

March 2005

**Gas and electricity licence
applications**

Guidance document

86/05

Summary

This document replaces the guidance for licence applicants issued by Ofgem in January 2004.

Following commencement of the Energy Act 2004, new application regulations were made on 21 October 2004 which repealed and replaced previous regulations made in 2001 and 2003. To allow for gas and electricity interconnector licence applications, the regulations made in October 2004 were then repealed and replaced on 1 December 2004 by the Application Regulations December 2004.

The document explains the regulatory and legal framework within which Ofgem currently considers applications for all types of licences, or for extensions or restrictions of existing licences, and in the case of electricity transmission licences only, for the modification of an area of a licence. It then explains the procedures that Ofgem follows when assessing applications for all types of gas and electricity licences. In particular it sets out Ofgem's objective and non-discriminatory criteria for deciding whether to grant a licence.

The document also sets out the procedures Ofgem will follow when it proposes to refuse an application for a licence.

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1. Introduction

Purpose of this document

- 1.1 This document replaces previously issued guidance on gas and electricity licence applications¹. It explains the procedures that Ofgem follows when assessing applications for all types of gas and electricity licences. In particular it sets out Ofgem's objective and non-discriminatory criteria for deciding whether to grant a licence. It also explains the process that follows a proposal by Ofgem not to grant a licence.
- 1.2 This document should be read in conjunction with the Gas Application Regulations December 2004² and the Electricity Application Regulations December 2004³ (together "the Application Regulations December 2004"). A copy of these Regulations are included in Appendix 1.

Context

The Application Regulations December 2004

- 1.3 The Application Regulations December 2004 are a core component of the gas and electricity licensing system. They set out the form in which applications for licences (or modification of an area or extensions or restrictions of licences) should be made, the fee payable for each type of licence and also specify the minimum information that applicants must provide in order for Ofgem to consider an application.

Offshore wind generation, transmission and distribution

- 1.4 The Energy Act contains provisions which, on commencement, will extend the prohibitions on licensable activities contained within the Electricity Act 1989 ("the Electricity Act") so as to include the carrying out of activities prohibited by the Electricity Act in the territorial sea adjacent to Great Britain or any

¹ Gas and electricity licence applications. Guidance document. January 2004. Ofgem. 02/04.

² The Gas (Application for Licences and Extensions and Restrictions of Licences) (No.2) Regulations 2004 SI No 2983

³ The Electricity (Applications for Licences, Modification of an Area and Extensions and Restrictions of Licences) (No. 2) Regulations 2004 SI No 2952

designated Renewable Energy Zones, in addition to the prohibition applying within Great Britain.

- 1.5 The Energy Act provides the Authority with the flexibility to grant offshore transmission licences by way of a tender process in certain prescribed circumstances. The circumstances in which an offshore transmission licence application will be subject to a tender process, and the way in which such a process will operate, will be prescribed in Regulations made by the Authority at a future date.
- 1.6 The Energy Act extends the prohibitions in section 4 of the Electricity Act offshore. The extension of these prohibitions and the resulting extension of the licensing and exemption framework may require some changes to the Electricity Application Regulations December 2004.
- 1.7 Ofgem will consult on any changes to the Electricity Application Regulations December 2004 in respect of offshore wind generation, transmission and distribution, should they be required, at the appropriate time. This guidance document will be updated to take account of any changes made.

EC Directive 98/30/EC “Concerning Common Rules for the Internal Market in Natural Gas”

- 1.8 Directive 98/30/EC (“the Directive”) places certain obligations on licensing authorities such as Ofgem. The obligations include a requirement to publish objective and non-discriminatory criteria and procedures for assessing gas licence applications. In March 2002 Ofgem fulfilled that requirement by publishing a guidance document on licence applications.
- 1.9 In line with Ofgem’s policy to align the gas and electricity markets wherever possible, the document extended the principle of such criteria to the electricity licensing process.

Ofgem initiatives

- 1.10 Ofgem currently has a number of initiatives that will make it easier for potential applicants to understand the licensing regime. These include joint presentations (with MRASCo⁴ and Elexon) to potential entrants to the electricity market. Ofgem has also published Application Handbooks to guide applicants through the licensing process.

Review of the licensing process

The Energy Act 2004

- 1.11 The Energy Act 2004 (“the Energy Act”) contains provisions relating to the introduction of the British Electricity Trading and Transmission Arrangements (“BETTA”). Ofgem and the Department of Trade and Industry (“DTI”) have published a series of consultation and conclusion papers during the development of BETTA (the BETTA go-live date is anticipated to be 1 April 2005). The consultations can be viewed on the Ofgem website at www.ofgem.gov.uk. These provisions include:
- ◆ the introduction of a new prohibition of “participation in transmission” which incorporates both system operation and transmission ownership activities in place of the current prohibition of “transmitting” without a licence
 - ◆ the removal of the current concept of “authorised area” which prevents more than one transmission licensee undertaking transmission activities in a given geographical area and the introduction of an ability to seek a modification of an area
 - ◆ a new set of standard licence conditions for electricity transmission licences which were determined by the Secretary of State under the Energy Act 2004 and which came into effect on and from 1 September 2004⁵, and

⁴ MRASCo is the company established by signatories to the MRA to be responsible for managing the day to day operation of the MRA. On 1 September 2002 MRASCo’s personnel and operational assets transferred to Genserv.

⁵ Electricity Transmission Licence – New Standard Conditions. 26 August 2004. DTI.

- ◆ the introduction of a new regulated code (the system operator-transmission owner (“STC”)) which sets out the interactions between transmission licensees relating to the GB transmission system.
- 1.12 The legal framework for BETTA was introduced between 26 August 2004 and 1 September 2004. Certain aspects of the legal framework are already in effect and other aspects will take effect from the BETTA go-live date.
- 1.13 Commencement of the above provisions contained within the Energy Act and the introduction of the BETTA arrangements generally, required changes to the Application Regulations 2001⁶ and the Amendment Regulations 2003⁷ together “the Amended Regulations”.
- 1.14 Ofgem consulted on the proposed changes to the Amended Regulations in June 2004⁸. The consultation proposed a number of changes to the Amended Regulations following commencement of the Energy Act 2004. The paper also proposed changes which sought to ensure that the licensing process and its application regulations were as clear and user friendly as possible.
- 1.15 Ofgem proposed to bring about these changes by repealing the Amended Regulations and replacing them with new consolidated application regulations.

⁶ The Gas (Applications for Licences and Extensions and Restrictions of Licences) Regulations 2001 SI No 3353 and The Electricity (Applications for Licences and Extensions and Restrictions of Licences) Regulations 2001 SI No 3354

⁷ The Gas (Applications for Licences and Extensions and Restrictions of Licences) (Amendment) Regulations 2003, SI No 847 and The Electricity (Applications for Licences and Extensions and Restrictions of Licences) (Amendment) Regulations 2003 SI No 848

⁸ Proposals for the amendment of the Licensing Application Regulations. Consultation Document. June 2004. Ofgem. 139/04.

- 1.16 The Amended Regulations were repealed and replaced on 21 October 2004 by the Electricity Applications Regulations 2004⁹ and the Gas Application Regulations 2004¹⁰ together (“the Application Regulations 2004”)

The Application Regulations 2004

- 1.17 The Application Regulations 2004 introduced a number of amendments required by the commencement of the Energy Act and also consolidated the information that was required by the Amended Regulations.
- 1.18 The Application Regulations 2004 also addressed a number of issues raised in the past by applicants and clarified requirements of the Amended Regulations.

Interconnector licences

- 1.19 The June 2004 consultation proposed changes to the Amended Regulations to allow for applications for gas and electricity interconnector licences.
- 1.20 Ofgem indicated in that consultation that it would, if necessary to ensure that Ofgem met the BETTA timetable, make further Application Regulations to allow applications for gas and electricity interconnectors at a later date.
- 1.21 In October 2004 Ofgem published an open letter¹¹ concerning the licensing of interconnectors and the Application Regulations 2004. The letter confirmed that:
- ◆ Ofgem was not in a position to have included provisions for interconnector licence applications in the Application Regulations 2004
 - ◆ Commencement Orders had now been made for those provisions within the Energy Act which introduce the licensing regime for gas and electricity interconnectors¹²

⁹ The Electricity (Applications for Licences, Modification of an Area and Extensions and Restrictions of Licences) Regulations 2004 SI No 2541

¹⁰ The Gas (Application for Licences and Extensions and Restrictions of Licences) Regulations 2004 SI No 2542

¹¹ The Gas and Electricity Applications Regulations 2004 and the licensing of interconnectors. Open letter. 8 October 2004. Ofgem.

¹² The Energy Act 2004 (Commencement No 3) Order 2004, SI 2575

- ◆ Ofgem would make further gas and electricity application regulations in November 2004 (The Application Regulations December 2004) which would come into force in December 2004 and allow for interconnector licence applications, and
- ◆ The Application Regulations December 2004 would, apart from the two small exceptions detailed in the letter, contain the requirements for interconnectors that were proposed in Ofgem's June 2004 consultation.

1.22 The Applications Regulations 2004 were repealed and replaced on 1 December 2004 by the Application Regulations December 2004.

BETTA

1.23 BETTA will introduce a single set of transmission and trading arrangements across Great Britain.

1.24 As explained above, the BETTA proposals have been the subject of extensive consultation by Ofgem and the DTI. Ofgem proposed a number of changes to the Amended Regulations to take account of BETTA. These changes were introduced on 21 October 2004 by the Electricity Application Regulations 2004.

Rationale

1.25 The licensing system provides access to the:

- ◆ gas and electricity supply markets
- ◆ gas shipping market
- ◆ electricity generation market, and
- ◆ gas transportation, electricity transmission, electricity distribution, and gas and electricity interconnector activities

1.26 The criteria in this document are the minimum criteria that have to be met by an applicant for a licensee to participate in these activities. These take into account:

- ◆ Ofgem's duty to protect customers, wherever possible by promoting effective competition

- ◆ the fact that various industry codes and agreements set out in detail industry processes to which a licensee must adhere. In many cases the licensee has to undergo some testing before it is allowed to operate. In addition the licensee is often obliged by its licence to adhere to the codes and agreements, and
- ◆ Ofgem's aim of minimising regulatory burden and maximising the opportunity for new firms to enter the market.

1.27 Ofgem recognises the need to encourage innovation and the fact that the structure of applicants' businesses will differ. The criteria therefore do not set out prescriptive standards which must be met, but indicate to applicants the nature of information that they are expected to supply and the manner in which this information will be assessed.

Structure of this document

1.28 The rest of this document is structured in the following way:

- ◆ Chapter 2 explains the regulatory and legal framework relevant to the licensing process
- ◆ Chapter 3 explains the general procedures that Ofgem uses to assess all licence applications
- ◆ Chapter 4 describes the objective and non-discriminatory criteria against which Ofgem will assess an application for a gas supplier licence
- ◆ Chapter 5 describes the objective and non-discriminatory criteria against which Ofgem will assess an application for a gas shipper licence
- ◆ Chapter 6 describes the objective and non-discriminatory criteria against which Ofgem will assess an application for a gas transporter licence
- ◆ Chapter 7 describes the objective and non-discriminatory criteria against which Ofgem will assess an application for a gas interconnector licence
- ◆ Chapter 8 describes the objective and non-discriminatory criteria against which Ofgem will assess an application for an electricity supplier licence

- ◆ Chapter 9 describes the objective and non-discriminatory criteria against which Ofgem will assess an application for an electricity distribution licence
- ◆ Chapter 10 describes the objective and non-discriminatory criteria against which Ofgem will assess applications for electricity generation licences
- ◆ Chapter 11 describes the objective and non-discriminatory criteria against which Ofgem will assess applications for electricity transmission licences
- ◆ Chapter 12 describes the objective and non-discriminatory criteria against which Ofgem will assess applications for a electricity interconnector licence
- ◆ Chapter 13 describes the procedure Ofgem will follow if it proposes to refuse an application for a licence, a modification of an area or an extension or restriction of a licence
- ◆ Appendix 1 contains copies of the Application Regulations December 2004
- ◆ Appendix 2 explains the main activities for which Ofgem can grant a licence, and
- ◆ Appendix 3 lists previous guidance published by Ofgem for relevant gas and electricity Codes of Practice.

1.29 If you have any queries about this document then Ikbal Hussain (tel 020 7901 7049) will be pleased to help.

2. Regulatory and legal framework

2.1 This chapter explains the regulatory and legal framework relevant to the licensing process.

Regulatory framework

The Gas and Electricity Markets Authority

2.2 The principal objective of the Gas and Electricity Markets Authority (“the Authority”) in carrying out its functions is to protect the interests of consumers, wherever appropriate by promoting effective competition¹³. The Authority must carry out its functions in the manner it considers is best calculated to further that principal objective having regard to, amongst other things:

- ◆ the need to secure that:
 - so far as it is economical to meet them, all reasonable demands for gas are met, and
 - all reasonable demands for electricity are met
- ◆ the need to secure that licensees can finance their activities which are the subject of obligations under the Energy Act, the Utilities Act or, as the case may be, the Gas Act 1986 or the Electricity Act 1989
- ◆ the interests of particular customer groups such as the disabled or chronically sick, and
- ◆ the promotion of efficiency and economy by licensees.

¹³ Gas Act 1986 s4 and Electricity Act 1989 s3

Legal Framework

The Gas Act 1986

2.3 The Gas Act makes it an offence to carry out certain activities unless licensed or exempt from the requirement for a licence¹⁴. Ofgem can grant licences¹⁵ for the following activities:

- ◆ gas transportation
- ◆ gas shipping
- ◆ gas supply, and
- ◆ gas interconnectors¹⁶.

Further details of these activities are set out in Appendix 2.

2.4 The Gas Act makes it an offence for any person, in giving any information or making an application, to make any statement which is known to be false in a material particular, or to recklessly make any statement which is false in a material particular¹⁷.

2.5 Ofgem must, where it proposes to grant a gas transporter's licence, publish a notice stating the reasons that it proposes to grant the licence and giving the time within which any representations may be made¹⁸.

2.6 If Ofgem proposes to refuse an application it must give the applicant a notice:

- ◆ stating that it proposes to refuse the application
- ◆ stating the reasons why it proposes to refuse the application, and
- ◆ specifying the time within which representations about the proposed refusal can be made.

¹⁴ Gas Act 1986 s5

¹⁵ Gas Act 1986 s7& s7A

¹⁶ Although the powers under the Energy Act have been commenced the Authority will not be able to grant a gas interconnector licence to a new interconnector until the Secretary of State publishes the Standard Licence Conditions and they are incorporated into the licence.

¹⁷ Gas Act 1986 s43

¹⁸ Gas Act 1986 s7(5)

Ofgem must consider any representations that are made and not withdrawn¹⁹.

The Electricity Act 1989

2.7 The Electricity Act makes it an offence to carry out certain activities unless licensed or exempt from the requirement for a licence²⁰. The Authority can grant²¹ licences for the following activities:

- ◆ electricity generation
- ◆ participation in transmission
- ◆ electricity distribution
- ◆ electricity supply, and
- ◆ electricity interconnectors²².

Further details of these activities are set out in Appendix 2.

2.8 The Electricity Act makes it an offence for any person, in giving any information or making an application, to make any statement which is false in a material particular, or to recklessly make any statement which is false in a material particular²³.

2.9 Ofgem must, if it proposes to grant an electricity transmission licence, publish a notice stating the reasons that it proposes to grant the licence and giving the time within which any representations may be made²⁴.

2.10 If Ofgem proposes to refuse an application it must give the applicant a notice:

- ◆ stating that it proposes to refuse the application
- ◆ stating the reasons why it proposes to refuse the application, and

¹⁹ Gas Act 1986 s7(B)(2A)

²⁰ Electricity Act 1989 s4

²¹ Electricity Act 1989

²² Although the powers under the Energy Act have been commenced the Authority will not be able to grant an electricity interconnector licence to a new interconnector until the Secretary of State publishes the Standard Licence Conditions and they are incorporated into the licence.

²³ Electricity Act 1986 s59

²⁴ Electricity Act 1989 s6B(3)

- ◆ specifying the time within which representations about the proposed refusal can be made.

Ofgem must consider any representations that are made and not withdrawn²⁵.

Licence transfers

- 2.11 In considering whether to give consent to a proposed licence transfer Ofgem must apply the same criteria that it would apply if it were considering whether to grant a corresponding licence to the transferee²⁶.

Health and Safety Executive

- 2.12 Ofgem will consult the Health and Safety Executive (HSE) about safety issues contained in information submitted by applicants for gas transportation and electricity distribution licences. It will also consult the HSE about any other safety matters²⁷.

The Application Regulations December 2004

- 2.13 The Application Regulations December 2004 state the manner and form in which applications for gas and electricity licences must be made and the information they must contain. They apply to applications for a licence, applications for an extension of a licence and applications for a restriction of a licence. Extensions and restrictions of licences are explained in more detail in Appendix 2.

- 2.14 The Electricity Application Regulations December 2004 also apply to applications for a modification of an area of a transmission licence. Modification of an area of a transmission licence is explained in more detail in Appendix 2.

- 2.15 In addition to specific information that is required for the different types of licence, all applicants must provide the following information:

- ◆ “General Particulars” such as name and address of the applicant

²⁵ Electricity Act 1989 s6A(4)

²⁶ Gas Act 1986 s8AA(6) and Electricity Act 1989 s7A(6)

²⁷ Gas Act 1986 s4A(1)

- ◆ “Details of Application” where an applicant can explain any modifications to standard licence conditions that they require, and
- ◆ “Criminal Offences” – Details of criminal convictions of the applicant or any of those persons specified in the Application Regulations December 2004.

Directive 98/30/EC “Concerning Common Rules for the Internal Market in Natural Gas”

2.16 The Directive seeks to establish internal markets in natural gas throughout Member States. Among other things the Directive requires that Member States:

- ◆ lay down objective and non-discriminatory criteria to be met by an undertaking applying for a licence
- ◆ make public the non-discriminatory criteria and procedures for the granting of licences
- ◆ ensure that the reasons for any refusal to grant a licence are objective and non-discriminatory and are given to the applicant
- ◆ forward to the Commission the reasons for a refusal to grant a licence, and
- ◆ establish a procedure enabling the applicant to appeal against a refusal to grant a licence.

3. Assessing licence applications

- 3.1 This chapter describes the general procedures that Ofgem uses to assess all licence applications.
- 3.2 Applicants should bear in mind that, in considering whether to give consent to a proposed licence transfer, Ofgem must apply the same criteria that it would apply if it were considering whether to grant a corresponding licence to the transferee.

Provision of information

- 3.3 The Application Regulations December 2004 set out the information required to make a licence application and the manner and form in which it must be provided. In addition, Ofgem's Licensing staff provide advice and guidance on the type of information required and licence application fees.
- 3.4 In order to assess applications more efficiently, other than in exceptional circumstances (such as an urgent request for a temporary licence), Ofgem will not start to assess an application unless all the information required by the Application Regulations December 2004 has been provided. In cases where insufficient information has been provided Ofgem will explain what more is required.
- 3.5 Ofgem has also identified that in some cases where it requests clarification of information, applicants may take a considerable time to respond. This can lead to delays in processing applications and cause frustration for the applicant. Ofgem will agree timescales with individual applicants for the provision of further information (where this is required).
- 3.6 Failure to meet these agreed timescales may lead to a refusal to grant a licence (although the applicant would be able to appeal against such a decision – see Chapter 11).

Objective and non-discriminatory criteria applicable to all licence applications

- 3.7 This section explains the objective and non-discriminatory criteria that Ofgem will use to assess applications for all licence types. In addition, there are specific criteria that apply to individual types of licence; these are explained in later chapters. Applicants must satisfy both the general and licence-specific criteria in order to be granted a licence.
- 3.8 Applicants should in any event ensure that they have systems and procedures in place that will enable them to comply with all the conditions of the licence if it is granted. Failure to comply with a condition of a licence may result in formal enforcement action by Ofgem.

Criminal convictions

- 3.9 A number of applicants have previously sought to clarify whether the Amended Regulations required applicants to supply a declaration about any unspent criminal convictions for the holding company or directors of the holding company should one exist.
- 3.10 The Application Regulations December 2004 make clear that the requirement for a declaration of unspent criminal convictions relates to:
- ◆ the current directors of the applicant, including any shadow directors, or where applicable the corresponding officers
 - ◆ the ultimate holding company and its directors
 - ◆ if the applicant is neither a body corporate nor a sole trader, the person(s) in whom effective control of the applicant rests, and
 - ◆ any person who holds 20 per cent or more of any class of the shares of the applicant.

Previous applications

3.11 Ofgem will check to establish:

- ◆ whether the applicant has previously held a licence that has been revoked, and
- ◆ whether a previous licence application from the applicant has been refused.

In each case the reason for the revocation or refusal will be considered to see if it is relevant to the decision to grant a licence.

Disqualified directors

3.12 Ofgem will check to establish whether the directors (including shadow directors) of an applicant are disqualified.

Ability of licence holders to finance their activities and statements of business proposals

3.13 In carrying out its functions Ofgem must have regard to the need to secure that licensees are able to finance their activities. However, Ofgem does not consider that any check it could perform on a potential licensee at the time of application will provide continuing comfort about financial viability once the licensee commences operations. The Application Regulations December 2004 do not therefore require applicants to submit financial information or a statement of business proposals.

3.14 While applicants for licences are no longer required to submit information about financial viability or statements of business proposals, applicants for the network licence activities of gas transportation, participation in electricity transmission and electricity distribution will be expected to demonstrate that they will be able to comply with all of the conditions of their licence including those imposing financial requirements should it be granted.

3.15 In all cases Ofgem will check the Companies House website before granting a licence to ensure that applicants for all licences are solvent.

Objective and non-discriminatory criteria specific to different licensed activities

3.16 In addition to demonstrating compliance with the general criteria, applicants will also need to demonstrate compliance with criteria that are specific to the different licensable activities. These are set out in the following chapters:

- ◆ gas supplier licence – Chapter 4
- ◆ gas shipper licence – Chapter 5
- ◆ gas transporter licence – Chapter 6
- ◆ gas interconnector licence – Chapter 7
- ◆ electricity supplier licence – Chapter 8
- ◆ electricity distribution licence – Chapter 9
- ◆ electricity generation licence – Chapter 10
- ◆ electricity transmission licence – Chapter 11, and
- ◆ electricity interconnector licence – Chapter 12.

Modification of an area, extension and restriction of existing licences

3.17 Applications for modification of an area (transmission licences only), extensions or restrictions of licences must satisfy the requirements for information set out in the Electricity Application Regulations December 2004. However, information about the applicant's codes of practice need not be submitted where the information does not, in any material respect, significantly differ from or add to the most recent information or documents provided.

3.18 Ofgem will use the criteria applicable to all application types and the relevant licence-specific criteria to assess applications for modifications of an area and for extensions and restrictions of licences. In determining an application for a modification, extension or restriction Ofgem will, where necessary, request any information which has not been submitted.

4. Gas supplier licences

- 4.1 This chapter describes the objective and non-discriminatory criteria against which Ofgem will assess an application for a gas supplier licence. Where an applicant is applying for a licence to supply gas to domestic and non-domestic premises the applicant should demonstrate that the criteria for both types of premises have been met.
- 4.2 Ofgem will not grant a licence where, in its opinion, the description or area of the premises to be supplied would artificially exclude premises likely to be owned or occupied by persons who are chronically sick, disabled or of pensionable age, or who are likely to default in the payment of charges²⁸.
- 4.3 In addition to meeting the criteria described in this chapter, all applicants must meet the general criteria described in Chapter 3.

Holding of other licences

- 4.4 Licensees may not hold a gas supplier licence and a gas transporter licence or a gas interconnector licence²⁹. Ofgem will check before granting a gas supplier licence that the applicant does not hold a gas transporter or a gas interconnector licence.

Proposed arrangements for compliance with Standard Licence Conditions

- 4.5 An applicant for a gas supplier licence must provide information about how it will comply with the applicable requirements of a number of Standard Licence Conditions (SLCs). Applicants must submit those codes of practice or statements required by SLC 27 Preparation, Review of and Compliance with Statements and Customer Service Codes to energywatch and have had regard to comments made before they are submitted to Ofgem for approval³⁰.
- 4.6 Ofgem would expect new licensees to comply fully with the provisions of the licence once it has been granted.

²⁸ Gas Act 1986 s7A(8)

²⁹ Gas Act 1986 s7(3) and s7A(3)

³⁰ SLC 27 requires that SLCs 24, 24A, 24B, 25, 35, 36, 37, 37A, 38 and 39 are submitted to energywatch.

Domestic gas supplier licence

- 4.7 Ofgem has previously published guidance³¹ on the objective and non-discriminatory criteria by which it will assess the information provided by applicants about compliance with the following SLCs:
- ◆ SLC 24 Arrangements in Respect of Powers of Entry
 - ◆ SLC 24A Authorisation of Officers
 - ◆ SLC 24B Exercise of Powers of Entry
 - ◆ SLC 25 Efficient Use of Gas
 - ◆ SLC 35 Code of Practice on Payment of Bills and Guidance for Dealing with Customers in Difficulty
 - ◆ SLC 36 Code of Practice on the Use of Prepayment Meters
 - ◆ SLC 37 Provision of Services for Persons who are of Pensionable Age or Disabled or Chronically Sick
 - ◆ SLC 37A Pensioners Not to Have Supply of Gas Cut Off In Winter
 - ◆ SLC 38 Provision of Services for Persons who are Blind or Deaf
 - ◆ SLC 39 Complaint Handling Procedure, and
 - ◆ SLC 43 Contractual Terms – Methods of Payment.

Non-domestic gas supplier licences

- 4.8 There are no specific criteria for non-domestic gas supplier applications other than the general criteria that all applicants must satisfy as set out in Chapter 3.

Supply through exempt pipelines

- 4.9 In addition to meeting the general criteria as set out in Chapter 3. Ofgem will seek confirmation from that applicant that it is in discussions with the Health and Safety Executive (HSE) regarding a gas safety case.

- 4.10 Ofgem will notify the HSE of any application its receives for licences authorising the supply of gas through exempt pipelines

Restriction of a gas supplier licence

- 4.11 Ofgem will, subject to the exceptions explained in paragraph 3.17, apply the same criteria when assessing an application for a restriction of a gas supplier licence as those used to assess an application for a licence. In addition, because it is important that any restriction does not leave consumers without a supply, Ofgem will check that proposals for ensuring continuity of supply are sufficient³².

- 4.12 Ofgem will therefore, when assessing an applicant's proposals to ensure continuity of supply, check the proposed arrangements are sufficient to:

- ◆ notify existing and affected consumers of the effects of any restriction
- ◆ secure alternative supply for affected consumers on the same terms as nearly as is possible to the existing contract, and
- ◆ ensure that any prospective supplier is licensed.

- 4.13 Ofgem will not grant a restriction where, in its opinion, the description or area of the premises to be supplied would artificially include in the restriction, premises likely to be owned or occupied by persons who are chronically sick, disabled or of pensionable age, or who are likely to default in the payment of charges³³.

Extension of a gas supplier licence

- 4.14 Ofgem will, subject to the exceptions explained in paragraph 3.17, apply the same criteria when assessing an application for an extension of a gas supplier licence as those used to assess an application for a licence.
- 4.15 Ofgem will not grant an extension where the description or area has been so framed as artificially to exclude from the extension, premises likely to be owned

³¹ Gas and electricity codes of practice. Guidance for domestic suppliers. October 2001. Ofgem. 61/01.

³² Gas Act 1986 s7A(9)

³³ Gas Act 1986 s7A(8)

or occupied by persons who are chronically sick, disabled or of pensionable age, or who are likely to default in the payment of charges³⁴.

³⁴ Gas Act 1986 s7A(8)

5. Gas shipper licences

- 5.1 This chapter describes the objective and non-discriminatory criteria against which Ofgem will assess an application for a gas shipper licence.
- 5.2 Ofgem will not grant a licence where the description or area has been so framed as artificially to exclude from the licence, premises likely to be owned or occupied by persons who are chronically sick, disabled or of pensionable age, or who are likely to default in the payment of charges³⁵.
- 5.3 Ofgem would expect new licensees to comply fully with the provisions of the licence once it has been granted.

Holding of other licences

- 5.4 Licensees may not hold a gas shipper and a gas transporter licence or a gas interconnector licence³⁶. Ofgem will check before granting a gas shipper licence that the applicant does not hold a gas transporter licence or a gas interconnector licence.

Restriction of a gas shipper licence

- 5.5 Ofgem will, subject to the exceptions explained in paragraph 3.17, apply the same criteria when assessing an application for a restriction of a licence as those used to assess an application for a gas shipper licence. In addition, because it is important that any restriction does not leave consumers without a supply, Ofgem will check that proposals for ensuring continuity of supply are sufficient³⁷.
- 5.6 Ofgem will therefore, when assessing an applicant's proposals to ensure continuity of supply, check the proposed arrangements are sufficient to:
- ◆ notify existing and affected consumers of the effects of any restriction

³⁵ Gas Act 1986 s7A(8)

³⁶ Gas Act 1986 s7(3) and s7A(3)

³⁷ Gas Act 1986 s7A(9)

- ◆ secure alternative shipper for affected consumers on the same terms as nearly as is possible to the existing contract, and
 - ◆ ensure that any prospective shipper is licenced.
- 5.7 Ofgem will not grant a restriction where the description or area has been so framed as artificially to include in the restriction, premises likely to be owned or occupied by persons who are chronically sick, disabled or of pensionable age, or who are likely to default in the payment of charges³⁸.

Extension of a gas shipper licence

- 5.8 Ofgem will, subject to the exceptions explained in paragraph 3.17, apply the same criteria when assessing an application for an extension of a gas shipper licence as those used to assess an application for a licence.
- 5.9 Ofgem will not grant an extension where the description or area has been so framed as artificially to exclude in the extension, premises likely to be owned or occupied by persons who are chronically sick, disabled or of pensionable age, or who are likely to default in the payment of charges³⁹.

³⁸ Gas Act 1986 s7A(8)

³⁹ Gas Act 1986 s7A(8)

6. Gas transporter licences

- 6.1 This chapter describes the objective and non-discriminatory criteria against which Ofgem will assess an application for a gas transporter (GT) licence. In addition to meeting the criteria described in this chapter, all applicants must meet the general criteria described in Chapter 3.

Holding of other licences

- 6.2 Licensees may not hold a gas transporter licence and a gas supplier licence, a gas shipper licence or a gas interconnector licence⁴⁰. Ofgem will check before granting a gas transporter licence that the applicant does not hold a gas supplier licence, a gas shipper or a gas interconnector licence.

Safe operation of the transportation system

- 6.3 Although an applicant for a transportation licence is not required to submit information about the safe operation of its proposed system, Ofgem will consult and take into account any comments made by the HSE (see paragraph 2.12) about whether it considers the system can be operated safely.

Independent Gas Transporter Charges and financial ring-fencing provisions

- 6.4 All Gas Transporters other than Transco are known as Independent Gas Transporters (IGTs).
- 6.5 Ofgem published its final proposals for the regulation of IGT charging in July 2003⁴¹. The paper proposed the introduction of a system of Relative Price Control (RPC) for IGT charges. In addition, it included proposals for the financial ring-fencing of gas transportation businesses.

⁴⁰ Gas Act 1986 s7(3) and s7A(3)

⁴¹ The Regulation of Independent Gas Transporter Charging: Final Proposals. Decision document. July 2003. Ofgem. 64/03.

- 6.6 Following consultation, the Authority modified the licences of existing IGTs by introducing new Special Condition 1 and amending standard conditions 4A⁴² and 4C⁴³ (the RPC Conditions).
- 6.7 These modifications introduced a charging restriction on IGTs. Under the terms of the RPC mechanism, IGTs charges are capped at a level that is broadly consistent with the charges Transco would levy for providing similar gas transportation services.
- 6.8 An IGT licence will not, on grant, have the RPC conditions in effect. In response to an application for a GT licence, the Authority will consult on modifying the standard licence conditions of any licence granted to the applicant, so as to include the RPC conditions in order to bring any new IGT licence into line with existing IGT licensees.
- 6.9 The modifications described above will be made to new IGT licences by modifying the standard conditions on grant of licence⁴⁴.
- 6.10 At present, the financial ring-fencing conditions within section C of a GT licence only apply to Transco. The financial ring-fencing conditions cover:
- ◆ restrictions on activity
 - ◆ the availability of adequate resources
 - ◆ an undertaking from ultimate controller
 - ◆ the obtaining of a suitable credit rating, and
 - ◆ indebtedness of the licensee.

⁴² Notice under section 23(1)(a) of the Gas Act 1986 introducing new special condition 1 to all existing gas transporters licences and a notice under section 23(1)(a) of the Gas Act 1986 amending standard condition 4A of all existing gas transporters. 21 January 2004. Ofgem.16a/04 and16b/04.

⁴³ Notice under section 23(1)(b) of the Gas Act 1986 modifying standard condition 4C of all gas transporter licences. 21 January 2004. Ofgem. 16/04.

⁴⁴ Gas Act 1986 s8(3)

- 6.11 Ofgem published its initial proposals regarding the introduction of financial ring-fencing conditions for both new and existing IGTs in November 2004⁴⁵.

Proposed arrangements for compliance with Standard Licence Conditions

- 6.12 An applicant for a gas transporter licence must provide information about how it will comply with the applicable requirements of a number of Standard Licence Conditions (SLCs). Applicants must submit those codes of practice or statements required by SLC 22 Preparation, Review of and Compliance with Statements and Customer Service Codes to energywatch and have had regard to comments made before they are submitted to Ofgem for approval⁴⁶.

- 6.13 Ofgem has previously published guidance⁴⁷ for gas transporters on the objective and non-discriminatory criteria by which it will assess the information provided by applicants about compliance with the following SLCs:

- ◆ SLC 18 Provision of Services for Persons who are Blind or Deaf
- ◆ SLC 19 Arrangements in Respect of Powers of Entry
- ◆ SLC 19A Authorisation of Officers
- ◆ SLC 19B Exercise of Powers of Entry, and
- ◆ SLC 21 Complaint Handling Procedure.

- 6.14 In addition Ofgem wishes to ensure that applicants have made suitable arrangements for compliance with SLC 8 (Provision and Return of Meters). Ofgem will, therefore, check that applicants have provided evidence of contracts with meter manufacturers or retailers for sufficient types and quantities of meters in order to demonstrate the ability to meet demand by relevant shippers.

- 6.15 The applicant will need to demonstrate that it has procedures for:

- ◆ recording register details from returned meters

⁴⁵ Financial ring-fencing for new and existing independent gas transporters. Consultation Document. November 2004. Ofgem. 250/04.

⁴⁶ SLC 22 requires that SLCs 18, 19 and 21 are submitted to energywatch.

⁴⁷ Distribution and transportation codes of practice. Guidance notes. October 2001. Ofgem. 60/01.

- ◆ retaining records for a minimum of two years
- ◆ keeping meters in safe custody if under investigation
- ◆ identifying those installations where 2 yearly inspections are due and issuing the necessary reminders to suppliers, and
- ◆ holding and providing information on new connections in compliance with Gas Act 1986: Schedule 2B 12 paragraphs 1 & 3.

6.16 Where Ofgem receives representations about a proposal to grant a GT licence (see paragraph 2.5) it will consider whether they are relevant to the criteria used to assess the application; if necessary the application may be re-assessed.

6.17 Ofgem would expect new licensees to comply fully with the provisions of the licence once it has been granted.

Restriction of a gas transporter licence

6.18 Ofgem will, subject to the exceptions explained in paragraph 3.17, apply the same criteria when assessing an application for a restriction of a gas transporter licence as those used to assess an application for a licence.

6.19 In addition because it is important that any restriction does not leave consumers without a connection Ofgem will check that the applicant's proposals for ensuring consumers remain connected are sufficient.

6.20 Ofgem will therefore, when assessing an applicant's proposals to ensure consumers have a connection, check the proposed arrangements are sufficient:

- ◆ to notify affected consumers of the effects of any restriction
- ◆ that arrangements have or will be made to secure alternative connection for affected consumers, and
- ◆ ensure that any prospective transporter is licensed.

Extension of a gas transporter licence

- 6.21 Ofgem will, subject to the exceptions explained in paragraph 3.17, apply the same criteria when assessing an application for an extension of a gas transporter licence as those used to assess an application for a licence.

7. Gas interconnector licences.

- 7.1 There are no specific criteria for gas interconnector applications other than the general criteria that all applicants must satisfy as set out in Chapter 3. Ofgem would, however, expect new licensees to comply fully with the provisions of the licence once it has been granted.
- 7.2 In November 2004, DTI published draft guidelines for gas interconnector licensees⁴⁸. These draft guidelines are intended to help market participants better understand the requirements contained in gas interconnector licences.
- 7.3 The draft guidelines outline the procedures that Ofgem intends to follow in respect of considering whether to switch on or switch off some or all relevant standard licence conditions, thereby giving effect to an exemption from the EU legislation requiring regulated third party access.
- 7.4 A final version of these guidelines will be issued by Ofgem at the same time, or shortly after, the Secretary of State publishes the SLCs for gas interconnectors. The guidelines will be kept under review and may be updated from time to time. The final version of the guidelines and all subsequent updates will be published on the Ofgem website (www.ofgem.gov.uk).

Holding of other licences

- 7.5 Licensees may not hold a gas interconnector licence and a gas supplier licence, gas shipper licence or a gas transporter licence⁴⁹. Ofgem will check before granting a gas interconnector licence that the applicant does not hold a gas supplier licence, a gas shipper licence or a gas transporter licence.

⁴⁸ Interconnector Licences: Determination of Standard licence conditions and proposed exemption regime. – Conclusions drawn from responses to the July consultation document and consultation on revised draft standard licence conditions. November 2004. DTI.

⁴⁹ Gas Act 1986 s7(3)

8. Electricity supply licences

- 8.1 This chapter describes the objective and non-discriminatory criteria against which Ofgem will assess an application for an electricity supply licence. Where a licence application is for supply of electricity to domestic and non-domestic premises the applicant should demonstrate that the criteria set for both domestic and non-domestic premises have been met.
- 8.2 In line with Ofgem's policy to align the gas and electricity markets wherever possible, Ofgem will not grant a licence where the description or area has been so framed as artificially to exclude in the licence, premises likely to be owned or occupied by persons who are chronically sick, disabled or of pensionable age, or who are likely to default in the payment of charges.
- 8.3 In addition to meeting the criteria described in this chapter, all applicants must meet the general criteria described in Chapter 3.

Holding of other licences

- 8.4 Licensees may not hold an electricity supply licence and an electricity distribution licence or an electricity interconnector licence⁵⁰. Ofgem will check before granting an electricity supply licence that the applicant does not hold an electricity distribution licence or an electricity interconnector licence.

Proposed arrangements for compliance with Standard Licence Conditions

- 8.5 An applicant for an electricity supply licence must provide information about how it will comply with the applicable requirements of a number of Standard Licence Conditions (SLCs). Applicants must submit those codes of practice or statements required by SLC 27 Preparation, Review of and Compliance with Customer Service Codes to energywatch and have had regard to comments made before they are submitted to Ofgem for approval⁵¹.

⁵⁰ Electricity Act 1989 s6(2) and s6(2A)

⁵¹ SLC 27 requires that SLCs 24, 24A, 24B, 25, 35, 37, 37A, 38 and 39 are submitted to energywatch.

- 8.6 Ofgem would expect new licensees to comply fully with the provisions of the licence once it has been granted.

Domestic electricity supplier licence

SLC7 Duty to Offer Terms for Meter Provision

- 8.7 Applicants need to provide evidence of proposed contractual arrangements with accredited meter operators in order to demonstrate their ability to offer terms for the provision of meters. This may be in the form of a draft contract with an accredited meter operator.

- 8.8 Where a draft contract cannot be provided, applicants need to provide a statement:

- ◆ acknowledging their responsibilities under the Electricity Act⁵² in relation to electricity meters, and
- ◆ undertaking to put the necessary arrangements in place for the provision of meters.

Other Standard Licence Conditions

- 8.9 Ofgem has previously published guidance⁵³ for domestic electricity suppliers on the objective and non-discriminatory criteria by which it will assess the information provided by applicants about compliance with the following SLCs:

- ◆ SLC24 Code of Practice on Procedures with Respect to Site Access
- ◆ SLC25 Efficient Use of Electricity
- ◆ SLC 35 Code of Practice on Payment of Bills and Guidance for Dealing with Customers in Difficulty
- ◆ SLC 36 Code of Practice on the Use of Prepayment Meters
- ◆ SLC 37 Provision of Services for Persons who are of Pensionable Age or Disabled or Chronically Sick

⁵² Electricity Act 1989, Schedule 7

⁵³ Gas and electricity codes of practice. Guidance for domestic suppliers. October 2001. Ofgem. 60/01.

- ◆ SLC 38 Provision of Services for Persons who are Blind or Deaf
- ◆ SLC 39 Complaint Handling Procedure, and
- ◆ SLC 43 Contractual Terms – Methods of Payment.

Non-domestic electricity supplier licence

SLC7 Duty to Offer Terms for Meter Provision

- 8.10 Applicants need to provide evidence of proposed contractual arrangements with accredited meter operators in order to demonstrate their ability to offer terms for the provision of meters. This may be in the form of a draft contract with an accredited meter operator.
- 8.11 Where a draft contract cannot be provided, applicants need to provide a statement:
- ◆ acknowledging their responsibilities under the Electricity Act in relation to electricity meters, and
 - ◆ undertaking to put the necessary arrangements in place for the provision of meters.

Restriction of an electricity supplier licence

- 8.12 Ofgem will, subject to the exceptions explained in paragraph 3.17, apply the same criteria when assessing an application for a restriction of an electricity supplier licence as those used to assess an application for a licence. In addition because it is important that any restriction does not leave consumers without a supply, Ofgem will check that proposals for ensuring continuity of supply are sufficient to:
- ◆ notify existing and affected consumers of the effects of any restriction
 - ◆ secure alternative supply for affected consumers, and
 - ◆ ensure that any prospective supplier is licensed.

8.13 In order to protect customers and in line with Ofgem's policy to align the gas and electricity markets wherever possible, Ofgem will not grant a restriction where the description or area has been so framed as artificially to include in the restriction, premises likely to be owned or occupied by persons who are chronically sick, disabled or of pensionable age, or who are likely to default in the payment of charges.

Extension of an electricity supplier licence

8.14 Ofgem will, subject to the exceptions explained in paragraph 3.17, apply the same criteria when assessing an application for an extension of a licence as those used in the assessment of an application for an electricity supply licence.

8.15 In order to protect customers and in line with Ofgem's policy to align the gas and electricity markets wherever possible, Ofgem will not grant an extension where the description or area has been so framed as artificially to exclude in the extension, premises likely to be owned or occupied by persons who are chronically sick, disabled or of pensionable age, or who are likely to default in the payment of charges.

9. Electricity distribution licences

- 9.1 This chapter describes the objective and non-discriminatory criteria against which Ofgem will assess an application for an electricity distribution licence.
- 9.2 In addition to meeting the criteria described in this chapter, all applicants must meet the general criteria described in Chapter 3.

Holding of other licences

- 9.3 Licensees may not hold an electricity distribution licence and an electricity supply licence or an electricity interconnector licence⁵⁴. Ofgem will check before granting an electricity distribution licence that the applicant does not hold an electricity supply licence or an electricity interconnector licence.

Safe operation of the distribution system

- 9.4 An applicant for a distribution licence must submit information about the safe operation of its proposed system. Ofgem will take into account any comments made by the HSE (see paragraph 2.12) about whether it considers the system can be operated safely.

Proposed arrangements for compliance with standard licence conditions

- 9.5 An applicant for an electricity distribution licence must provide information about how it will comply with the applicable requirements of a number of Standard Licence Conditions (SLCs). Applicants must submit those codes of practice or statements required by SLC 22 Preparation, Review of and Compliance with Statements and Customer Service Codes to energywatch and have had regard to comments made before they are submitted to Ofgem for approval⁵⁵.
- 9.6 Ofgem expects new licensees to comply fully with the provisions of the distribution licence once it has been granted.

⁵⁴ Electricity Act 1989 s6(2) and s6(2A)

⁵⁵ SLC 22 requires that SLCs 17, 18, 19 and 21 are submitted to energywatch.

9.7 An applicant for an electricity distribution licence may not have the conditions contained within Section C of the standard licence conditions activated within their licence. In response to an application for a licence, the Authority⁵⁶ may following consultation modify the standard licence conditions for that applicant to such extent as it considers requisite to meet the circumstances of the particular case. In order to protect electricity customers it is Ofgem's policy to propose licence modifications about the financial ring fencing of the licensee which refer to :

- ◆ availability of resources
- ◆ undertakings from ultimate controller
- ◆ credit rating
- ◆ restriction on activity, and
- ◆ indebtedness.

9.8 Information is available from the Ofgem website about licence modifications proposed in response to an application from an applicant for an electricity distribution licence⁵⁷.

9.9 Ofgem will consider whether any supplementary information provided by the applicant demonstrates that it will be in a position to comply with the relevant proposed modifications to conditions.

9.10 Ofgem consulted on the appropriate long term regime for new independent distribution network operators in July 2004⁵⁸.

⁵⁶ Electricity Act 1989 s8A (2)

⁵⁷ The regulation of new electricity distribution licence holders. Open letter. 31 May 2002. Ofgem. Consultation on the modification of standard licence conditions for new electricity distribution licence holders pursuant to section 8A of the Electricity Act 1989. Consultation Document. 25 September 2003. Ofgem.106/03.

Consultation on the modification of standard licence conditions for new electricity distribution licence holders pursuant to section 8A of the Electricity Act 1989. Consultation Document .16 April 2003. Ofgem.

⁵⁸ Regulation of Independent Distribution Network Opearators. Consulattion Document. July 2004. Ofgem. 180/04.

9.11 In January 2005, Ofgem set out its initial proposals on the development of the long term regulatory regime for new independent distribution network operators (IDNOs) and existing distribution network operators providing services outside their traditional service area⁵⁹, taking into account the responses received to the consultation paper published in July 2004, with respect to:

- ◆ charging arrangements
- ◆ financial ring fencing conditions, and
- ◆ commercial issues.

9.12 The objective of the review is to develop sufficiently robust long term arrangements for the regulation of IDNOs to protect the interests of consumers.

SLC 6 Safety and Security of Supplies Enquiry Service

9.13 During the assessment of the applicant's proposals Ofgem will consider whether they demonstrate that:

- ◆ the service adequately discriminates between enquiries relating to security, availability and quality of service of the licensee's distribution system, or concerning danger or requiring urgent attention, and other enquiries. It is important to ensure that the efficiency of the service will not suffer due to large numbers of other enquiries
- ◆ if any part of the establishment, operation, and maintenance of the service is to be procured from another organisation, the applicant must demonstrate that the contractual arrangements are adequate and the organisation has the capability to provide a satisfactory service
- ◆ the service should be available through a wide range of communication media. These must include telephone, correspondence and personal visit. It would also be desirable for them also to include Internet and e-mail facilities. All relevant addresses and telephone numbers must be included in the statement required by SLC 6

⁵⁹ Regulation of Independent Distribution Network Operators. Initial Proposals Document. January 2005. Ofgem. 18/05.

- ◆ the service must provide a telephone response service that is able to receive and process reports and enquiries at all times. Where companies operate an automated telephone answering service, simple and swift access to an operator must be available at all times. The service shall include facilities that can be used by all classes of consumer, including the disabled and the elderly, and shall be free at the point of use, and
- ◆ the service should be equally effective in responding to reports and enquiries that are received direct from consumers and those received via supply businesses. The arrangements should not discriminate between reports and enquiries received via different suppliers.

SLC 8 Provisions Relating to the Connection of Metering Equipment

- 9.14 During the assessment of the applicant's proposals for provisions relating to the connection of metering equipment Ofgem will check that they provide evidence of the procedures that would be required to be adopted by parties connecting metering equipment to the applicant's distribution system in order to demonstrate the ability to enter into agreements authorising that activity.

Other Standard Licence Conditions

- 9.15 Ofgem has also previously produced guidance⁶⁰ for electricity distributors on the objective and non-discriminatory criteria by which it will assess the information provided by applicants about compliance with the following SLCs:
- ◆ SLC 17 Provision of Services for Persons who are of Pensionable Age, Disabled or Chronically Sick
 - ◆ SLC 18 Provision of Services for Persons who are Blind or Deaf

⁶⁰ Distribution and transportation codes of practice. Guidance notes. October 2001. Ofgem 60/01.

- ◆ SLC 19 Code of Practice on Procedures with Respect to Site Access, and
- ◆ SLC 21 Complaint Handling Procedure.

Restriction of an electricity distribution licence

9.16 Ofgem will, subject to the exceptions explained in paragraph 3.17, apply the same criteria when assessing an application for a restriction of an electricity distribution licence as those used to assess an application for a licence. In addition, because it is important that any restriction does not leave consumers without a supply, Ofgem will check that proposals for ensuring consumers have a connection are sufficient to:

- ◆ notify existing and affected consumers of the effects of any restriction
- ◆ notify existing suppliers of the effects of any restriction
- ◆ secure alternative connection for affected consumers, and
- ◆ ensure that any prospective distributor is licensed.

Extension of an electricity distribution licence

9.17 Ofgem will, subject to the exceptions explained in paragraph 3.17, apply the same criteria when assessing an application for an extension of an electricity distribution licence as those used in the assessment of an application for a licence.

10. Electricity generation licences

10.1 This chapter describes the objective and non-discriminatory criteria against which Ofgem will assess applications for electricity generation licences.

Generation licences

10.2 There are no specific criteria for electricity generation applications other than the general criteria that all applicants must satisfy as set out in Chapter 3. Ofgem would, however, expect new licensees to comply fully with the provisions of the licence once it has been granted.

11. Electricity transmission licences

- 11.1 This chapter describes the objective and non-discriminatory criteria against which Ofgem will assess an application for an electricity transmission licence.
- 11.2 In addition to meeting the criteria described in this chapter, all applicants must meet the general criteria described in chapter 3.
- 11.3 As set out in paragraph 2.9, where Ofgem receives representations about a proposal to grant a transmission licence it will consider whether they are relevant to the criteria used to assess the application. If necessary the application may be re-assessed.

Holding of other licences

- 11.4 Licensees may not hold an electricity transmission licence and an electricity interconnector licence⁶¹. Ofgem will check before granting an electricity transmission licence that the applicant does not hold an electricity interconnector licence.

BETTA

- 11.5 BETTA will introduce a single set of transmission and trading arrangements across Great Britain and introduces a new prohibition of 'participation in transmission'.
- 11.6 The new prohibition incorporates both system operation activities (that is, co-ordinating and directing the flow of electricity onto and over the GB transmission system) and transmission ownership activities (that is, the development of transmission assets and the provision of those assets to the GB system operator to enable the co-ordination and direction of the flow of electricity onto and over the GB transmission system).

⁶¹ Electricity Act 1989 s6(2A)

- 11.7 Previously the concept of “authorised area” prevented more than one transmission licensee being licensed to transmit electricity within a particular area. It was necessary, in putting in place the required legal framework for BETTA, to remove this concept from the Electricity Act, to allow for the GB system operator and a transmission owner to be licensed to act in any given geographical area.
- 11.8 Under the new arrangements each transmission licensee is authorised by the terms of its licence to act on a GB basis and to undertake all activities which comprise “participation in transmission”.
- 11.9 However specific licence conditions have been placed on each licensee which restrict its activities both in terms of the scope of activities the licensee can undertake and the geographic area within which those activities can be undertaken.
- 11.10 Restricting transmission ownership activities on a geographic basis was required because the development of arrangements whereby more than one transmission licensee would be able to undertake transmission ownership functions in a particular area would have been outside the scope of the BETTA project.
- 11.11 The BETTA arrangements have been developed on the basis that there will be a single GB system operator responsible for system operation on a GB wide basis. As such specific licence conditions have been put in place which restrict the extent to which licensee’s can undertake system operation activities as part of their ‘participation in transmission’.
- 11.12 The regulatory arrangements that have been put in place for BETTA, including the scope and content of the STC, would require amendment to accommodate a situation where more than one licensee undertakes transmission ownership activities in a given geographic area or to accommodate multiple system operators. These arrangements reflect existing policy in this area.

Extent of participation in transmission

- 11.13 For applicants seeking to undertake transmission ownership activities, Ofgem will, in assessing an application, consider whether the activities the applicant

wishes to undertake are currently undertaken by another transmission licensee in that particular area.

- 11.14 Where Ofgem intends to grant a licence to an applicant allowing transmission ownership activities to be undertaken in an area currently covered by another transmission licensee's licence, it will be necessary for Ofgem to seek to modify the incumbent transmission licensee's licence to remove that area from the incumbent's licence.
- 11.15 In respect of an applicant seeking to undertake system operation activities, as explained above the current regulatory arrangements relate to the presence of a single system operator acting on a GB wide basis and as such were Ofgem to intend to grant a licence to an applicant allowing them to undertake system operation activities in a particular area it would be necessary to make changes to the current regulatory arrangements to facilitate this.

Proposed arrangements for compliance with licence conditions

- 11.16 A new set of standard licence conditions for electricity transmission licences were determined by the Secretary of State under the Energy Act 2004 and came into effect on and from 1 September 2004⁶².
- 11.17 Ofgem would expect new licensees to comply fully with the provisions of the transmission licence once it has been granted.
- 11.18 An applicant for a transmission licence will have conditions switched on in its licence according to the activities it plans to undertake.
- 11.19 An applicant who wishes to act as a transmission owner will have the following sections switched on in its licence:
- ◆ Section A. Interpretation, application and payments
 - ◆ Section B. General, and
 - ◆ Section D. Transmission owner standard conditions.

⁶² Electricity Transmission Licence – New Standard Conditions. 26 August 2004. DTI.

11.20 An applicant who wishes to act as a system operator will have the following sections switched on in its licence:

- ◆ Section A. Interpretation, applications and payments
- ◆ Section B. General, and
- ◆ Section C. System operator standard conditions.

Transitional arrangements until BETTA Go-Live

11.21 The period on and from 1 September 2004 (BETTA go-active date) to the date from which BETTA will take full effect (BETTA go-live date), is known as the transition period.

11.22 The Secretary of State modified the new standard conditions for the purpose of the transition period. The modifications are contained in the form of "Section E"⁶³ to the standard conditions.

11.23 The intention of these modifications to the standard conditions is to maintain existing trading and transmission arrangements in Scotland and in England and Wales to the extent appropriate during the transition period and also to introduce new conditions to facilitate the transition to and timely introduction of BETTA.

11.24 The modifications either fall away at the BETTA go-live date or, in particular circumstances, at a date beyond the BETTA go-live date (that date is yet to be determined).

⁶³ Modifications to standard conditions of electricity transmission licences. Section E: Transitional standard licence conditions. 26 August 2004. DTI.

11.25 All transitional and enduring documents relating to BETTA are available for the DTI website (www.dti.gov.uk). A link to these documents can also be found within the Licensing Explained Information Site on the Ofgem website (<http://www.ofgem.gov.uk>).

Modification of an electricity transmission licence.

11.26 Ofgem will, subject to the exceptions explained in paragraph 3.17, apply the same criteria when assessing an application for an modification of an electricity transmission licence as those used in the assessment of an application for a licence.

11.27 In addition, because it is important that any modification of an area does not affect the operation of the GB transmission system Ofgem will take into consideration whether the proposed modification would affect persons connecting to the GB transmission system.

12. Electricity interconnector licences

- 12.1 There are no specific criteria for electricity interconnector applications other than the general criteria that all applicants must satisfy as set out in Chapter 3. Ofgem would, however, expect new licensees to comply fully with the provisions of the licence once it has been granted.
- 12.2 In November 2004, DTI published draft guidelines for electricity interconnector licensees⁶⁴. The draft guidelines are intended to help market participants better understand the requirements contained in electricity interconnector licences..
- 12.3 The draft guidelines outline the procedures that Ofgem intends to follow in respect of considering whether to switch on or switch off some or all relevant standard licence conditions, thereby giving effect to an exemption from the EU legislation requiring third party access.
- 12.4 A final version of these guidelines will be issued by Ofgem at the same time, or shortly after, the Secretary of State publishes the SLCs for electricity interconnectors. The guidelines will be kept under review and may be updated from time to time. The final version of the guidelines and all subsequent updates will be published on the Ofgem website (www.ofgem.gov.uk).

Holding of other licences

- 12.5 Licensees may not hold an electricity interconnector licence and an electricity supply, an electricity generation, an electricity distribution or an electricity transmission licence⁶⁵. Ofgem will check before granting an electricity interconnector licence that the applicant does not hold any of these types of licences.

⁶⁴ Interconnector Licences: Determination of Standard licence conditions and proposed exemption regime. – Conclusions drawn from responses to the July consultation document and consultation on revised draft standard licence conditions. November 2004. DTI.

⁶⁵ Electricity Act 1989 s6(2A)

13. The refusal and appeals procedure

13.1 This chapter describes the procedure that Ofgem will follow if it proposes to refuse an application for a licence or a modification of an area or for an extension or restriction of a licence.

Proposal to refuse an application

13.2 Ofgem may propose to refuse an application because, amongst other things:

- ◆ the information supplied does not satisfy one or more of the objective and non-discriminatory criteria
- ◆ Ofgem is of the opinion that information supplied is false or misleading, and
- ◆ the applicant has failed to provide, when requested, additional information within the required time.

Notification

13.3 If Ofgem proposes to refuse an application the reasons will be given to the applicant in a Notice which explains what further information, if any, is needed. The Notice will:

- ◆ state that Ofgem proposes to refuse the application
- ◆ state the reasons why Ofgem proposes to refuse the application, and
- ◆ specify the time within which representations may be made.

13.4 Ofgem will allow the applicant 21 days from the date of the Notice to make representations about why it disagrees with Ofgem's proposal to refuse the application and to provide further information if required. Ofgem must consider any representations which are duly made and not withdrawn.

Final decision to refuse an application

13.5 Should no appeal have been made within 21 days of the Notice or if an appeal against a Notice is unsuccessful, the applicant will be notified in writing of the decision to refuse the licence. The notification will:

- ◆ where no appeal has been made, restate the reasons for the refusal of the application, and
- ◆ where an unsuccessful appeal was made, state the reasons for the refusal of the appeal.

Notification to the European Commission

13.6 Ofgem will forward to the Commission all refusals to grant gas licences together with the reasons given and details of any unsuccessful appeals.

Appendix 1 The Application Regulations December 2004

1.1 The appendix contains copies of the Application Regulations December 2004.

Appendix 2 The licensing system

2.1 This Appendix explains the main activities for which Ofgem can grant a licence.

Gas licences

2.2 The Gas Act prohibits⁶⁶ certain activities unless they are licensed or exempt from the requirement to be licensed. Ofgem can grant licences for:

- ◆ gas transportation
- ◆ gas shipping
- ◆ gas supply, and
- ◆ gas interconnectors⁶⁷.

Gas transporter licence

2.3 A gas transporter's licence allows the licensee to:

- ◆ convey gas through pipes to any premises within an area specified in the licence held by the gas transporter, and
- ◆ convey gas through pipes to any pipeline system operated by another gas transporter, or to any other pipeline system specified in the licence⁶⁸.

Gas shipper licence

2.4 A gas shipper's licence allows the licensee to arrange with any gas transporter for gas to be introduced into, conveyed by means of or taken out of a pipe-line system operated by that transporter, either generally or for purposes connected with the supply of gas to any premises specified in the licence⁶⁹.

⁶⁶ Gas Act 1986 s5

⁶⁷ Although the powers under the Energy Act have been commenced the Authority will not be able to grant a gas interconnector licence to a new interconnector until the Secretary of State publishes the Standard Licence Conditions and they are incorporated into the licence.

⁶⁸ Gas Act 1986 s7(2)

⁶⁹ Gas Act 1986 s7A(2)

Gas supplier licence

- 2.5 A gas supplier's licence allows the licensee to supply to any premises gas which has been conveyed to those premises through pipes⁷⁰. A supply licence may authorise the holder to supply gas to non-domestic premises or to domestic and non-domestic premises.

Gas interconnector licence

- 2.6 A gas interconnector licence allows the licensee to participate in the operation of a gas interconnector⁷¹.
- 2.7 Participating in the operation on a gas interconnector is defined as:
- ◆ co-ordinating and directing the conveyance of gas into or through a gas interconnector, or
 - ◆ making such an interconnector available for use for the conveyance of gas⁷².

⁷⁰ Gas Act 1986 s5(1)

⁷¹ Gas Act 1986 s7ZA

⁷² Gas Act 1986 s5(6)

Electricity licences

2.8 The Electricity Act prohibits⁷³ certain activities unless licensed or exempt from the requirement to be licensed. Ofgem can grant licences for:

- ◆ electricity generation
- ◆ participation in transmission
- ◆ electricity distribution
- ◆ electricity supply, and
- ◆ electricity interconnectors⁷⁴.

Electricity generation licence

2.9 An electricity generator's licence allows the licensee to generate electricity for the purpose of giving a supply to any premises or enabling a supply to be given⁷⁵.

Electricity transmission licence

2.10 An electricity transmission licence allows the licensee to participate in the transmission of electricity for the purpose of enabling a supply to be given⁷⁶.

2.11 A person who participates in the transmission of electricity is a person who:

- ◆ co-ordinates, and directs, the flow of electricity onto and over a transmission system by means of which the transmission of electricity takes place, or
- ◆ makes available for use for the purposes of such a transmission system anything which forms part of it.

⁷³ Electricity Act 1989 s4

⁷⁴ Although the powers under the Energy Act have been commenced the Authority will not be able to grant an electricity interconnector licence to a new interconnector until the Secretary of State publishes the Standard Licence Conditions and they are incorporated into the licence.

⁷⁵ Electricity Act 1989 s6(1)(a)

⁷⁶ Electricity Act 1986 s6(1)(b)

- 2.12 It is not necessary for a person to undertake both elements in order to be undertaking a licensable activity and therefore to require a licence.
- 2.13 Transmission in relation to electricity means to transmit by means of a transmission system⁷⁷. A transmission system consists (wholly or mainly) of high voltage lines and electrical plant and is used for conveying electricity from a generating station to a substation, from one generating station to another or from one substation to another.
- 2.14 The Authority can, with the consent of the licensee, modify the area of a transmission licensee's licence.

Electricity distribution licence

- 2.15 An electricity distribution licence allows the licensee to distribute electricity for the purpose of enabling a supply to be given⁷⁸. Distribute means distribute by means of a distribution system⁷⁹. A distribution system consists (wholly or mainly) of low voltage lines and electrical plant and is used for conveying electricity to any premises or to any other distribution system.

Electricity supplier licence

- 2.16 An electricity supplier's licence allows the licensee to supply electricity to premises⁸⁰. Supply in relation to electricity means supply of electricity conveyed by a distribution system to premises other than premises occupied by a licence holder for the purpose of carrying on the activities which he is authorised by his licence to carry on⁸¹.
- 2.17 A supplier's licence may authorise the holder to supply electricity:
- ◆ to any premises
 - ◆ only to premises specified in the licence, or to premises of a description so specified, or

⁷⁷ Electricity Act 1989 s4(4)

⁷⁸ Electricity Act 1989 s6(1)(c))

⁷⁹ Electricity Act 1989 s4(4)

⁸⁰ Electricity Act 1989 s6(1)(d)

⁸¹ Electricity Act 1989 s4(4)

- ◆ only to any premises situated in a specified area, or to premises of a specified description which are so situated.

Electricity interconnector licence

2.18 A electricity interconnector licence allows the licensee to participate in the operation of an electricity interconnector⁸²

2.19 Participating in the operation on an electricity interconnector is defined as:

- ◆ co-ordinating and directing the flow of electricity into or through an electricity interconnector, or
- ◆ making such an interconnector available for use for the conveyance of electricity⁸³.

Licence restrictions

2.20 A licensee may apply for a restriction of its licence. A restriction has the effect of removing from the licence, areas or premises to which the licence applies. Restrictions cannot be granted which would have the effect of denying gas or electricity to premises likely to be owned or occupied by persons who are chronically sick, disabled, of pensionable age or who are likely to default on the payment of charges. Where a restriction would affect an existing or potential consumer the licence holder must satisfy Ofgem that arrangements have been made:

- ◆ to secure continuity of supply, and
- ◆ where a contract exists between the consumer and licence holder to secure such continuity for the consumer on the same or as near as is possible to the same terms as the existing contract.

Licence extensions

2.21 A licensee may apply for an extension of its licence. An extension increases the area, number or type of premises to which the licence applies. An extension

⁸² Electricity Act 1989 s6(1)(e)

⁸³ Electricity Act 1989 s4(3C)

cannot be granted if it seeks to or would have the effect of denying gas or electricity to premises likely to be owned or occupied by persons who are chronically sick, disabled, of pensionable age or who are likely to default in the payment of charges.

Appendix 3 Published guidance

- 3.1 This Appendix lists previous guidance published by Ofgem for gas and electricity Codes of Practice. The guidance contains the criteria against which relevant information in licence applications will be assessed.

***Gas and Electricity Codes of practice. Guidance for domestic suppliers
October 2001 61/01.***

- 3.2 This document can be found within the Licensing Explained Information Site on the Ofgem website (<http://www.ofgem.gov.uk>). It contains guidance on the following standard licence conditions (SLCs):

- ◆ SLC 24 (gas) Arrangements in Respect of Powers of Entry
- ◆ SLC 24A Authorisation of Officers
- ◆ SLC 24B Exercise of Powers of Entry
- ◆ SLC 24(electricity) Code of Practice on Procedures with Respect to Site Access
- ◆ SLC 25 Efficient Use of Gas
- ◆ SLC 35 Code of Practice on Payment of Bills and Guidance for Dealing with Customers in Difficulty
- ◆ SLC 36 Code of Practice on the Use of Prepayment Meters
- ◆ SLC 37 Provision of Services for Persons who are of Pensionable Age or Disabled or Chronically Sick
- ◆ SLC 37A Pensioners Not to Have Supply of Gas Cut Off In Winter
- ◆ SLC 38 Provision of Services for Persons who are Blind or Deaf
- ◆ SLC 39 Complaint Handling Procedure, and
- ◆ SLC 43 Contractual Terms – Methods of Payment.

***Distribution and transportation codes of practice. Guidance notes.
October 2001 60/01.***

3.3 This document can be found within the Licensing Explained Information Site on the Ofgem website (<http://www.ofgem.gov.uk>). It contains guidance on the following standard licence conditions (SLCs):

- ◆ SLC17 (electricity) Provision of Services for Persons who are of Pensionable Age or Disabled or Chronically Sick
- ◆ SLC 18 Provision of Services for Persons who are Blind or Deaf
- ◆ SLC 19 (gas) Arrangements in Respect of Powers of Entry
- ◆ SLC 19 (electricity) Code of Practice on Procedures with Respect to Site Access, and
- ◆ SLC 21 Complaint Handling Procedure.

Code of practice on the efficient use of electricity and gas. Non-domestic suppliers. Guidance note. November 2001.

3.4 This document can be found within the Licensing Explained Information Site on the Ofgem website (<http://www.ofgem.gov.uk>). It contains guidance on the following standard licence conditions (SLCs):

- ◆ SLC25 Efficient Use of Gas and Electricity.

2004 No. 2983

GAS

The Gas (Applications for Licences and Extensions and Restrictions of Licences) (No. 2) Regulations 2004

Made - - - - - *8th November 2004*

Coming into force - - - - - *1st December 2004*

The Gas and Electricity Markets Authority(a), in exercise of the powers conferred upon it by sections 7B(1), (2) and (11) and 47 of the Gas Act 1986(b) hereby make the following Regulations:

Citation, commencement and revocation

1.—(1) These Regulations may be cited as the Gas (Applications for Licences and Extensions and Restrictions of Licences) (No. 2) Regulations 2004 and shall come into force on 1st December 2004.

(2) The Gas (Applications for Licences and Extensions and Restrictions of Licences) Regulations 2004(c) (“the 2004 Regulations”) are hereby revoked.

Transitional provisions

2.—(1) Where an application has been made under the 2004 Regulations, or by virtue of Regulation 1(2)(b) of those Regulations is to be treated as so made, but in either case at the point at which these Regulations come into force the application has neither been granted or refused, the application shall be treated thereafter as having been made under these Regulations.

(2) An application to which paragraph (1) applies which conformed to the requirements of the regulations in force at the time it was made and was accompanied by the fee prescribed under those regulations shall not be treated as defective by virtue only of failure in any respect to comply with these Regulations.

(3) But the Authority may—

(a) by notice in writing request the applicant to supply any such information as is prescribed by these Regulations in respect of an application of that kind but which was omitted from the application; and

(b) defer its decision on the application until such time as that information has been produced.

(4) Where, in relation to an application to which paragraph (1) applies, the applicant, before the coming into force of these Regulations, published a notice of the application in accordance with the regulations in force at the time the application was made, the requirements of these Regulations as regards publication shall be taken to have been met.

(a) The Gas and Electricity Markets Authority was established under section 1(1) of the Utilities Act 2000 (c. 27).

(b) 1986 c. 44: section 7B of the Gas Act was inserted by section 74(7) of the Utilities Act 2000.

(c) S.I. 2004/2542.

Interpretation

3.—(1) In these Regulations—

“the 2000 Act” means the Utilities Act 2000(a);

“the 2004 Act” means the Energy Act 2004(b);

“the Act” means the Gas Act 1986;

“application” means an application for a licence, an application for an extension of a licence or an application for a restriction of a licence under the Act; and references to an application in respect of a licence shall be construed accordingly;

“the Authority” means the Gas and Electricity Markets Authority established by section 1 of the 2000 Act;

“domestic premises” means premises used wholly or mainly for domestic purposes;

“extension”, in relation to a gas transporter licence, means an extension of the licence under section 7(4) of the Act and, in relation to a gas supplier licence or a gas shipper licence, means an extension of the licence under section 7A(4) of the Act;

“interconnector licence” means a licence granted or to be granted under section 7ZA(1) of the Act;

“restriction” in relation to a gas transporter licence, means a restriction of the licence under section 7(4A) of the Act and, in relation to a gas supplier licence or a gas shipper licence, means a restriction of the licence under section 7A(6) of the Act;

“shipper licence” means a licence granted or to be granted under section 7A(2) of the Act;

“supplier licence” means a licence granted or to be granted under section 7A(1) of the Act;

“transporter licence” means a licence granted or to be granted under section 7 of the Act; and

“ultimate holding company” means a holding company (within the meaning of sections 736, 736A and 736B of the Companies Act 1985(c)) of the licensee which is not itself a subsidiary of another company; which is in the position to control, or exercise significant influence over, a policy of the licensee by virtue of rights under contractual arrangements or rights of ownership which are held by the company or of which the company is a beneficiary.

(2) In these Regulations, unless the context otherwise requires, a reference to a standard condition is a reference—

(a) in relation to a shipper licence, a supplier licence or a transporter licence, as the case may be, to a standard condition which is determined under section 81(2) of the 2000 Act; or

(b) in relation to an interconnector licence, to a standard condition which is determined under section 150(1) of the 2004 Act,

subject to any modifications of the standard conditions made under Part I of the Act, or the 2004 Act, after the determination under those sections.

(3) In these Regulations, unless the context otherwise requires—

(c) any reference to a numbered regulation or Schedule is a reference to the regulation or Schedule bearing that number in these Regulations; and

(d) any reference to a numbered paragraph is a reference to the paragraph bearing that number in the regulation in which the reference occurs.

Manner of Application

4. An application shall be—

(a) made in writing, addressed to the Authority and delivered or sent by prepaid post to the Authority at its principal office; and

(b) signed and dated by or on behalf of the applicant, stating, where signed on behalf of the applicant, the capacity of the signatory.

(a) 2000 c. 27.

(b) 2004 c. 20.

(c) 1985 c. 6.

Form of application

5. An application shall be in the form specified in Schedule 1 or a form to the like effect, and shall contain the information there specified.

Additional information and documents to accompany application

6.—(1) Subject to paragraphs (2) and (3)—

- (a) an application in respect of a gas supplier licence shall be accompanied by the information and documents specified in Part 1 of Schedule 2;
- (b) an application in respect of a gas shipper licence shall be accompanied by the information and documents specified in Part 2 of Schedule 2;
- (c) an application in respect of a gas transporter licence shall be accompanied by the information and documents specified in Part 3 of Schedule 2; and
- (d) an application in respect of an interconnector licence shall be accompanied by the information and documents specified in Part 4 of Schedule 2.

(2) The obligation imposed by paragraph 6(1) shall, to the extent that information and documents are specified in Schedule 2 by reference to, or in relation to, a standard condition, apply—

- (a) subject to paragraph 6(3), in the case of an application for a licence, other than for a gas supplier licence of the type described in section 8(2) of the Act, as if the standard condition in question were to be included and have effect in any licence granted as a result of the application; and
- (b) in the case of an application for an extension or restriction of a licence, in relation to such of the standard conditions in question as have been included and have effect in that licence.

(3) Where a modification to any standard condition is requested in accordance with paragraph 4(1) of Schedule 1, the obligation imposed by paragraph (2)(a) above shall be modified accordingly.

Application fees

7.—(1) Subject to paragraph (2), the prescribed fee in relation to an application of the description specified in the first column of the Table in Schedule 3 shall be the corresponding fee specified in the second column of that Table.

(2) Where more than one fee would, but for this paragraph, be payable in respect of a particular application, the prescribed fee shall be the higher or highest such fee.

Publication of notice of application

8.—(1) The period prescribed for the purpose of section 7B(2) of the Act (notice of applications) is ten working days (“the prescribed period”).

(2) The prescribed manner of publication for that purpose shall be either by—

- (a) requesting the Authority to place the notice on the website address of the Authority (at “www.ofgem.gov.uk” or such other website address as may be notified to the applicant by the Authority in writing); or
- (b) publishing the notice on the website address of the applicant and requesting the Authority to place a link to the applicant’s website address on the website address of the Authority (at “www.ofgem.gov.uk” or such other website address as may be notified to the applicant by the Authority in writing).

(3) Where an application is for the restriction of a licence, the applicant shall also ensure that notice of application is published within the prescribed period in such newspapers as are calculated to ensure that the notice is circulated throughout the area to which the proposed restriction relates.

(4) In this Regulation “working day” shall have the same meaning as in section 64 of the Electricity Act 1989^(a).

The seal of the Gas and Electricity Markets Authority here affixed is authenticated by the signature of



8th November 2004

John Neilson
A member of the Authority

^(a) 1989 c. 29.

FORM OF APPLICATION IN RESPECT OF A SUPPLIER LICENCE, SHIPPER LICENCE, TRANSPORTER LICENCE OR INTERCONNECTOR LICENCE UNDER THE GAS ACT 1989

GENERAL PARTICULARS

1. State—

(1) name and registered address of applicant in full. In the case of a partnership or other joint venture (other than a body corporate), give the names and addresses of each party concerned.

.....
.....
.....

(2) name, address, facsimile number (where applicable), telephone number and electronic mail address (where applicable) of person to whom correspondence or enquiries concerning the application should be directed.

.....
.....
.....

(3) where the address provided in paragraph 1(1) above is not an address in Great Britain an address in Great Britain for service of documents.

.....

(4) whether the application is in respect of a supplier licence, a shipper licence, a transporter licence or an interconnector licence(a).

.....

(5) whether the application is for a licence, an extension of a licence or a restriction of a licence(b).

.....

(6) the date from which the licence or extension or restriction is desired to take effect.

.....

(7) the kind of gas to which the application relates(c).

.....

2. State—

(a) whether the applicant is a public limited company, private limited company, overseas company, other body corporate, partnership, unincorporated association, sole trader or other entity (and in the last case give particulars of the legal status).

.....

(b) where the applicant is a body corporate,—

(i) the jurisdiction under which it is incorporated.

.....

(ii) if applicable, its registered number.

.....

(iii) the full names and addresses of its current directors (including any shadow directors within the meaning of section 741 of the Companies Act 1985) or, where applicable, the corresponding officers.

.....

(a) Application may not be made on the same form in respect of more than one of these types of licence.
(b) An application may not be made for the extension or restriction of an interconnector licence, or for the extension of a licence which authorises only the supply to premises of gas which has been conveyed to the premises otherwise than by a gas transporter.
(c) For example, natural gas, liquid petroleum gas, coal bed methane.

(iv) the name and registered office of any ultimate holding company and its current directors (within the meaning of sections 736, 736A and 736B of the Companies Act 1985) of the applicant and the name and registered or principal office of any parent undertaking (within the meaning of section 258 of the Companies Act 1985) of the applicant.

.....
(c) where the applicant is neither a body corporate nor a sole trader, the name(s) and address(es) of the person or persons in whom effective control of the applicant rests.

.....
(d) where any person (other than a person whose name is given at paragraph 2(b)(iv) or paragraph 2(c) above) holds 20 per cent or more of any class of the shares(a) of the applicant, the name and address of each such person, specifying in each case the number of shares so held and the percentage of the aggregate number of shares of that class represented thereby.

.....
3. Give particulars of any licences under the Act or the Electricity Act 1989(b) held, applied for (whether or not successfully) or intended to be applied for by the applicant or (so far as is known to the applicant) by any person who is a related person(c) in relation to the applicant.

.....
DETAILS OF APPLICATION

4.—(1) If the application is for a licence other than a gas supplier licence of the type specified in section 8(2) of the Act—

- (a) provide details of any modification requested to any of the standard conditions for the type of licence for the purposes of section 8(3) of the Act; and
- (b) state the grounds on which the applicant believes that—
 - (i) any such modification is requisite to meet the circumstances of the particular case; and
 - (ii) if the application is for a gas shipper licence or gas supplier licence, any such modification is such that no other holder of such a licence would be unduly disadvantaged in competing with other holders of such licences (including the applicant).

(2) If the application is for a gas supplier licence of the type specified in section 8(2) of the Act, specify, with reasons, any standard conditions that in the applicant's opinion should be included and have effect in the licence.

CRIMINAL OFFENCES

5. Either—

- (a) give particulars of any criminal convictions of the applicant and any other person specified in paragraph 2(b)(iii), 2(b)(iv), 2(c) or 2(d) (other than for offences under the Road Traffic Offenders Act 1988(d) or convictions in respect of which the person has become rehabilitated under the Rehabilitation of Offenders Act 1974(e)); or
- (b) provide a statement that there are no relevant convictions.

(a) Reference to shares—

- (i) in relation to an applicant with share capital, are to allotted shares;
- (ii) in relation to an applicant with capital but no share capital, are rights to share in the capital of the applicant; and
- (iii) in relation to an applicant without share capital, are to interests—
 - (a) conferring any right to share in the profits or liability to contribute to the losses of the applicant; and
 - (b) giving rise to an obligation to contribute to the debts or expenses of the applicant in the event of winding up.

(b) 1989 c. 29.

(c) In this sub-paragraph "related person" means—

- (i) in relation to an applicant who is an undertaking within the meaning of section 259 of the Companies Act 1985 ("the principal undertaking"), a parent or subsidiary undertaking of the principle undertaking or a subsidiary undertaking of the parent undertaking of the principal undertaking, in each case within the meaning of section 258 of that Act; and
- (ii) in relation to any applicant (including such an undertaking), a connected person of the applicant within the meaning of section 286 of the Taxation of Chargeable Gains Act 1992 (c. 12).

(d) 1988 c. 53.

(e) 1974 c. 53.

PART 1

FURTHER INFORMATION AND DOCUMENTS TO ACCOMPANY AN APPLICATION IN RESPECT OF A SUPPLIER LICENCE(a)

1. A gas supplier licence may authorise the holder to supply gas—
 - (a) to any premises;
 - (b) only to premises specified in the licence, or to premises of a description so specified; or
 - (c) only to any premises situated in a specified area, or to premises of a specified description which are so situated;

(section 7A(1) of the Act). Please specify whether (a), (b) or (c) above is applicable. Provide a sufficient description adequately specifying (b) the premises or a description of the premises and the location of the premises intended to be supplied, and, in the case of an application that relates to (c) above, also the specified area. Also state whether the application relates to domestic premises.

2. For all applications for gas supplier licences, or extensions of such licences, state whether the licence or extension is to authorise the supply of gas to premises to which it is conveyed by a gas transporter, and if not give details of any exemption under section 6A of the Act under which the gas is or will be conveyed.

SUPPLY TO DOMESTIC PREMISES

3. If the application relates to the supply of gas to domestic premises to which gas is, or is to be, conveyed by a gas transporter, the applicant shall provide particulars of the applicant's proposed arrangements for compliance with the applicable requirements of standard conditions 24 (Arrangements in Respect of Powers of Entry), 24A (Authorisation of Officers), 24B (Exercise of Powers of Entry), 25 (Efficient Use of Gas), 35 (Code of Practice on Payment of Bills and Guidance for Dealing with Customers in Difficulty), 36 (Code of Practice on the Use of Prepayment Meters), 37 (Provision of Services for Persons who are of Pensionable Age or Disabled or Chronically Sick), 37A (Pensioners Not to Have Supply of Gas Cut Off in Winter), 38 (Provision of Services for Persons who are Blind or Deaf), 39 (Complaint Handling Procedure) and 43 (Contractual Terms—Methods of Payment).

RESTRICTION OF A SUPPLIER LICENCE

4. If the application is for a restriction of a licence provide—
 - (a) an estimate of the total number of premises to which the applicant supplies gas at the time of the application and which the applicant would cease to supply gas if the application were acceded to ("relevant premises"); and
 - (b) unless there are, at the date of the application, no relevant consumers (within the meaning of section 7A(10) of the Act) in relation to the applicant, a description of the applicant's proposed arrangements under section 7A(9) of the Act for—
 - (i) ensuring continuity of supply for all such relevant consumers; and
 - (ii) in the case of each such consumer who is supplied with gas in pursuance of a contract (within the meaning of that section), securing such continuity on the same terms as nearly as may be as the terms of the contract.

PART 2

FURTHER INFORMATION AND DOCUMENTS TO ACCOMPANY AN APPLICATION IN RESPECT OF A SHIPPER LICENCE(c)

1. A gas shipper licence may authorise the holder to—
 - (a) make arrangements generally with any gas transporter for gas to be introduced into, conveyed by means of or taken out of a pipe-line system operated by that transporter; or
 - (b) make such arrangements for purposes connected with the supply of gas to specified premises, being—

-
- (a) In this Part of this Schedule, if the application is for an extension or restriction of a licence, information and documents need only be given in so far as, in any material respect, they significantly differ from or add to the most recent information or documents which were provided in relation to the same requirement—
 - (i) with an application made by the applicant in accordance with these Regulations; or
 - (ii) subsequent to such an application in pursuance of a condition of the applicant's licence.
 - (b) The description should enable the areas, location or premises concerned to be adequately and readily identified by map, if the applicant so desires, or by any other convenient means.
 - (c) In this part of this Schedule, if the application is for an extension or restriction of a licence, information and documents need only be given in so far as, in any material respect, they differ from or add to the most recent information or documents which were provided in relation to the same requirement—
 - (i) with an application made by the applicant in accordance with these Regulations; or
 - (ii) subsequent to such an application in pursuance of a condition of the applicant's licence.

- (i) any premises in a specified area;
 - (ii) any premises of a specified description (whether in a specified area or throughout Great Britain); or
 - (iii) particular premises;
- (section 7A(2) of the Act). Provide a sufficient description adequately specifying the premises or a description of the premises, and also the specified area, if any, to which the application relates(a).

PART 3

FURTHER INFORMATION AND DOCUMENTS TO ACCOMPANY AN APPLICATION IN RESPECT OF A TRANSPORTER LICENCE(b)

1. A gas transporter licence may authorise the holder to convey gas—
 - (a) to any premises, and/or
 - (b) to any pipe-line system operated by another gas transporter—
 - (i) throughout Great Britain; or
 - (ii) within a specified area or areas.

Please specify which of (a) or (b) is, or both are, applicable, and, if (b) is applicable, which of (i) or (ii) is applicable, and in the case of (ii) provide a sufficient description adequately specifying the area to which the application relates(c).

Also state whether the application relates to domestic premises. For applications within paragraph 1(b) above, also specify the description of pipe-line system to which the application relates (stating, in particular, whether it relates only to any system which is designed to receive gas at an operating pressure not exceeding 7 bar gauge).

2. Provide particulars of the applicant's proposed arrangements for compliance with the applicable requirements of standard conditions 8 (Provision and Return of Meters), 18 (Provision of Services for Persons who are Blind or Deaf), 19 (Arrangements in Respect of Powers of Entry), 19A (Authorisation of Officers), 19B (Exercise of Powers of Entry) and 21 (Complaint Handling Procedure).

RESTRICTION OF A TRANSPORTER LICENCE

3. If the application is for a restriction of a licence provide—
 - (a) an estimate of the total number of premises to which the applicant conveys gas at the time of the application and to which the applicant would cease to convey gas if the application were acceded to (“the relevant premises”);
 - (b) unless there are, at the date of the application, no relevant consumers (within the meaning set out in sub-paragraph (c) below) in relation to the applicant, a description of the applicant's proposed arrangements to ensure compliance with section 10 of the Act (ensuring the connection of all such relevant consumers is maintained); and
 - (c) for the purposes of sub-paragraph (b), a person is a relevant consumer if—
 - (i) immediately before the restriction takes effect, he is connected to the pipe-line system of the holder of the licence; and
 - (ii) his premises are to be excluded from the licence by the restriction.

PART 4

FURTHER INFORMATION AND DOCUMENTS TO ACCOMPANY AN APPLICATION IN RESPECT OF AN INTERCONNECTOR LICENCE

1. An application in respect of a gas interconnector licence must specify the actual or proposed point of connection to a gas transportation or gas distribution network. Where the applicant is unable to specify a point of connection the applicant should provide Ordnance Survey Grid Reference co-ordinates for the proposed point of connection.

-
- (a) The description should enable the areas, location or premises concerned to be adequately and readily identified by map, if the applicant so desires, or by other convenient means.
 - (b) In this Part of this Schedule, if the application is for an extension or restriction of a licence, information and documents need only be given in so far as, in any material respect, they differ significantly from or add significantly to the most recent information or documents which were provided in relation to the same requirement—
 - (i) with an application made by the applicant in accordance with these Regulations; or
 - (ii) subsequent to such an application in pursuance of a condition of the applicant's licence.
 - (c) The description should enable the areas, location or premises concerned to be adequately and readily identified by map, if the applicant so desires, or by any other convenient means.

2. In relation to an application for a licence in respect of an interconnector that was not completed by 3 August 2003, state whether the applicant seeks not to have applied to the licence any or all of the following standard licence conditions—

- (a) conditions relating to the charging methodology to apply to third party access to the licensee's interconnector;
- (b) conditions relating to the requirement to offer terms to an applicant for access to the licensee's interconnector.

3. Where the applicant so seeks for any or all of the licence conditions relating to the matters referred to in paragraphs 2(a) and 2(b) above not to be in effect the following additional information must be provided in respect of those licence conditions—

- (a) the period of time for which the applicant seeks that the licence condition or conditions not be in effect;
- (b) a statement setting out the evidence and reasoning as to why the applicant considers—
 - (i) the investment in the interconnector enhances competition in gas supply and enhances security of supply;
 - (ii) the level of risk attached to the investment to be made in relation to the interconnector is such that the investment would not be or would not have been made unless those licence conditions were not in effect;
 - (iii) that, should the licence conditions not be in effect for the period of time sought, this will not be detrimental to competition or the effective functioning of the internal gas market, or the efficient functioning of the regulated system to which the interconnector is connected; and
- (c) a further statement that—
 - (i) the interconnector will be owned by a natural or legal person who is separate, at least in terms of its legal form, from the system operators in whose systems the interconnector to which this application relates will be built; and
 - (ii) charges will be levied on users of the interconnector.

SCHEDULE 3

Regulation 7

APPLICATION FEES

<i>Description of application</i>	<i>Fee payable</i> £
<i>Supplier</i>	
1. Application for licence including authorisation to supply gas to premises to which gas is, or is to be, conveyed by a gas transporter (not including authorisation to supply gas to domestic premises)	400
2. Application for licence including authorisation to supply gas to premises to which gas is, or is to be, conveyed otherwise than by a gas transporter	300
3. Application for licence including authorisation to supply gas to domestic premises to which gas is, or is to be, conveyed by a gas transporter	1,150
4. Application for extension of a licence so as to include authorisation to supply gas to domestic premises to which gas is conveyed by a gas transporter	1,000
5. Application for any other extension or restriction	400
<i>Shipper</i>	
6. Any application	300
<i>Transporter</i>	
7. Application for a licence	950
8. Application for extension or restriction	125
<i>Interconnector</i>	
9. Application for a licence	950

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the information, and other documents that are required to be submitted with applications for gas transporter, gas shipper, gas supplier and gas interconnector licences (and for extensions or restrictions of supplier, shipper and transporter licences) under the Gas Act 1986, as amended by the Utilities Act 2000 and the Energy Act 2004. They specify the form and manner of such applications. These Regulations also set out the manner in which notices of applications are to be published.

These Regulations come into force on 1st December 2004. Regulation 1 provides for the citation, commencement and revokes the previous Regulations. Regulation 2 makes transitional provisions for applications made but not determined before the Regulations come into force.

Regulation 3 provides for general interpretation.

Regulation 4 deals with the manner of applications.

Regulation 5 concerns the form of applications, and incorporates Schedule 1 that specifies their form, and the information and documents to accompany them.

Regulation 6 specifies the additional information and documents to accompany applications. It incorporates Schedule 2, which covers, respectively, applications for:

- gas supplier licences, at Part 1;
- gas shipper licences, at Part 2;
- gas transporter licences, at Part 3; and
- gas interconnector licences, at Part 4.

Regulation 7 incorporates Schedule 3, which specifies the fees payable in respect of applications.

Regulation 8 provides for the notice period and publication requirements for applications. It requires applicants to ensure notice of the application is published either on the Ofgem website or their own website. If the application is for a restriction the applicant must also publish the notice in local newspapers.

2004 No. 2983

GAS

**The Gas (Applications for Licences and Extensions and
Restrictions of Licences) (No. 2) Regulations 2004**

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2004 No. 2952

ELECTRICITY

**The Electricity (Applications for Licences, Modifications of
an Area and Extensions and Restrictions of Licences)
(No. 2) Regulations 2004**

Made - - - - - *8th November 2004*

Coming into force - - - *1st December 2004*

The Gas and Electricity Markets Authority(a), in exercise of the powers conferred upon it by sections 6A(2), (3) and (6) and 60 of the Electricity Act 1989(b) hereby make the following Regulations:

Citation, commencement and revocation

1.—(1) These Regulations may be cited as the The Electricity (Applications for Licences, Modifications of an Area and Extensions and Restrictions of Licences) (No. 2) Regulations 2004 and shall come into force on 1st December 2004.

(2) The Electricity (Applications for Licences, Modifications of an Area and Extensions and Restrictions of Licences) (No. 2) Regulations 2004(c) (“the 2004 Regulations”) are hereby revoked.

Transitional provisions

2.—(1) Where an application has been made under the 2004 Regulations, or by virtue of Regulation 1(2)(b) of those Regulations is to be treated as so made, but in either case at the point at which these Regulations come into force the application has neither been granted or refused, the application shall be treated thereafter as having been made under these Regulations.

(2) An application to which paragraph (1) applies which conformed to the requirements of the regulations in force at the time it was made and was accompanied by the fee prescribed under those regulations shall not be treated as defective by virtue only of failure in any respect to comply with these Regulations.

(3) But the Authority may—

- (a) by notice in writing request the applicant to supply any such information as is prescribed by these Regulations in respect of an application of that kind but which was omitted from the application; and
- (b) defer its decision on the application until such time as that information has been produced.

(a) The Gas and Electricity Markets Authority was established under section 1(1) of the Utilities Act 2000 (c. 27).
(b) 1989 c. 29; with effect from 1st October 2001, section 30 of the Utilities Act 2000 introduced section 6A into the Electricity Act 1989.
(c) S.I. 2004/2541.

(4) Where, in relation to an application to which paragraph (1) applies, the applicant, before the coming into force of these Regulations, published a notice of the application in accordance with the regulations in force at the time the application was made, the requirements of these Regulations as regards publication shall be taken to have been met.

Interpretation

3.—(1) In these Regulations—

“the 2000 Act” means the Utilities Act 2000(a);

“the 2004 Act” means the Energy Act 2004(b);

“the Act” means the Electricity Act 1989;

“application” means an application for a licence, or for a modification of a licence under the Act; and references to an application in respect of a licence shall be construed accordingly;

“the Authority” means the Gas and Electricity Markets Authority established by section 1 of the 2000 Act;

“distribution licence” means a licence granted or to be granted under section 6(1)(c) of the Act;

“domestic premises” means premises used wholly or mainly for domestic purposes;

“extension”, in relation to a supply licence, means an extension of the licence under section 6(4) of the Act and, in relation to a distribution licence, means an extension of the licence under section 6(6) of the Act;

“generation licence” means a licence granted or to be granted under section 6(1)(a) of the Act;

“interconnector licence” means a licence granted or to be granted under section 6(1)(e) of the Act;

“modification of an area” in relation to a transmission licence, means a modification of an area of the licence under section 6(6B) of the Act;

“restriction” in relation to a supply licence, means a restriction of the licence under section 6(4) of the Act and, in relation to a distribution licence, means a restriction of the licence under section 6(6) of the Act, and, only in relation to a transmission licence for the purpose of Regulation 8(4) and Part II of Schedule 2 to these Regulations, unless a modification of an area of the licence under section 6(6B) of the Act by a restriction of the area of the licence;

“supply licence” means a licence granted or to be granted under section 6(1)(d) of the Act;

“transmission licence” means a licence granted or to be granted under section 6(1)(b) of the Act; and

“ultimate holding company” means a holding company (within the meaning of sections 736, 736A and 736B of the Companies Act 1985(c)) of the licensee which is not itself a subsidiary of another company; which is in the position to control, or exercise significant influence over, a policy of the licensee by virtue of rights under contractual arrangements or rights of ownership which are held by the company or of which the company is a beneficiary.

(2) In these Regulations, unless the context otherwise requires, a reference to a standard condition is a reference—

(a) in relation to a distribution licence, a generation licence, a supply licence or a transmission licence, to a standard condition which is determined under section 33(1) of the 2000 Act or section 137(1) of the 2004 Act; or

(b) in relation to an interconnector licence, to a standard condition which is determined under section 146(1) of the 2004 Act,

subject to any modifications of the standard conditions made under Part I of the Act, the 2000 Act, or the 2004 Act, after the determination under those sections.

(3) In these Regulations, unless the context otherwise requires—

(a) any reference to a numbered regulation or Schedule is a reference to the regulation or Schedule bearing that number in these Regulations; and

(a) 2000 c. 27.

(b) 2004 c. 20.

(c) 1985 c. 6.

- (b) any reference to a numbered paragraph is a reference to the paragraph bearing that number in the regulation in which the reference occurs.

Manner of Application

4. An application shall be—
- (a) made in writing, addressed to the Authority and delivered or sent by prepaid post to the Authority at its principal office; and
 - (b) signed and dated by or on behalf of the applicant, stating, where signed on behalf of the applicant, the capacity of the signatory.

Form of application

5. An application shall be in the form specified in Schedule 1 or a form to the like effect, and shall contain the information there specified.

Additional information and documents to accompany application

- 6.—(1) Subject to paragraphs (2) and (3)—
- (a) an application in respect of a generation licence shall be accompanied by the information and documents specified in Part 1 of Schedule 2;
 - (b) an application in respect of a transmission licence shall be accompanied by the information and documents specified in Part 2 of Schedule 2;
 - (c) an application in respect of a distribution licence shall be accompanied by the information and documents specified in Part 3 of Schedule 2; and
 - (d) an application in respect of a supply licence shall be accompanied by the information and documents specified in Part 4 of Schedule 2; and
 - (e) an application in respect of an interconnector licence shall be accompanied by the information and documents specified in Part 5 of Schedule 2.

(2) The obligation imposed by paragraph 6(1) shall, to the extent that information and documents are specified in Schedule 2 by reference to, or in relation to, a standard condition, apply—

- (a) subject to paragraph 6(3), in the case of an application for a licence, as if the standard condition in question were to be included and have effect in any licence granted as a result of the application; and
- (b) in the case of an application for a modification of an area, or for an extension or restriction of a licence, in relation to such of the standard conditions in question as have been included and have effect in that licence.

(3) Where a modification to any standard condition is requested in accordance with paragraph 4 of Schedule 1, the obligation imposed by paragraph (2)(a) above shall be modified accordingly.

Application fees

7.—(1) Subject to paragraph (2), the prescribed fee in relation to an application of the description specified in the first column of the Table in Schedule 3 shall be the corresponding fee specified in the second column of that Table.

(2) Where more than one fee would, but for this paragraph, be payable in respect of a particular application, the prescribed fee shall be the higher or highest such fee.

Notice of application

8.—(1) The period prescribed for the purpose of section 6A(3) of the Act (notice of applications) is ten working days (“the prescribed period”).

(2) The prescribed manner of publication for that purpose shall be either by—

- (a) requesting the Authority to place the notice on the website address of the Authority (at “www.ofgem.gov.uk” or such other website address as may be notified to the applicant by the Authority in writing); or

(b) publishing the notice on the website address of the applicant and requesting the Authority to place a link to the applicant's website address on the website address of the Authority (at "www.ofgem.gov.uk" or such other website address as may be notified to the applicant by the Authority in writing).

(3) Where an application is for the restriction of a licence, the applicant shall also ensure that notice of application is published within the prescribed period in such newspapers as are calculated to ensure that the notice is circulated throughout the area to which the proposed restriction relates.

The seal of the Gas and Electricity Markets Authority here affixed is authenticated by the signature of



8th November 2004

John Neilson
A member of the Authority
Department

FORM OF APPLICATION IN RESPECT OF A GENERATION LICENCE,
TRANSMISSION LICENCE, DISTRIBUTION LICENCE, SUPPLY LICENCE OR
INTERCONNECTOR LICENCE UNDER THE ELECTRICITY ACT 1989

GENERAL PARTICULARS

1. State—

(1) name and registered address of applicant in full. In the case of a partnership or other joint venture (other than a body corporate), give the names and addresses of each party concerned.

.....
.....
.....

(2) name, address, facsimile number (where applicable), telephone number and electronic mail address (where applicable) of person to whom correspondence or enquiries concerning the application should be directed.

.....
.....
.....

(3) where the address provided in paragraph 1(1) above is not an address in Great Britain an address in Great Britain for service of documents.

.....
.....

(4) whether the application is in respect of a generation licence, a transmission licence, a distribution licence, a supply licence or an interconnector licence(a).

.....

(5) whether the application is for a licence, a modification of an area(b), an extension of a licence or a restriction of a licence(c).

.....

(6) the date from which the licence, the modification of an area or extension or restriction is desired to take effect.

.....

2. State—

(a) whether the applicant is a public limited company, private limited company, overseas company, other body corporate, partnership, unincorporated association, sole trader or other entity (and in the last case give particulars of the legal status).

(b) where the applicant is a body corporate,—

(i) the jurisdiction under which it is incorporated.

.....
.....

(ii) if applicable, its registered number.

.....

(a) Application may not be made on the same form in respect of more than one of these types of licence.
(b) Application for a modification of an area may only be made in relation to a transmission licence.
(c) Application may not be made for an extension or restriction of a generation or an interconnector licence.

- (iii) the full names and addresses of its current directors (including any shadow directors within the meaning of section 741 of the Companies Act 1985) or, where applicable, the corresponding officers.

- (iv) the name and registered office of any ultimate holding company and its current directors (within the meaning of sections 736, 736A and 736B of the Companies Act 1985) of the applicant and the name and registered or principal office of any parent undertaking (within the meaning of section 258 of the Companies Act 1985) of the applicant.

- (c) where the applicant is neither a body corporate nor a sole trader, the name(s) and address(es) of the person or persons in whom effective control of the applicant rests.

- (d) where any person (other than a person whose name is given at paragraph 2(b)(iv) or paragraph 2(c) above) holds 20 per cent or more of any class of the shares(a) of the applicant, the name and address of each such person, specifying in each case the number of shares so held and the percentage of the aggregate number of shares of that class represented thereby.

3. Give particulars of any licences under the Act or the Gas Act 1986(b) held, applied for (whether or not successfully) or intended to be applied for by the applicant or (so far as is known to the applicant) by any person who is a related person(c) in relation to the applicant.

DETAILS OF APPLICATION

- 4.—(1) If the application is for a licence describe—
- (a) any modification requested to any of the standard conditions for the type of licence for the purposes of section 8A(2) of the Act; and
- (b) the grounds on which the applicant believes that—
- (i) any such modification is requisite to meet the circumstances of the particular case; and
- (ii) any such modification is such that—
- (aa) the licence holder would not be unduly disadvantaged in competing with other holders of licences of that type; and
- (bb) no other holder of a licence of the same type would be unduly disadvantaged in competing with other holders of such licences (including the applicant).

CRIMINAL OFFENCES

5. Either—
- (a) give particulars of any criminal convictions of the applicant and any other person specified in paragraph 2(b)(iii), 2(b)(iv), 2(c) or 2(d) (other than for offences under the Road Traffic Offenders Act 1988(d) or convictions in respect of which the person has become rehabilitated under the Rehabilitation of Offenders Act 1974(e)); or
- (b) provide a statement that there are no relevant convictions.

-
- (a) Reference to shares—
- (i) in relation to an applicant with share capital, are to allotted shares;
- (ii) in relation to an applicant with capital but no share capital, are rights to share in the capital of the applicant; and
- (iii) in relation to an applicant without share capital, are to interests—
- (a) conferring any right to share in the profits or liability to contribute to the losses of the applicant; and
- (b) giving rise to an obligation to contribute to the debts or expenses of the applicant in the event of winding up.
- (b) 1986 c. 44.
- (c) In this sub-paragraph “related person” means—
- (i) in relation to an applicant who is an undertaking within the meaning of section 259 of the Companies Act 1985 (“the principal undertaking”), a parent or subsidiary undertaking of the principal undertaking or a subsidiary undertaking of the parent undertaking of the principal undertaking, in each case within the meaning of section 258 of that Act; and
- (ii) in relation to any applicant (including such an undertaking), a connected person of the applicant within the meaning of section 286 of the Taxation of Chargeable Gains Act 1992 (c. 12).
- (d) 1988 c. 53.
- (e) 1974 c. 53.

PART 1

FURTHER INFORMATION AND DOCUMENTS TO ACCOMPANY AN APPLICATION IN RESPECT OF A GENERATION LICENCE

1. A generation licence may authorise the holder to operate—
 - (a) throughout Great Britain; or
 - (b) within a specified area or areas at specified premises;

Please specify which of (a) or (b) is applicable, and in the case of (b) provide a sufficient description adequately specifying the area or premises to which the application relates(a).

2. A statement of the extent (if any) to which the applicant considers it necessary for powers under Schedule 3 (compulsory acquisition of land etc) and under Schedule 4 (other powers etc) to the Act to be given through the licence for which he is applying.

PART 2

FURTHER INFORMATION AND DOCUMENTS TO ACCOMPANY AN APPLICATION IN RESPECT OF A TRANSMISSION LICENCE(b)

1. Provide a brief description of the activities that the applicant intends to carry out with respect to the transmission of electricity.
2. Provide a sufficient description of—
 - (a) the area to which the application relates; and
 - (b) where different to the area in sub-paragraph (a), the area in which the applicant intends to carry out activities under a transmission licence(c).

MODIFICATION OF AN AREA OF A TRANSMISSION LICENCE

3. If the application is for a modification of an area of a transmission licence and the modification in question constitutes a restriction of the area, also provide details of any of the following persons who may be affected by the application—
 - (a) any person authorised by a licence granted under section 6(1) of the Act or an exemption granted under section 5(1) of the Act;
 - (b) any person directly connected to the applicant's transmission system; and
 - (c) any other person who may reasonably be affected by the restriction which is the subject of the application.

PART 3

FURTHER INFORMATION AND DOCUMENTS TO ACCOMPANY AN APPLICATION IN RESPECT OF A DISTRIBUTION LICENCE(d)

1. A distribution licence may authorise the holder to operator—
 - (a) throughout Great Britain; or
 - (b) within a specified area or areas at specified premises;

Please specify which of (a) or (b) is applicable, and in the case of (b) provide a sufficient description adequately specifying the area(s) or premises to which the application relates(e).

2. Provide a statement of the extent (if any) to which the applicant considers it necessary for powers under Schedule 3 (compulsory acquisition of land etc.) and under Schedule 4 (other powers etc.) to the Act to be given through the licence for which he is applying.

- (a) The description should enable the areas to be adequately and readily identified by map if the applicant so desires or by any other convenient means.
- (b) In this Part of this Schedule, if the application is for an extension or restriction of a licence, information and documents need only be given in so far as, in any material respect, they differ from or add to the most recent information or documents which were provided in relation to the same requirement—
 - (i) with an application made by the applicant in accordance with these Regulations; or
 - (ii) subsequent to such an application in pursuance of a condition of the applicant's licence.
- (c) The description should enable the areas to be adequately and readily identified by map if the applicant so desires, or by any other convenient means.
- (d) In this part of this Schedule, if the application is for an extension or restriction of a licence, information and documents need only be given insofar as, in any material respect, they differ from or add to the most recent information or documents which were provided in relation to the same requirement—
 - (i) with an application made by the applicant in accordance with these Regulations; or
 - (ii) subsequent to such an application in pursuance of a condition of the applicant's licence.
- (e) The description should enable the areas, location or premises concerned to be adequately and readily identified by map, if the applicant so desires, or by other convenient means.

3. Provide particulars of the applicant's proposed arrangements for compliance with the applicable requirements of standard conditions 6 (Safety and Security of Supplies Enquiry Service), 8 (Provisions Relating to the Connection of Metering Equipment), 17 (Provision of Services for Persons who are of Pensionable Age, Disabled or Chronically Sick), 18 (Provision of Services for Persons who are Blind or Deaf), 19 (Code of Practice on Procedures with Respect to Site Access), and 21 (Complaint Handling Procedure).

RESTRICTION OF A DISTRIBUTION LICENCE

- 4.—(1) If the application is for a restriction of a licence provide—
- (a) an estimate of the total number of premises to which the applicant distributes electricity at the time of the application and to which the applicant would cease to distribute electricity if the application were acceded to (“relevant premises”);
 - (b) unless there are, at the date of the application, no relevant consumers (within the meaning set out in paragraph (2) below) in relation to the applicant, a description of the applicant's proposed arrangements to ensure compliance with section 16 of the Act (ensuring the connection of all such relevant consumers is maintained); and
- (2) For the purposes of paragraph (1)(b), a person is a relevant consumer if—
- (i) immediately before the restriction takes effect, he is connected to the distribution system of the holder of the licence; and
 - (ii) his premises are to be excluded from the licence by the restriction.

PART 4

FURTHER INFORMATION AND DOCUMENTS TO ACCOMPANY AN APPLICATION IN RESPECT OF A SUPPLY LICENCE(a)

1. A supply licence may authorise the holder to supply electricity—
- (a) to any premises;
 - (b) only to premises specified in the licence, or to premises of a description so specified; or
 - (c) only to any premises situated in a specified area, or to premises of a specified description which are so situated (section 6(3) of the Act).

Please specify which of (a), (b) or (c) above is applicable. Provide a sufficient description adequately specifying (b) the premises or a description of the premises and the location of the premises intended to be supplied, and, in the case of an application that relates to (c) above, also the specified area. Also state whether the application relates to domestic premises.

SUPPLY TO DOMESTIC PREMISES

2. Provide particulars of the applicant's proposed arrangements for compliance with the applicable requirements of standard conditions 7 (Duty to Offer Terms for Meter Provision), 24 (Code of Practice on Procedures with Respect to Site Access), 25 (Efficient Use of Electricity), 35 (Code of Practice on Payment of Bills and Guidance for Dealing with Customers in Difficulty), 36 (Code of Practice on the Use of Prepayment Meters), 37 (Provision of Services for Persons who are of Pensionable Age or Disabled or Chronically Sick), 38 (Provision of Services for Persons who are Blind or Deaf), 39 (Complaint Handling Procedure), and 43 (Contractual Terms—Methods of Payment).

SUPPLY TO NON-DOMESTIC PREMISES

3. Provide particulars of the applicant's proposed arrangements for compliance with the applicable requirements of standard condition 7 (Duty to Offer Terms for Meter Provision).

RESTRICTION OF A SUPPLY LICENCE

4. If the application is for a restriction of a licence provide—
- (a) an estimate of the total number of premises to which the applicant supplies electricity at the time of the application and which the applicant would cease to supply if the application were acceded to (“relevant premises”); and

-
- (a) In this Part of this Schedule, if the application is for an extension or restriction of a licence, information and documents need only be given in so far as, in any material respect, they differ from or add to the most recent information or documents which were provided in relation to the same requirement—
 - (i) with an application made by the applicant in accordance with these Regulations; or
 - (ii) subsequent to such an application in pursuance of a condition of the applicant's licence.
 - (b) The description should enable the areas, location or premises concerned to be adequately and readily identified by map, if the applicant so desires, or by any other convenient means.

- (b) unless there are, at the date of the application, no relevant consumers (within the meaning set out in sub-paragraph (c) below) in relation to the applicant, a description of the applicant's proposed arrangements under standard condition 22A (Restriction or Revocation: Securing Continuity of Supply) for—
 - (i) ensuring continuity of supply for all such relevant consumers; and
 - (ii) in the case of each such consumer who is supplied with electricity in pursuance of a contract (which does not include any contract which, by virtue of paragraph 3 of Schedule 6 to the Act, is deemed to have been made), securing such continuity on the same terms as nearly as may be as the terms of the contract.
- (c) for the purposes of sub-paragraph (b), a person is a relevant consumer if—
 - (i) immediately before the restriction takes effect, he is being supplied with electricity by the holder of the licence; and
 - (ii) his premises are to be excluded from the licence by the restriction.

PART 5

FURTHER INFORMATION AND DOCUMENTS TO ACCOMPANY AN APPLICATION IN RESPECT OF AN INTERCONNECTOR LICENCE

1. An application in respect of a interconnector licence must specify the actual or proposed point of connection to an electricity transmission or electricity distribution network. Where the applicant is unable to specify a point of connection the applicant should provide Ordnance Survey Grid Reference coordinates for the proposed point of connection.
2. In relation to an application for a licence in respect of an interconnector that was not completed by 3 August 2003, state whether the applicant seeks not to have applied to the licence any or all of the following standard licence conditions—
 - (a) conditions relating to the use of revenues;
 - (b) conditions relating to the charging methodology to apply to third party access to the licensee's interconnector;
 - (c) conditions relating to the requirement to offer terms to an applicant for access to the licensee's interconnector.
3. Where the applicant so seeks for any or all of the licence conditions relating to the matters referred to in paragraphs 2(a), 2(b) and 2(c) above not to be in effect the following additional information must be provided in respect of those licence conditions—
 - (a) the period of time for which the applicant seeks that the licence condition or conditions not be in effect;
 - (b) a statement setting out the evidence and reasoning as to why the applicant considers—
 - (i) the investment in the interconnector enhances competition in electricity supply;
 - (ii) the level of risk attached to the investment to be made in relation to the interconnector is such that the investment would not be or would not have been made unless those licence conditions were not in effect;
 - (iii) that, should the licence conditions not be in effect for the period of time sought, this will not be detrimental to competition or the effective functioning of the internal electricity market, or the efficient functioning of the regulated system to which the interconnector is linked; and
 - (c) a further statement that—
 - (i) the interconnector will be owned by a natural or legal person who is separate, at least in terms of its legal form, from the system operators in whose systems the interconnector to which this application relates will be built; and
 - (ii) charges will be levied on users of the interconnector; and
 - (iii) since the partial market opening referred to in Article 19 of Directive 96/92/EC, no part of the capital or operating costs of the interconnector has been recovered from any component of charges made for the use of transmission or distribution systems linked by the interconnector.

SCHEDULE 3
APPLICATION FEES

Regulation 7

<i>Description of application</i>	<i>Fee payable £</i>
<i>Generation</i>	
1. Application for licence	450
<i>Transmission</i>	
2. Application for licence	450
3. Application for modification of an area	225
<i>Distribution</i>	
4. Application for licence	1,250
5. Application for extension or restriction	125
<i>Supply</i>	
6. Application for licence not including authorisation to supply electricity to domestic premises	450
7. Application for licence including authorisation to supply electricity to domestic premises	1,150
8. Application for extension of a licence so as to include authorisation to supply electricity to domestic premises	400
9. Application for any other extension or restriction	400
<i>Interconnector</i>	
10. Application for licence	950

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the information, and other documents that are required to be submitted with applications for electricity generation, transmission, distribution, supply and interconnector licences (and for modifications of an area of transmission licences and extensions, or restrictions of supply and distribution licences) under the Electricity Act 1989, as amended by the Utilities Act 2000 and the Energy Act 2004. They specify the form and manner of such applications. These Regulations also set out the manner in which notices of applications are to be published.

These Regulations come into force on 1st December 2004. Regulation 1 provides for the citation, commencement and revokes the previous Regulations. Regulation 2 makes transitional provisions for applications made but not determined before the Regulations come into force.

Regulation 3 provides for general interpretation.

Regulation 4 deals with the manner of applications.

Regulation 5 concerns the form of applications, and incorporates Schedule 1 that specifies their form, and the information and documents to accompany them.

Regulation 6 specifies the additional information and documents to accompany applications. It incorporates Schedule 2, which covers, respectively, applications for:

- generation licences, at Part 1;
- transmission licences, at Part 2;
- distribution licences, at Part 3;
- supply licences, at Part 4; and
- interconnector licences at Part 5.

Regulation 7 incorporates Schedule 3, which specifies the fees payable in respect of applications.

Regulation 8 provides for the notice period and publication requirements for applications. It requires applicants to ensure notice of the application is published either on the Ofgem website or their own website. If the application is for a restriction (including a modification of an area of a transmission licence to restrict that area) the applicant must also publish the notice in local newspapers.

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CORRECTION

Page 1, regulation 1(2), line two; “(No. 2)” should be deleted.

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