

# DN Sales Development & Implementation Steering Group Minutes

## Meeting 35

4 February 2005

Ofgem's office, 9 Millbank

### 10:00 AM – MORNING SESSION – LICENSING

10:00 am – 2:00 pm

#### Attendees – Morning Session

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

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

#### 1. Review of items from DISG meetings 33 and 34

##### a. Review of minutes

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

##### b. Review of actions

Sonia Brown then referred back to the action taken away by Transco in DISG 33 on how common communication formats could be maintained with respect to

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

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

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

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

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

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

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

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

last resort for ultimate resolution. Peter expressed the view that this procedure would address Ofgem's concern that it would have to address all data format issues.

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

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

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

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

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

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

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

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

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

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

## 2. Review of licence drafting

### a. Price control conditions

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

#### **Special Condition C8A**

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

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

Sonia clarified that Ofgem have been constrained by the fact that the licence modifications have to be finalised on 14 February even though the UNC has not been finalised. Hence Ofgem have had to go with the "best estimated view", and definitions have been a particular problem. So in case UNC related decisions are not incorporated in this edition of the licence, they will be incorporated in a further section 23 process between hive-down and

completion. Sonia reiterated that any major changes in definitions would complicate the whole process, and that earlier changes or tweaks would be preferred to later ones. Suzanne then continued listing changes in the definitions.

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

Suzanne at this point paused to ask if there were any further questions. Tory Hunter raised a query that the licence changes in Section 8AA are for the hive-down, but a lot relate to the enduring arrangements which may not come into play. Sonia agreed, but stated that Ofgem is preparing for them. Suzanne added that all incentive related changes would be picked up as part of the Section 23 modifications. Peter Bolitho queried why Ofgem were occupying themselves with these issues at the present time, when they could be part of a separate process closer to 1 September 2005. Again, Sonia explained that these issues were being dealt with as part of the current process because of the “best endeavours” obligation on NGT and potential purchasers.

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

**Special Condition C8B**  
**Restriction of revenue in respect of the NTS transportation owner activity and NTS system operation activity**

The main points raised were as follows:

- The “Principal formula” in paragraph 2 relates to actual revenues – the feed into allowed revenues is through a correction factor
- Paragraph 3 relates to maximum / allowed revenues – they remain unchanged except for the safety net
- The  $TOEx_t$  term and the  $TOExNTSSIC_t$  term (paragraph 2 (1) (ii)) will have the value “0” as of 1 October 2008
- In paragraph 2 (1) (i), the  $TOExR_t$  term and the  $TOExNTSSIC_t$  term will remain the same in the interim and the overall formula remains unchanged, but going forward into the enduring arrangements, two terms remain in play and  $TOREVBExC_t$  will become non-zero
- The  $TOREVBExC_t$  term defined on page 5 represents the sale of NTS baseline exit firm capacity and NTS baseline exit flow flexibility
- The other adjustment (paragraph 3 (1) c ) in relation to NTS prescribed rates is that following share sale, Transco will have a single bill, but the allocation to its businesses will have to change. Consistent with the Valuation Office model for IDN bills, Ofgem has determined that the total charge to be applied in respect of the NTS in England as 29.2729% of the prescribed rates bill for England
- In respect of the formula year commencing on 1 April 2007 (paragraph 3 (2) (a) (ii)), the £16.3 million safety net amount that had been determined in the final IA has been reflected, and will be inflated to 2007 prices. The safety net is triggered by the term “CSN” in the event that Transco either sells only one of its DN companies, or if the DN sales proceed to just one buyer or members of only one corporate group. Sonia hastened

to add that this was not the current expectation, but that Ofgem had to plan for the risk of customer detriment.

- The formula for actual NTS SO revenues (paragraph 13 (1) (b) ) derived by the licensee from the provision of NTS exit capacity and flow flexibility (SOExRF<sub>i</sub>) contains two terms for the interim arrangement period which will die away and then four terms in respect of the enduring arrangements period, thus acknowledging that the source of revenues will change
- The universal firm registration provisions (paragraph 14 (6) (c) ) have been removed
- Suzanne also highlighted that the Income Adjusting Event provisions recently directed by Ofgem reflected. Sonia added that the important thing to note is that in terms of SO revenues, the approach is consistent with that adopted for electricity

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

#### **Special Condition C9**

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

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

#### **Special Condition C10**

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

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

#### **Special Condition C14**

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

Two new terms – REVBExC<sub>i</sub> & REVBFF<sub>i</sub> – have been added. Suzanne added that this will be looked at again as part of the Section 23 mop-up. These two variables have been put in as a flag for further changes.

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

### **Special Condition C15**

#### **Licensee's methodology for determining incremental entry capacity volumes**

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

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

### **Schedule A**

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

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

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

### **Special Condition E2A**

#### **Revenue restriction definitions in respect of the Distribution Network**

- The definition of the phrase "appropriate auditors" has been deleted for the same reasons as earlier
- The definition of "connected system exit point" has been deleted
- A new definition for "Distribution Network capacity curtailment rights" has been added to replace the definition of "LDZ capacity curtailment rights"
- "Distribution Network transportation quantity" is defined in relation to arrangements with gas shippers and DN operators
- References to "system entry capacity" have been changed to "NTS Entry Capacity", consistent with the drafting of the UNC
- The definitions of "exit capacity constraint management services", "entry capacity constraint management services", "shipper", "system balancing services", "NTS exit capacity" and "NTS shrinkage" have been deleted for the same reasons as in relation to the NTS licence

- Just a note – the usage of the phrase “transportation system” is appropriate in the definition of “supply of Distribution Network services” within the DN licence, but not in the equivalent NTS related condition

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

### **Special Condition E2B**

#### **Restriction of revenue in respect of the Distribution Network transportation activity**

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

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

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

Julian Bagwell described flow back as equivalent to buyback.

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

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

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

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

**Special Condition E3  
Information to be provided to the Authority in connection with the  
transportation system revenue restriction in respect of the Distribution  
Network**

Two new terms – DNEExCC<sub>t</sub> & DNExFFC<sub>t</sub> – have been added, consistent with the equivalent NTS terms for exit capacity and flow flexibility.

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

**b. Standard Special Condition D10  
Provision of connections**

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

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

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

**Overall performance standards**

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

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

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

### **Working day changes**

Sean proposed a move from D+3 with 90% target to D+6 with 95% target for standard desk-top quotes. He expressed the view that it should not be a difficult standard to achieve, given that the D+3 performance level for the prior year had been 95.75%, and that it would only involve looking at addresses, checking records, and sending the standard charge in the majority of cases. Sean remarked that there would be an estimated 25,000 standard quotes for 2004-05, down from 30,000 for the previous year. Sean estimated that additional volumes direct from customers could double the work, but at the same time working days would also be doubled.

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

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

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

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

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

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

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

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

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

**Action:** Transco to provide website link today.

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

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

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

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

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

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

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

Sonia agreed and stated that it was this point that had been debated in the DISG that Tory had alluded to earlier.

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

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

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

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

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

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

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

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

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

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

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

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

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

### **Audit requirement changes**

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

Other changes included:

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

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

### **Definition changes**

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

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

Sean stated that standard quotations were now a desktop activity, and that specified connection information includes payment caps (SI), performance against standards, number of complex connections, etc. forming a picture of performance.

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

### **Licence obligations requiring Authority approval**

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

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

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

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

### **c. Any other issues**

Suzanne discussed a few more conditions.

**Standard Special Condition A9  
Pipeline system security standards**

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

**Standard Special Condition A55  
Enduring offtake arrangements**

Sonia explained that the revised condition achieves two objectives:

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

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

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

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

**Review of financial conditions**

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

**Standard Special Condition A30  
Regulatory accounts**

The following changes have been effected:

- The condition has been tweaked to split paragraph 1 into paragraphs 1 & 1A, with the “de minimis businesses” of relevant associates now covered in paragraph 1, so that it applies to licensees other than Transco

- A minor tweak has been made to paragraph 5, with the addition of the phrase “preceding the changes referred to above”
- DPCR consistency change – paragraph 7 has been split into paragraphs 7 and 8
- Publication of information provisions has been modified such that the reconciliation provided by Transco must be published and information on the de minimis businesses in paragraph 1(e) does not need to be published

**Standard Special Condition A38**  
**Credit rating of the licensee**

Here the definition of “investment grade” has been introduced.

**Standard Special Condition A39**  
**Indebtedness**

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

**Standard Special Condition A11**  
**Network code and uniform network code**

The following changes have been effected:

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

**Standard Special Condition A12**  
**Joint office governance arrangements**

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

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

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

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

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

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

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