category since seen by SPAWG.

Sonia was also concerned that Option C had not been fully implemented – just Option A. She stated that NGT must give Ofgem reassurance that it is being implemented.

Action: NGT to give Ofgem reassurance that Option C is being implemented.

Next, Julian Bagwell requested details of the xoserve supply point information. Sonia said that xoserve has to provide this information to Ofgem for market monitoring purposes; she stated that this should be on the list, since it is governed under the licence. She added that it would not be acceptable if introducing xoserve into the chain resulted in delays to information provision. Sonia said that Ofgem was assuming that it would make this information request under GT licences and that it would be up to them to provide. Ofgem would wait to see what xoserve would be sending on behalf of the GTs.

Sonia then stated that the last remaining action to be discussed was an action on Ofgem to inform DISG members, via email, of when the DTI consultation regarding independent systems is published. Sonia noted that this had been done.

Tory Hunter had some licence comments on special conditions (C1 & C5) relating to exemption, that some wording should say "DN operator". Suzanne replied that these changes had now been put through.

Sonia then stated that there had been no actions on DISG 34 except for NGT and the potential buyers to get back with their comments. She added that Ofgem had received these comments from the buyers and NGT.

2. Review of licence drafting

a. Price control conditions

As background, Suzanne explained that Ofgem had directed the Income Adjusting Event changes to Special Condition 28B of Transco's licence, and had subsequently directed, on 1 February 2005, the Section 23 modifications as outlined in Chapter 3 of the Next Steps document. Sonia noted that it was the intention to introduce Income Adjusting Event provisions within the DN licences as part of a section 23 consultation following hive-down, to coincide with the introduction of incentives. Suzanne then started the discussion of key issues with the price control conditions, saying that she would page-turn the relevant pages, starting with the definitions:

Special Condition C8A

Revenue restriction definitions in respect of the NTS transportation owner activity and NTS system operation activity

- Throughout the document, the phrase "the licensee's Network Code" has been replaced by the term "the network code", and a general sense-check has been performed on the same to ensure appropriateness of usage
- The definition of "appropriate auditors" has been deleted as it is included in Standard Special Condition A3
- The definition of "Distribution Network" has been changed slightly (in *underlined italics*) and now reads "means the relevant gas distribution network defined with reference to the aggregate of its constituent Local Distribution Zones (LDZs) (*having the meaning given to that term in the network code*) as set out in the table below... "
- The definitions of items that will be defined within the UNC have been reconsidered, e.g.
 - "system entry capacity" is "NTS Entry Capacity" in the network code, and the definitions of
 - "NTS exit capacity" and "NTS exit flow flexibility" have been reconsidered and moved to Standard Special Condition A3

Sonia clarified that Ofgem have been constrained by the fact that the licence modifications have to be finalised on 14 February even though the UNC has not been finalised. Hence Ofgem have had to go with the "best estimated view", and definitions have been a particular problem. So in case UNC related decisions are not incorporated in this edition of the licence, they will be incorporated in a further section 23 process between hive-down and completion. Sonia reiterated that any major changes in definitions would complicate the whole process, and that earlier changes or tweaks would be preferred to later ones. Suzanne then continued listing changes in the definitions.

- The definition of NExA has been deleted as it is no longer required following the deletion of “exit capacity constraint management services”
- The definition of NTS has been deleted as it is now in Standard Special Condition A3
- Two new terms have been defined – “NTS baseline exit flow flexibility” and “NTS incremental exit flow flexibility”
- NTS SO activity has been tweaked to clarify the division of roles and responsibilities between the NTS and the DNs
- The definition of system balancing services has been deleted as it replicated the definition of “balancing management”. Suzanne noted that the definition of “balancing management” had been moved from Special Condition C1A to Standard Special Condition A3. However, the balancing management definitions themselves have not changed, apart from their positions. Sonia stated that they are now much clearer
- Under “entry capacity”, there were previously two sub-bullets – one for entry capacity constraint management services, and the second for exit capacity constraint management services, both of which have been rationalised to refer to “constraint management services”, which is a term defined within Standard Special Condition A3
- The definition of “plus 15 curtailment day” is now network specific, and has been explicitly connected to “the transportation system to which this licence relates”
- GTs are now included explicitly, and linked to this, the definition of “shippers” has now been deleted, and references are instead made to “gas shippers”
- Relative to “supply of transportation services”(as in Standard Special Condition A3), the phrase “transportation system” has now been replaced with “distribution network” within the NTS licence to make it clear which pipeline system is referred to
- Suzanne further noted that a number of NTS definitions were included in the DN licences and vice versa. Suzanne noted that this was the result of the need to refer to both the NTS and RDN businesses in relation to the allocation of prescribed rates for Transco. However, Suzanne also noted that following share sale, it might be possible to remove a number of NTS definitions from the IDN licences
- The definition of “universal firm registration” has also been deleted as it is no longer applicable

Suzanne at this point paused to ask if there were any further questions. Tory Hunter raised a query that the licence changes in Section 8AA are for the hive-down, but a lot relate to the enduring arrangements which may not come into

play. Sonia agreed, but stated that Ofgem is preparing for them. Suzanne added that all incentive related changes would be picked up as part of the Section 23 modifications. Peter Bolitho queried why Ofgem were occupying themselves with these issues at the present time, when they could be part of a separate process closer to 1 September 2005. Again, Sonia explained that these issues were being dealt with as part of the current process because of the “best endeavours” obligation on NGT and potential purchasers.

Suzanne continued the session with a discussion of Special Condition C8B.

Special Condition C8B

Restriction of revenue in respect of the NTS transportation owner activity and NTS system operation activity

The main points raised were as follows:

- The “Principal formula” in paragraph 2 relates to actual revenues – the feed into allowed revenues is through a correction factor
- Paragraph 3 relates to maximum / allowed revenues – they remain unchanged except for the safety net
- The $TOEx_t$ term and the $TOExNTSSIC_t$ term (paragraph 2 (1) (ii)) will have the value “0” as of 1 October 2008
- In paragraph 2 (1) (i), the $TOExR_t$ term and the $TOExNTSSIC_t$ term will remain the same in the interim and the overall formula remains unchanged, but going forward into the enduring arrangements, two terms remain in play and $TOREVBExC_t$ will become non-zero
- The $TOREVBExC_t$ term defined on page 5 represents the sale of NTS baseline exit firm capacity and NTS baseline exit flow flexibility
- The other adjustment (paragraph 3 (1) c) in relation to NTS prescribed rates is that following share sale, Transco will have a single bill, but the allocation to its businesses will have to change. Consistent with the Valuation Office model for IDN bills, Ofgem has determined that the total charge to be applied in respect of the NTS in England as 29.2729% of the prescribed rates bill for England
- In respect of the formula year commencing on 1 April 2007 (paragraph 3 (2) (a) (ii)), the £16.3 million safety net amount that had been determined in the final IA has been reflected, and will be inflated to 2007 prices. The safety net is triggered by the term “CSN” in the event that Transco either sells only one of its DN companies, or if the DN sales proceed to just one buyer or members of only one corporate group. Sonia hastened to add that this was not the current expectation, but that Ofgem had to plan for the risk of customer detriment.
- The formula for actual NTS SO revenues (paragraph 13 (1) (b)) derived by the licensee from the provision of NTS exit capacity and flow flexibility ($SOExRF_t$) contains two terms for the interim arrangement

period which will die away and then four terms in respect of the enduring arrangements period, thus acknowledging that the source of revenues will change

- The universal firm registration provisions (paragraph 14 (6) (c)) have been removed
- Suzanne also highlighted that the Income Adjusting Event provisions recently directed by Ofgem reflected. Sonia added that the important thing to note is that in terms of SO revenues, the approach is consistent with that adopted for electricity

Suzanne remarked that the changes in other price control conditions are limited in number and scope.

Special Condition C9

Allocation of revenues and costs for calculations under the price control in respect of the NTS transportation owner activity and NTS system operation activity

The only change here is the deletion of the definition of “appropriate auditors” in paragraph 8, as this definition has been moved to Standard Special Condition A3.

Special Condition C10

Supplementary provisions of the revenue restrictions in respect of the NTS transportation owner activity and NTS system operation activity

Changes to this condition also include one definition removed plus a few cross referencing changes.

Special Condition C14

Information to be provided to the Authority in connection with the transportation system revenue restriction in respect of the NTS transportation owner activity and NTS system owner activity

Two new terms – $REVBExC_t$ & $REVBFF_t$ – have been added. Suzanne added that this will be looked at again as part of the Section 23 mop-up. These two variables have been put in as a flag for further changes.

Sonia added that Ofgem had found anomalies, though not DN sales related, and had been trying to eliminate them.

Special Condition C15

Licensee’s methodology for determining incremental entry capacity volumes

The main change in this condition is replacing the phrase “submit in a form approved by the Authority” to “submit for approval by the Authority” in order to add clarity.

Peter Bolitho asked if this was a DN sales related change. Sonia and Suzanne replied that it was a house keeping change, making it clear where it stands in relation to the incremental entry capacity volumes statement.

Schedule A

Finally, Suzanne referred to the new table for NTS baseline exit flow flexibility, stating that it would remain empty for the purposes of Section 8AA related modifications.

Sonia requested NGT to send their NTS related comments by noon on Monday 7 February, and for all other parties to send theirs' by close of play on the same day.

The discussion now turned towards the DN related licence conditions. Describing the RDN licences as more complex, Suzanne started with Special Condition E2A.

Special Condition E2A

Revenue restriction definitions in respect of the Distribution Network

- The definition of the phrase “appropriate auditors” has been deleted for the same reasons as earlier
- The definition of “connected system exit point” has been deleted
- A new definition for “Distribution Network capacity curtailment rights” has been added to replace the definition of “LDZ capacity curtailment rights”
- “Distribution Network transportation quantity” is defined in relation to arrangements with gas shippers and DN operators
- References to “system entry capacity” have been changed to “NTS Entry Capacity”, consistent with the drafting of the UNC
- The definitions of “exit capacity constraint management services”, “entry capacity constraint management services”, “shipper”, “system balancing services”, “NTS exit capacity” and “NTS shrinkage” have been deleted for the same reasons as in relation to the NTS licence
- Just a note – the usage of the phrase “transportation system” is appropriate in the definition of “supply of Distribution Network services” within the DN licence, but not in the equivalent NTS related condition

Here Nick Wye queried the definitions of capacity curtailment rights within the NTS and DN licences. Sonia replied that it was a tricky issue as she hadn't seen the full UNC, and added that this issue would potentially need to be tightened further post preparation of the UNC. She stated that the NTS and DNs will all have rights, and would be incentivised in relation to their respective capacity rights.

Special Condition E2B

Restriction of revenue in respect of the Distribution Network transportation activity

Suzanne started the discussion for this condition stating that all points are essentially repeated four times for the RDN licence; so she would begin with the North-Western network.

- The formula for “allowed revenue” has been tweaked and rebased differently for NTS and DN licences (the year corresponding to $t = 1$ is 2004/5 in DN licences, while $t = 1$ is 2002/3 in the NTS licence). From the year $t = 2$, a new term $DNExC_t$ reflecting exit capacity and flow flexibility charges that will be introduced. In respect of both exit capacity and flow flexibility, the new term represents total costs incurred, less any revenues received from the NTS operator. This charge will not apply until 2008, and will have a value of “0” until then.

Sonia stated that the date on which this new term was expected to become non-zero had not been hard-wired into the licence, as this term was in addition to, rather than in replacement of, other terms in the formula. However, if feedback to the effect were to be received, Ofgem would be happy to reflect the wording of the NTS licence. Sonia further stated that “pass-through” is an issue for DNs only when the aforementioned charge becomes positive (2008).

Julian Bagwell described flow back as equivalent to buyback.

An amendment has been introduced in respect of the revenue adjustment figure (DNK_i) to prevent smoothing before penal interest rates are applied. This will apply to individual licences and bring Transco and the IDNs onto a level playing field. Suzanne summed it up by saying that all in all, Transco’s RDN businesses would be worse off, all other licensees would be unaffected, and customers would benefit

Discussing the issue of dead-bands, Sonia mentioned that some licensees had stated their preference for having a dead-band. Sonia stated that the issue might be considered in the next price control, but not at the present time, adding that while Ofgem understood the argument, it would not reopen the price controls as to do so would require reconsideration of a number of other price control issues.

Suzanne indicated that this signalled the end of the NW network discussion, and that the same would apply for other networks, the only difference between the RDN and IDN licences being the treatment of prescribed rates.

Sonia stated that potential buyers needed to relay their comments by close of play (5:00 pm) Monday 7 February, failing which Ofgem would run the risk of failing to get the document out by the deadline on 14 February.

Special Condition E3

Information to be provided to the Authority in connection with the transportation system revenue restriction in respect of the Distribution Network

Two new terms – DNEExCC_t & DNExFFC_t – have been added, consistent with the equivalent NTS terms for exit capacity and flow flexibility.

Sonia remarked that this concluded the discussion in relation to the price control section.

b. Standard Special Condition D10 Provision of connections

Sonia introduced Sean O'Hara as presenting a new licence condition in section 8AA.

Sean explained that he would set out the amendments and principal features of changes in relation to:

- Overall performance standards
- Working days
- Audit requirements
- Definitions, and
- Licence obligations requiring Authority approval

Overall performance standards

Sean explained that the targets were in the process of being revised upwards – from the existing target (90%) to 95%, as stated at an Ofgem workshop two weeks before. Alex Wiseman remarked that the 95% target would be statistically significantly tougher to achieve and, furthermore, it would be statistically harder for a single DN to achieve any target than for eight consolidated DNs.

Sean continued further, detailing that standard quotes had been redefined, removing jobs that required site visits. He stated that Transco was currently working to a standard of D + 3 in relation to non-visit jobs and generally and hitting 95% + performance.

For non-standard quotes on jobs < 275kWh, Transco was working to D + 8, and hitting 90%. For non-standard quotes on jobs > 275kWh, Transco was currently working to D + 12, and hitting 95%. Further, Transco was receiving around 4000 requests for land enquiries across all networks, and currently hitting 98% + performance.

Working day changes

Sean proposed a move from D + 3 with 90% target to D + 6 with 95% target for standard desk-top quotes. He expressed the view that it should not be a difficult standard to achieve, given that the D + 3 performance level for the prior year had been 95.75%, and that it would only involve looking at addresses, checking

records, and sending the standard charge in the majority of cases. Sean remarked that there would be an estimated 25,000 standard quotes for 2004-05, down from 30,000 for the previous year. Sean estimated that additional volumes direct from customers could double the work, but at the same time working days would also be doubled.

Where site visits would be required, the move proposed was from D + 8 and 90% to D + 11 and 95%. The D + 8 performance for 2004-05 was 89%.

Tory Hunter stated that in her understanding, a failure to meet the set standard would constitute a licence breach and hence warrant a 10% enforcement action fine. She questioned why the licence condition should apply to DNs when the enforcement order applied specifically to Transco.

Sean replied that Ofgem considered that there was a need to protect customers. He added that if the DNs did not manage their sub-contractors properly, it would invite enforcement action, or else risk the costs being passed through unfairly to customers. Sonia further stated that the enforcement action would have to be reasonable and proportionate.

Sean stated that the most recent enforcement actions involved in part Transco's performance against CSOS standards that was substantially below 90%, and led to a £1 million fine for performance across the whole of Great Britain. Tory stated her view that this was a very prescriptive approach, and would reflect a significant level of regulatory risk. Sonia replied that Ofgem would be reasonable and proportionate in their enforcement; for instance, a fine of 10% of group revenue if the licensee achieved 94.5% against a target of 95% would clearly potentially be unreasonable.

Nick Wye indicated that he still was not clear why Ofgem were going down this route.

Sean said that in deciding to impose a penalty of £1m the Authority had taken account of the money paid to customers by Transco. If this money had not been paid to customers the penalty levied by the Authority might have been higher.

Sonia expressed her view that due to the limitations of the current regulatory framework, a licence condition was required to protect customers. However, in the longer term, the scope of customers under the Gas Act could be broadened.

Alex asked if Transco would be able to smooth its performance across RDNs. Sean replied in the negative, and pointed out that since performance would be measured on a DN basis, there would be a level playing field. Sonia stated that since this was not reflected in the licence, it would have to be tweaked.

Sean recommended that DISG attendees go to Transco's website to view the % performance and volumes of jobs.

Action: Transco to provide website link today.

Peter Bingham stated that the data was submitted on a DN basis. Sean added that currently Ofgem gauged Transco's performance as a whole. However, if a specific area of Transco were to be a problem, then Ofgem would look at it as a potential Gas Act breach.

Peter asked whether this would be on an annual basis. In reply, Sean confirmed that indeed, bad months could be offset by good months.

James Lawson asked whether the standard charge would apply within a distance of 23 metres, and a non-standard charge above and beyond that distance. Sean confirmed that in most cases a domestic job within 23m of a relevant main would attract a standard charge except where the premises had a very long driveway. He clarified that the first 10m in the public highway would be free and then the first 20 metres in the customer's premises would attract a standard charge under Transco's charging methodology.

However, Sean emphasised that if a DN were falling down relative to the D+6 standard, then this would most probably relate to a cataclysmic event.

Tory enquired whether there was any scope for a licensee to request disapplication or derogation, as had been indicated by minutes of an earlier DISG meeting (DISG 32). Sonia replied that the DISG minutes had been misinterpreted, and the disapplication of any standard of performance was not envisaged. She added that a common set of standards must apply across all DNs, else the adopted measures would be counter-intuitive.

Alex however continued to question the need for "reasonable endeavours" in the face of what could sometimes prove to be extenuating circumstances. He asked why this couldn't be incorporated into the licence.

Sonia replied by reiterating that Ofgem has a duty under public law to reasonably take the transgressor to account, as these are the minimum quality of services for all DNs to meet. Helen Connolly supported this point by pointing out that the service standards applied to all licensees, unless explicitly excluded in accordance with statement 6e of this licence condition that provided scope for licensees to identify situations where these standards might not be met. Sonia agreed and stated that it was this point that had been debated in the DISG that Tory had alluded to earlier.

Sean further gave an example of such a complex connection as one across a railway crossing, or a 3rd party between the licensee and the property, or a world heritage site.

Julian Bagwell said that he agreed with the point in principle, but was still concerned that it was in a licence condition. Sonia replied that she did appreciate his concern, but pointed out that it was a commercial contract between the licensee and the sub-contractor. Ofgem's nervousness stemmed from the fact that the sub-contractor or service provider had not been reliable in the past. Hence for customer protection, these measures have had to be adopted. Furthermore, if a sub-contractor fails, it will not be accepted as a reasonable excuse for failing to meet standards.

Julian queried whether the objective of customer protection could not be achieved with a fine on overall performance. Sonia disagreed, saying that a purely financial measure in the form of payments to customers would not be sufficient as continued poor performance would not be in the customer interest. The Authority has made clear that customers want good service as the norm and compensation only when service is poor. Julian still maintained that there would still be no control over the first two months of the contract. Sonia retorted that it would be an issue that would require sorting out with the contractors, and also with NGT. Sean agreed.

Sonia continued, saying that Ofgem was aiming to protect the interest of all customers (which the SI is not) and trying to be more transparent with the standards. Sonia noted that it could be argued that such transparency could reduce regulatory risk.

Coming back to the presentation, Sean stated that for more complicated and expensive jobs, often requiring site visits and customer meetings, > 275kWh that might be attractive to independent connection providers, the proposed move was from D + 12 to D + 21 – a significant extension in time. Julian asked whether this was to allow for regional variations. Sean replied in the negative, explaining that it merely reflected the fact that these were more complex jobs. Furthermore, if customers were not happy with the DN provider, then they could go to an independent connection provider. Tory questioned whether geography would be a relevant factor – population density, etc. Sean agreed, but believed it to be a “swings and roundabouts” issue in that if you’re in a sparsely populated area, you wouldn’t get that many inspections. He added that Ofgem had pushed out timescales and included scope for complex or legal exclusions – so if factors out of the licensees’ control would be taken into account in not imposing any penalties.

Sonia stated that consultation on this would form part of the section 8AA modification process. She added that the definition of “complex connections” would need to be prepared and agreed by Transco in parallel with the section 8AA consultation, but not as part of the licence condition. Further, Transco would need to be ready with this for April and get it to Ofgem for them to consult with all parties.

Action: Transco to look at existing statement and consult with purchasers.

Moving to land enquiries, Sean described Transco’s performance running at 98% (D + 5), on a base of 4000 requests in 2004. He explained that land enquiries are a desk job that does not need any site visits. He stated that Ofgem were proposing to bring that in line with 95% as it would also include design approvals and would have problems if kept as a separate category, as it was crucial for developing competition in this area.

Alex asked if Ofgem had conducted any geographic analysis. Sean replied that the analysis was predominantly at the national level, with a specific area examined only if it was perceived to be a problem. Sonia added that one would need a very compelling reason for a regional difference. Also, while Transco’s past performance was one of the relevant factors, it was not the only one. So the issue was not just about statistical significance.

Alex continued to express his concern over what the standards were going to be in relation to land enquiries, and the statistical issues created by disaggregating the target between DNs.

Sean stated that there were 3000 developer and 800 independent connection provider land enquiry requests in 2004/05. Across 2004-05, every single DN hit >95% in respect of independent connection providers.

Sonia asked attendees to go away and look at the Transco link to check whether there is any variation between RDN & IDN businesses.

On the working day changes, Sean also mentioned the new condition of offering a substantial completion date (so that licensees would have 20 working days to give customers this date of service provision).

Audit requirement changes

Sean conceded that the originally stated audit requirements were too onerous; hence Ofgem had removed this requirement and replaced it with “at least once in each formula year”.

Other changes included:

- New obligation to inform the Authority of the scope and nature of audit arrangements
- The Authority can now review audit arrangements and propose changes
- Audit report to be submitted to the Authority annually

Sonia added that given that Ofgem were saying “at least once...”, they could just amend it to make it an annual requirement, and delete “at least”.

Definition changes

Sean outlined Ofgem’s position that the licensee must refund money to the customer in case of an overcharge – this is to reduce the need for the customer to continually refer to Ofgem / Energywatch. He said that in total, Ofgem have had (since Gas Act came into force) just 7 or so gas connections issues for formal determination.

Tory sought to confirm that if a customer were questioning that charge, then it of course would fall out of the “working days” response metric of the relevant connection provider. This was confirmed. Further, Helen stated that the complaint could be made up to 12 months after connection. Sean explained that the 12 month rule allows the customer to go ahead with the gas connection but still have the right to question the appropriateness of the charge. On a query from Julian Bagwell, it was also confirmed that if a customer queries the quotation (without issuing any go-ahead for the connection) and it is put in the review process, then whatever decision comes out of that, the clock starts ticking again for installing the connection.

Sean stated that standard quotations were now a desktop activity, and that specified connection information includes payment caps (SI), performance

against standards, number of complex connections, etc. forming a picture of performance.

Sean added that as a reasonable regulator, Ofgem would try to let the connection provider know in advance what data they (Ofgem) expected to be provided with, but they (Ofgem) would in no way be limited to that legally.

Licence obligations requiring Authority approval

Sean briefly covered the accuracy review scheme, comprising the review arrangements. The other items on this slide – complex connections and excluded connections – had already been discussed.

Peter Bingham asked if there were there other exclusions in respect of behaviour. Sean replied that there would be exclusions in terms of minimum information expectations, but that this will not be specified by Ofgem; it will need to be established by the licensee.

Action: Transco to come back with these issues, and get Sean back to inform on what the arrangements are likely to be at a future DISG.

This concluded Sean's presentation. Sonia requested buyers to report any questions back by Monday the 7th of February. She also cautioned that if the recommendations included any substantive policy changes from the version of the document that had gone back to the Exec on the past Monday, then that would put the time-table for the licence potentially at risk.

c. Any other issues

Suzanne discussed a few more conditions.

Standard Special Condition A9 Pipeline system security standards

Suzanne explained that paragraph 2 that discussed flow flexibility was the key paragraph, adding that the earlier phrase "including but not limited to aggregate peak hourly demand" had now been revised to "including, but not limited to, within day gas flow variations on that day". Sonia expressed her view that this revision added clarity, which was echoed by Julian Bagwell and Peter Bolitho. Peter Bingham stated that in Transco's view, this change was not necessary.

Standard Special Condition A55 Enduring offtake arrangements

Sonia explained that the revised condition achieves two objectives:

- Firstly, it introduces a "best endeavours" obligation
- Secondly, it places an obligation on the licensee that they will take an undertaking from their ultimate controller on a "best endeavours" basis

Peter Bolitho expressed his view that September 2005 would be an extremely tough date, and hence requested the Authority to consider a more practical date. He suggested 1 September 2006 as a more practical date.

Mike Young added that September 2005 refers to the date by which the event would have to be in place. One would need to buy capacity on this date for 2008. In his opinion, if the lead time could be reduced from three years to two years, then Peter's suggestion would be workable.

Sonia then stated that the Authority had already made the decision that a 3 year lead time would be required following receipt of information from Transco. Mike enquired whether the situation would be any different if Transco too were to support this idea. Sonia then put the question to Peter Bingham, asking him how Transco could realistically plan their long-term investments without the benefit of auctions. Peter agreed, adding that auctions were required to provide the necessary investment signals.

Review of financial conditions

Suzanne then conducted a brief discussion of some financial conditions relating to Regulatory accounts, Credit, and Indebtedness.

Standard Special Condition A30 Regulatory accounts

The following changes have been effected:

- The condition has been tweaked to split paragraph 1 into paragraphs 1 & 1A, with the "de minimis businesses" of relevant associates now covered in paragraph 1, so that it applies to licensees other than Transco
- A minor tweak has been made to paragraph 5, with the addition of the phrase "preceding the changes referred to above"
- DPCR consistency change – paragraph 7 has been split into paragraphs 7 and 8
- Publication of information provisions has been modified such that the reconciliation provided by Transco must be published and information on the de minimis businesses in paragraph 1(e) does not need to be published

Standard Special Condition A38 Credit rating of the licensee

Here the definition of "investment grade" has been introduced.

Standard Special Condition A39 Indebtedness

In paragraph 3, sub-paragraphs b & c have been changed to make them consistent with DPCR changes

Standard Special Condition A11

Network code and uniform network code

The following changes have been effected:

- Suzanne stated that the “and / or reviewed” phrase discussed the previous week in paragraph 9 has now been removed
- “gas transporter” has now been changed to “licensee” in paragraph 11
- Suzanne also stated that a paragraph 17(c) had been introduced to require the network code and uniform network code to be published on a website. Peter Bingham stated that the Joint Office would do this. Suzanne agreed. Tory Hunter asked if this would be reflected in the drafting of Standard Special Condition A12. Suzanne confirmed that it would

Standard Special Condition A12

Joint office governance arrangements

Suzanne mentioned that in paragraph 1(a) (v) – the phrase “licence and statutory obligations” has been added.

In addition, Suzanne also commented on a few other changes, including:

- Following consideration of respondents’ views on business separation, Ofgem had noted that:
 - One respondent had stated that the obligation upon Transco in Special Condition C20 should be strengthened from “reasonable” to “best”; and
 - Another respondent had stated that the obligations across monopoly / competitive businesses and NTS / RDN should be consistent.

As such, Ofgem proposed to strengthen the obligation from “reasonable” to “best” in Standard Special Condition A33 and Special Condition E10, as well as Special Condition C20

- The GT / Shipper exemption modification changes highlighted at a previous DISG meeting had been put through into Special Conditions C1 and C5, and Standard Special Condition D5
- Tweaks in Standard Special Condition A36 to 2 (b) and 4 (b)(i) have been made to address comments raised by Transco and will include references to businesses other than just the transportation business
- Suzanne mentioned that Standard Special Condition D9 might also get tweaked

And in response to comments that social conditions revert to standard conditions, Suzanne replied that the insertion of a caveat to avoid the possibility of a licence breach would mean that they would need to stay as standard special conditions.

Since there were no further questions, the morning session was declared over.