

SECTION F

DETERMINATION OF CALORIFIC VALUE

1 General

1.1 Introduction

1.1.1 This Section F sets out:

- (a) provisions for the avoidance or minimisation of CV shrinkage;
- (b) terms for the provision by one Party to another of data for the purposes of determining daily CVs;
- (c) the basis on which Transco NTS will, until 31 March 2007, determine daily CVs on behalf of each DNO.

1.1.2 In this Document

- (a) **Regulations** means the Gas (Calculation of Thermal Energy) Regulations 1996, as amended;
- (b) **daily CV** means daily calorific value for the purposes of the Regulations;
- (c) **charging area** means a 'charging area' (as defined in the Regulations) used by a DNO for the purposes of charging for gas conveyed in an LDZ;
- (d) **CV shrinkage** means gas unaccounted for (as described in paragraph 2.1.1(a)) by reason of the quantity of gas treated (pursuant to the application of the Regulations) as having flowed into an LDZ at NTS/LDZ Offtakes on a Day being less than the actual quantity of gas so flowing;
- (e) **input point** and **output point** in relation to a DNO mean an 'input point' and 'output point' (respectively) as defined in regulation 2(1) of the Regulations in relation to a take-off point (as so defined) on that DNO's LDZ.

1.2 Daily CVs

1.2.1 The Parties acknowledge that:

- (a) each DNO is required, pursuant to the Regulations, to determine daily CVs for its charging area(s);
- (b) for each DNO, daily CVs for each charging area are to be determined pursuant to regulation 4A of the Regulations;
- (c) as at the date of this Document, each LDZ represents a single charging area.

1.3 Information

- 1.3.1 All information and other data to be provided by any Party to another pursuant to this Section F shall be provided at the times, in the formats and by the means provided in or pursuant to Section [M].

2 CV Shrinkage

2.1 General

- 2.1.1 The Parties acknowledge that:

- (a) CV shrinkage arises in circumstances where the daily CV is determined under paragraph 4A(1)(b) of the Regulations (that is, where the average calorific values referred to in that paragraph diverge to such an extent that area calorific value exceeds the lowest of such average calorific values by more than 1MJ/m³); and
- (b) this may, inter alia, occur where apparatus at an input point or output point fails to determine calorific values for a period exceeding 8 hours as provided in paragraph 4A(7) of the Regulations.

- 2.1.2 By virtue of [TPD Section [N]], CV shrinkage is treated as arising in the NTS and accordingly is part of NTS Shrinkage for which (pursuant to the TDP Section N) Transco NTS is responsible as Shrinkage Provider.

2.2 Minimisation of CV Shrinkage

- 2.2.1 The Parties acknowledge that (in relation to each LDZ) Transco NTS and each DNO have a common interest in avoiding or minimising the amount of CV shrinkage, and the Parties agree to cooperate with a view to avoiding or minimising the amount of CV shrinkage each Day.

- 2.2.2 In particular, where Transco NTS provides guidance to the DNO as to the pattern of gas flows as between NTS/LDZ Offtakes serving an LDZ which will avoid or minimise the amount of CV Shrinkage, the DNO will take account of such guidance in its Offtake Profile Notices and revisions thereof.

- 2.2.3 Nothing in this paragraph 2.2 shall give rise to any liability of any Party to any other Party, but without prejudice to paragraphs 2.3 and 2.4.

2.3 Rights in relation to measurement equipment

- 2.3.1 This paragraph 2.3 applies in order to provide assurance to Transco NTS as to the correctness and accuracy of the measured data from time to time used by DNOs in deriving average calorific values (for its input points and output points) for the purposes of determining daily CVs.

- 2.3.2 In relation to each input point and output point (other than an NTS/LDZ Offtake) on each System, the provisions of Section D (excluding the provisions referred to in paragraph 2.3.4) shall apply as between the relevant DNO and Transco NTS as if:

- (a) all such input points and output points were NTS/LDZ Offtakes, and
- (b) references to the upstream Party were to Transco NTS.

- 2.3.3 For the purposes of paragraph 2.3.2:

- (a) the DNO has furnished to Transco NTS at the date of this Document a statement of the Measurement Equipment installed at each such input point and output point, in the form and containing the details which would be required to be contained in Appendices C and C1 of the Supplemental Agreement relating to an NTS/LDZ Offtake;
- (b) such statement shall be deemed to be a Supplemental Agreement for the purposes of the application of Section D.

2.3.4 Provisions of Section D:

- (a) relating to measurement of matters (or points of telemetry) other than volume, energy and calorific value; or
- (b) as to the provision of measured data by telemetry; or
- (c) [*other matters not related to CV determination*];

are excluded from paragraph 2.3.2.

2.4 Liability of DNO's for CV Shrinkage

2.4.1 Where, as a result of the failure of a DNO to install, operate or maintain any apparatus in accordance with the standard of a Reasonable and Prudent Operator, such apparatus fails to determine calorific values for a period exceeding 8 hours (as provided in paragraph 4A(7) of the Regulations), the DNO shall compensate Transco NTS for the resulting CV Shrinkage (if any), for each Day for which the average calorific value for the relevant input point or output point is determined under paragraph 4A(7), in accordance with paragraph 2.4.2.

2.4.2 The DNO shall pay to Transco NTS for each Day an amount determined as $(CVS * P)$ where:

CVS is the amount (in MWh), if any, by which CV Shrinkage was increased on that Day (including an increase above zero) as a result of the average calorific value for the relevant input point or output point having been determined under paragraph 4A(7);

P is the 'NTS SO gas cost reference price' (as defined in the System Balancing Incentive scheme in Special Condition C8B 14(8)(e) of Transco NTS' Transporter's Licence) applicable in relation to the Day.

2.4.3 Transco NTS will determine any amount payable by a DNO pursuant to paragraph 2.4.2 and provide details to the DNO of its determination of such amount.

2.4.4 Amounts payable by a DNO pursuant to paragraph 2.4.2 shall be invoiced and payable in accordance with Section L.

3 Provision of CV data between Parties

3.1 Application

3.1.1 This paragraph 3 applies where at any time any Party (the **first** Party) provides to another Party (the **second** Party), for the purpose of determinations of daily CVs to be made by the second Party, any data (**CV data**) relating to its System or any point on its System (including without limitation daily calorific values adopted by the second Party, average calorific values determined at an alternative place, or other data derived from samples of gas taken at any place or premises).

3.2 Continuance of data provision

3.2.1 Subject to paragraph 3.2.2, and subject to any contrary agreement between such Parties:

- (a) the first Party shall continue to provide the CV data to the second Party and shall keep installed, maintain and operate any apparatus and other facilities for the time being installed for the purposes of the determination and provision of such CV data (but this shall not prevent the first Party from modifying or replacing any such apparatus or facilities, provided that the modification or replacement does not adversely affect the quantity or nature of the CV data provided by the first Party);
- (b) the second Party shall be permitted to use the CV data for the purposes of determining daily CVs;
- (c) the first Party shall not make any charge to the second Party for the provision of such CV data;
- (d) the first Party will determine and provide the CV data as a Reasonable and Prudent Operator, but (provided that it has acted in good faith, and without prejudice to paragraph 2) the first Party shall have no liability to the second Party (or any other Party) for any loss, liability, damage or claim which the second Party may suffer or incur as a result of any act, omission or failure of the first Party in the determination or provision of the CV data.

3.2.2 The first Party shall be entitled, upon giving notice of not less than 6 months to the second Party:

- (a) to discontinue the provision of such CV data;
- (b) to impose on the second party a reasonable charge for (reflective of the incremental costs incurred by it in) the provision of CV data to the second party;
- (c) to modify or replace the apparatus or other facilities installed by it, irrespective of the effect of such modification or replacement on the CV data provided by it.

4 Transitional Arrangements for Determination of Daily CVs

4.1 Transco NTS Determination of Daily CVs

4.1.1 For the period from the date of this Document to 31 March 2007, Transco NTS agrees to determine daily CVs for each charging area within the area of the DNO's System on behalf of each DNO.

4.1.2 For the avoidance of doubt each DNO shall itself determine daily CVs with effect from 1 April 2007, and (subject to paragraph 3.1) Transco NTS shall have no responsibility to any DNO in connection with such determination.

4.1.3 Nothing in this Document prevents any DNO from electing itself to make determinations of daily CVs, provided that the DNO shall give notice of such election to Transco NTS specifying the date (not being less than 6 months after such notice) with effect from which it intends to do so, which notice shall be irrevocable.

4.1.4 Except as provided in paragraph 4.3.3, Transco NTS will not make any charge to DNOs in respect of the determination of daily CVs under and as provided in this paragraph 4.

4.1.5 Transco NTS will undertake the determination of daily CVs as a Reasonable and Prudent Operator, but (without prejudice to the generality of Section [P]) provided that it has acted in good faith, Transco NTS shall have no liability to any DNO for any loss, liability, damage or claim which the DNO may suffer or incur as a result of any act, omission or failure of Transco NTS in the determination of daily CVs, whether negligent or otherwise.

4.2 Processes

4.2.1 To enable Transco NTS to undertake determinations of daily CVs, each DNO shall:

- (a) provide to Transco NTS a full description of the basis on which daily CVs in respect of its LDZ are (from time to time, and in any applicable circumstances, including without limitation pursuant to paragraphs (5)(b) or (c), (6) or (7) of regulation 4A, where applicable) to be determined and the arrangements made by the DNO for such determination;
- (b) provide or cause to be provided to Transco NTS each Day the information necessary for the determination (on the applicable basis specified by the DNO under paragraph (a)) of daily CVs, including average calorific value and volume (for the Day) for each input point and output point, and notice of any failure of apparatus as referred to in paragraph 4A(7) of the Regulations.

4.2.2 Information to be provided to Transco NTS under paragraph 4.2.1(b) shall be provided:

- (a) in relation to input points which are NTS/LDZ Offtakes, by telemetry in accordance with Section E and otherwise as specified in or pursuant to Section [M];
- (b) in relation to other input points and output points, by the means, in the format(s) and at the times specified in or pursuant to Section [M].

4.2.3 Transco NTS will determine daily CVs for the DNO on the basis of the information from time to time provided by the DNO under paragraph 4.2.1.

4.2.4 For the avoidance of doubt, Transco NTS shall have no responsibility under this paragraph 4 for the obtaining or determination of average calorific value or volume (or other data) relating to particular input points and output point, or as to the correctness or accuracy of such data.

4.3 Changes

4.3.1 If a DNO proposes to make any change (**relevant change**) to the basis (as referred to in paragraph 4.2.1(a) on which its daily CVs are determined or arrangements for such determination, including any such change as described in paragraph 4.3.2, the DNO shall give notice (of not less than 6 months) to Transco NTS of its proposal and discuss such proposal with Transco NTS in time to allow Transco NTS to take such steps as are necessary to implement such change.

4.3.2 A relevant change includes:

- (a) electing under the Regulations to change the definition of a charging area;
- (b) adding or removing any input points or output points for its charging area(s);
- (c) changing any of the processes or arrangements made for the application of paragraphs (5)(b) or (c), (6) or (7) of regulation 4A, where applicable; or

- (d) changing the configuration of any calorific value measurement equipment at any input point or output point.

4.3.3 If Transco NTS incurs any costs:

- (a) in order to implement a relevant change, or
- (b) in determining daily CVs following a relevant change, in excess of the costs which it would have incurred in determining daily CVs in the absence of the change

the DNO shall reimburse to Transco NTS the amount of such costs in accordance with Section L.