

To:

The Company Secretary  
Transco plc  
1 – 3 Strand  
London  
WC2N 5EH

cc Blackwater F Limited, 1-3 Strand, London, WC2N 5EH;  
Blackwater SC A Limited, 191 West George Street, Glasgow G2 2LD;  
Blackwater G Limited, 1-3 Strand, London WC2N 5EH; and  
Blackwater 2 Limited 1-3 Strand London, WC2N 5EH.

**IMPLEMENTATION OF DIRECTION MADE ON 25 APRIL 2005 UNDER SECTION  
8AA OF THE GAS ACT 1986 AND DIRECTIONS MADE UNDER OTHER SPECIFIED  
PROVISIONS OF FOUR INDEPENDENT DISTRIBUTION NETWORK GAS  
TRANSPORTERS LICENCES HELD BY TRANSCO PLC<sup>1</sup>**

**Summary**

1. This Direction is issued by the Gas and Electricity Markets Authority (the **"Authority"**) in connection with National Grid Transco plc's (**"NGT"**) proposed sale of one or more of Transco plc's (**"Transco"**) (a company registered in England and Wales with company number 2006000) local gas distribution networks (**"DNs"**) (the **"Proposed Transaction"**).
2. This Direction is the Associated Direction referred to in a consent and direction issued by the Authority on 25 April 2005 pursuant to section 8AA of the Gas Act 1986 (the **"Act"**) in connection with the Proposed Transaction (the **"Consent"**)<sup>2</sup>. Pursuant to the Consent, certain modifications were made to the four licences which are the subject of this direction<sup>3</sup> and consent to transfer of those licences was granted. The Consent noted that while the modifications were made and the consent granted, such modifications and consent would not come into effect until the Authority was satisfied with a hive-down report<sup>4</sup>

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<sup>1</sup> Pursuant to the Consent (as hereinafter defined), it is anticipated that four of the six GT licences currently held by Transco (relating to the four DN's to be sold) will be transferred to four wholly owned Transco subsidiaries on 1 May 2005.

<sup>2</sup> For the avoidance of doubt this Direction is also one of the implementation directions described in the ASC29 Decision Letter (as hereinafter defined)

<sup>3</sup> The four licences to which this Direction relates are the Additional Transco Licences relating to the IDNs (as defined in the Consent)

<sup>4</sup> This point was described and reflected in the ASC29 Decision Letter (as defined in this Direction) and the Authority also requested such report on 27 April 2005. As described in this Direction, the Authority has now received and considered this report.

received from Transco and, in any event, until the Authority issued an Associated Direction.

3. This Direction is issued in five parts<sup>5</sup> in order to bring into effect, in the manner and order that the Authority considers appropriate, the modifications made by and the consent granted by the Authority pursuant to that Consent and in order to address the sequencing of the coming into effect of such modifications and consent and certain other inter-related decisions.
4. It is important to note that a separate but related direction has been issued today in order to bring into effect, in the manner and order the Authority considers appropriate, modifications to two other licences held by Transco<sup>6</sup> pursuant to section 23 of the Act (the “**Associated section 23 Direction**”). The Associated section 23 Direction is therefore referred to in this Direction.
5. Words and expressions used in this Direction shall have the same meaning as those used in the Consent.

## Background

6. Following various consultations conducted and decisions made by the Authority relating to the Proposed Transaction<sup>7</sup>, on 25 April 2005 the Authority met at a duly convened Authority meeting to consider certain further matters relating to the Proposed Transaction including, without limitation, the conditions precedent attached to the Consents Directions<sup>8</sup>, Urgent Modification Proposal 0745 relating to Transco’s Network Code and the consultation conducted pursuant to the S.8AA Notice and the Second S.23 Notice.
7. Having had due regard to its principal objective and statutory and other public law duties and the statutory duties of GTs, and having carefully considered

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<sup>5</sup> Please refer to paragraph 14 below.

<sup>6</sup> The Original Transco Licence and the Additional Transco Licence relating to the RDNs as defined in the Consent.

<sup>7</sup> As described further in the Consent. The relevant documents are available on Ofgem’s website [www.ofgem.gov.uk](http://www.ofgem.gov.uk)

<sup>8</sup> [http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/10074\\_2105b.pdf](http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/10074_2105b.pdf)

representations received in response to the various consultations, the Authority:

- a. issued an open letter dated 25 April 2005 (the “**ASC 29 Decision Letter**”)<sup>9</sup> stating that the conditions precedent to the Consents Directions had been sufficiently satisfied to allow Transco to take steps towards the hive-down of four of its DN businesses to four wholly owned Transco subsidiaries on 1 May 2005 (or such later date as the Authority may direct in writing)<sup>10</sup>;
- b. issued a decision letter relating to Urgent Modification Proposal 0745 (the “**0745 Decision Letter**”)<sup>11</sup> stating that the Authority approved Urgent Modification Proposal 0745 to Transco’s network code to take effect on 1 May 2005 or such later date as the Authority may direct. Accordingly, on 1 May 2005, or such later date as the Authority may direct, Transco’s existing network code would therefore be modified to become the NTS’s and RDN businesses’ short form code<sup>12</sup> subject to the appropriate sequencing of the Authority’s decisions;
- c. issued a direction pursuant to section 23 of the Act (the “**Second S.23 Direction**”)<sup>13</sup> directing that the Original Transco Licence and the RDN Additional Transco Licence be modified on 25 April 2005 but that such modifications would take effect on 1 May 2005 (or such other date as the Authority may direct) by way of a separate direction;
- d. issued the Consent directing that each of the Additional Transco Licences relating to the IDNs be modified on 25 April 2005 but that such modifications would take effect on 1 May 2005 (or such other date as the Authority may direct ) by way of a separate direction and consent to

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<sup>9</sup> [http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/10074\\_2105b.pdf](http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/10074_2105b.pdf)

<sup>10</sup> However, in the ASC 29 Decision Letter (which, for the avoidance of doubt is the Conditions Precedent letter referred to in the Consent), the Authority indicated that before hive-down could complete, the Authority intended to write to Transco requesting its confirmation that the conditions precedent had been fully satisfied.

<sup>11</sup> [http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/11299\\_745\\_letter.pdf](http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/11299_745_letter.pdf)

<sup>12</sup> It should be noted that Transco have requested, pursuant to Standard Special Condition A11 (Network Code and Uniform Network Code) that the Authority consent to it having one short form code in relation to both the Original Transco Licence and the Additional Transco Licence relating to the RDNs.

<sup>13</sup> [http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/11304\\_S23\\_direction.pdf](http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/11304_S23_direction.pdf)

transfer of the four Additional Transco Licences from Transco to the four relevant wholly owned Transco subsidiary companies); and

- e. designated the short form codes applicable to each of the Additional Transco Licences applicable to the IDNs (the “**SFC Designations**”).

It was noted in the ASC29 Decision Letter, the Consent and the Second S.23 Direction that the sequencing of the above decisions, including, for the avoidance of doubt, the 0745 Decision Letter<sup>14</sup> would be addressed in the separate directions referred to in the Consent and the Second S.23 Direction.

8. As a result of the ASC29 Decision Letter, the 0745 Decision Letter, the SFC Designations, the Consent and the Second S.23 Direction the Authority permitted Transco to take the necessary steps towards proceeding to hive-down on 1 May 2005 (or such later date as the Authority may direct). However, the Authority also set out that final permission to undertake hive-down (including the coming into effect of the relevant licence modifications) would not occur until after the Authority had issued a further notice (which would attach the separate implementation directions referred to in the Consent and the Second S. 23 Direction<sup>15</sup>) setting out that the conditions precedent attached to the Authority’s consent to hive-down<sup>16</sup> have been satisfied in full and granting permission for hive down to proceed.<sup>17</sup>
9. Subsequently, on 27 April 2005, Ofgem wrote to Transco requesting a hive-down report confirmation updating the Authority, inter alia, on Transco’s compliance with the conditions precedent<sup>18</sup> and any other issue of which it considered the Authority should be aware. Ofgem has now received Transco’s response<sup>19</sup>.

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<sup>14</sup> The SFC Designations became effective when made.

<sup>15</sup> This would comprise a cover letter, an implementation direction in respect of the Second S.23 Direction and an implementation direction in respect of the Consent. These implementation directions would address the coming into effect of urgent modification proposal 0745 decision.

<sup>16</sup> [http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/10034\\_2105.pdf](http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/10034_2105.pdf)

<sup>17</sup> *Ofgem approves next stage of NGT’s sale of four of its gas distribution networks*, Ofgem open letter, 25 April 2005.

<sup>18</sup>

[http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/11363\\_20050427Letter\\_toCTreCPhivedownreportFINAL.pdf](http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/11363_20050427Letter_toCTreCPhivedownreportFINAL.pdf)

<sup>19</sup> This indicates that, in Transco’s view all conditions precedent have been met or expect to be met by 1 May 2005

10. Having reviewed this response and having due regard to its principal objective and statutory and other public law duties, and having carefully considered representations and objections received in the various related consultations, the Authority today issued a decision letter (the “**Approval of hive-down letter**”)<sup>20</sup> concluding that the conditions precedent have been or will be fully satisfied by 06.00 on 1 May 2005 and that Transco can now proceed to hive-down its four relevant DN businesses into its four relevant wholly owned Transco subsidiary companies at 06.00 on 1 May 2005 in the manner set out in the separate directions referred to in the Consent and the Second S. 23 Direction.
11. In considering the manner in which the modifications should come into effect and appropriate sequencing, it should be noted that the modifications made in both the Consent and the Second S.23 Direction include (amongst others), three new licence conditions<sup>21</sup> which enable the Authority, once such conditions are brought into effect<sup>22</sup>, to apply or disapply, as a whole or in part:
- a. the standard conditions contained in Section A (Interpretation, Application and Payments) and Section B (General); and
  - b. the Standard Special Conditions in Part A (Standard Special Conditions applicable to both NTS and DN licensees), Part B (Standard Special Conditions applicable to NTS licensees) and Part D (Standard Special Conditions applicable to DN licensees).

Further, it was noted in the explanatory document which accompanied the section 8AA Notice to which the Consent relates and the Second S.23 Notice to which the Second S.23 Direction relates, that as part of the process of modifying the Transco Licences the Authority would, after bringing into effect the appropriate modifications to the Transco Licences which would introduce the new licence conditions, use certain powers in each of those licences to apply or disapply specified conditions of each of those licences. It was made clear that the effect of the proposed modifications would be to restructure each of the Transco Licences.

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<sup>20</sup> Ofgem – Final approval for hive-down of NGT’s gas distribution networks – 29 April 2005

<sup>21</sup> Standard Special Conditions A1, B1 and D1.

<sup>22</sup> Equivalent conditions were also proposed as part of the Associated Section 23 Notice in respect of the NTS and RDN business to be retained by Transco

12. In addition, it was also noted that the existing power in standard condition 2 (Application of Section C (Transportation Services Obligations)) could be used to disapply certain standard conditions contained in Section C (Transportation Services Obligations) of each of the Transco Licences.
13. Accordingly, the Authority has now decided to issue this Direction in order to bring into effect both the licence conditions and the consent to transfer which were the subject of the Consent of 25 April 2005 in relation to the four Additional Transco Licences relating to the IDNs and to issue a separate but associated direction in relation to the Original Transco Licence and the Additional Transco Licence in relation to the RDNs in order to bring into effect the licence conditions which were the subject of the Second S.23 Direction of 25 April 2005 to those licences.

#### **Structure of this Direction**

14. This Direction<sup>23</sup> is issued in five parts which reflect the structure and sequence of the coming into effect of the modifications made in the Consent and certain of the other related decisions listed in paragraph 7 above. The Parts are:-
  - a. Part 1: directions which bring into effect, at various stages of the process outlined in paragraph 15 below, the Consent in relation to each of the four Additional Transco Licences relating to the IDNs both in terms of the bringing into effect of the modifications made to each of the Additional Transco Licences relating to the IDNs and the Proposed Transfers (the “**section 8AA Implementation direction**”)<sup>24</sup>;
  - b. Part 2: directions issued pursuant to Standard Special Condition A1 (Application/Disapplication of standard conditions in Section A (Interpretation, Application and Payments) and Section B (General) and Application/Disapplication of Standard Special Conditions applicable to both NTS and DN licensees) in relation to each of the four Additional Transco Licences relating to the IDNs in order to bring into effect in accordance with the process outlined at paragraph 15 below, Standard

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<sup>23</sup> It should be noted that the Associated section 23 Direction will mirror this direction in relation to the Original Transco Licence and the Additional Transco Licence relating to the RDNs.

<sup>24</sup> It should be noted that the transfer of the Additional Transco Licences relating to the IDNs will occur after the coming into effect of the modifications as detailed further in this Direction.

Special Condition A11 (Network Code and Uniform Network Code) in each of the four Additional Transco Licences relating to the IDNs (the **"Application of A11 direction"**);

- c. Part 3: directions issued pursuant to Standard Special Condition A1 (Application/Disapplication of standard conditions in Section A (Interpretation, Application and Payments) and Section B (General) and Application/Disapplication of Standard Special Conditions applicable to both NTS and DN licensees) in order to bring into effect, in accordance with the process outlined at paragraph 15 below, the remaining Standard Special Conditions in Part A and disapply certain standard conditions in each of the four Additional Transco Licences relating to the IDNs (the **"Standard Special Conditions Part A Direction"**);
- d. Part 4: directions issued pursuant to Standard Special Condition D1 (Application/Disapplication of standard conditions in Section A (Interpretation, Application and Payments) and Section B (General) and Application/Disapplication of Standard Special Conditions applicable to DN licensees) in order to bring into effect, in accordance with the process outlined at paragraph 15 below, the Standard Special Conditions in Part D and disapply certain standard conditions in each of the four Additional Transco Licences relating to the IDNs (the **"Standard Special Conditions Part D Direction"**); and
- e. Part 5: directions issued pursuant to Standard Condition 2 (Application of Section C (Transportation Services Obligations)) in order to disapply, in accordance with the process outlined at paragraph 15 below, certain standard conditions in each of the four Additional Transco Licences relating to the IDNs (the **"TSO Direction"**).

For the avoidance of doubt, collectively, Parts 1-5 inclusive are referred to as the **"Direction"**.

#### **Interaction between each part of the Direction and the 0745 Decision Letter**

- 15. The Authority considers that the modifications made in the Consent relating to each of the four Additional Transco Licences relating to the IDNs and its decision contained in the 0745 Decision Letter should be brought into effect at

06.00 British Standard Time (BST) on 1 May 2005<sup>25</sup> in the following order in respect of each of the Additional Transco Licences relating to the IDNs only:

- a. the bringing into effect of the conditions contained in Parts A, B, and D of the four Additional Transco Licences relating to the IDNs as set out in Schedule 3 to the Consent in accordance with the section 8AA Implementation Direction (as described in Part 1 of this document below). It should be noted that, in effect, this “switch” only brings into effect certain paragraphs of Standard Special Conditions A1, B1 and D1 as described further in Part 1 below;
- b. the bringing into effect of Standard Special Condition A11 (Network Code and Uniform Network Code) in accordance with the Application of A11 Direction in the manner and form specified in Part 2 below;
- c. the implementation of the modification to Transco’s network code contained in the 0745 Decision Letter in accordance with its terms in order to modify Transco’s network code to become the short form code in respect of the Original Transco Licence and the Additional Transco Licence relating to the RDNs<sup>26</sup>;
- d. the removal of Amended Standard Condition 9 in accordance with the section 8AA Implementation Direction as described in Part 1 below;
- e. the bringing into effect of the remaining conditions contained in Part A and the conditions in Part B (if applicable)<sup>27</sup> and Part D of the four Additional Transco Licences relating to the IDNs in accordance with the

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<sup>25</sup> The Associated section 23 Direction will mirror this sequencing in respect of the Original Transco Licence and the Additional Transco Licence relating to the RDNs.

<sup>26</sup> This modification to Transco’s network code to create a short form code which incorporates the Uniform Network Code (“UNC”) by reference, applies to Transco in respect of its Original Transco Licence and its Additional Transco Licence relating to the RDNs only. The short form codes of the IDNs are already in effect as a result of the SFC Designations and will apply when Standard Special Condition A11 becomes operative in accordance with this Direction. However, as the 0745 Decision Letter brings into effect the UNC, its place in the sequencing requires to be noted in relation to the Additional Transco Licences relating to the IDNs.

<sup>27</sup> Part B is, for the avoidance of doubt, brought into effect in relation to the Original Transco Licence in accordance with Associated Section 23 Direction as defined in paragraph 26 below.



Standard Special Conditions Part A Direction and the Standard Special Conditions Part D Direction (as described in Parts 3 and 4 below);

- f. the reversion of all amended standard conditions contained in each of the four Additional Transco Licences relating to the IDNs to the designated standard conditions in terms of the relevant standard conditions designated by the Secretary of State under the Utilities Act 2000 as the same have been subsequently modified pursuant to the Act (the “**Designated standard conditions**”)<sup>28</sup> and the amended standard conditions shall cease to have effect at that time in accordance with the section 8AA Implementation Direction described in Part 1 below) (i.e they shall have effect as the Designated standard conditions);
- g. the disapplication of certain Designated standard conditions in each of the four Additional Transco Licences relating to the IDNs in accordance with the Standard Special Conditions Part A Direction, the Standard Special Conditions Part D Direction and the TSO Direction (as described in Parts 3, 4 and 5 respectively below);
- h. the bringing into effect of the conditions contained in Part E of the four Additional Transco Licences relating to the IDNs (as set out in Schedule 3 to the Consent)<sup>29</sup> in accordance with the section 8AA Implementation Direction (as described in Part 1 below);
- i. the removal of all existing Special Conditions in accordance with the section 8AA Implementation Direction (as described in Part 1 below);
- j. the coming into effect of the consent to transfer of the four Additional Transco Licences relating to the IDNs in accordance with the section

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<sup>28</sup> A copy of the Designated standard conditions is not appended to this Direction. Transco provided a copy of their version of such standard conditions in February 2005 which was published with the Second S.23 Notice. The Authority makes no comment and accepts no responsibility as to the accuracy of this version of the Designated standard conditions

<sup>29</sup> The conditions in Part E (contained in Schedule 3 to the Consent) are in five parts. The relevant special conditions for the Additional Transco Licence relating to the IDNs are contained in Part E (2) in relation to the North of England Distribution Network, Part E (3) in relation to the Scotland Distribution Network, Part E (4) in relation to the South of England Distribution Network and Part E (5) in relation to the Wales and West Distribution Network.

8AA Implementation Direction (as described in Part 1 below) and the Approval of hive-down letter in order to permit Transco to hive-down the four relevant IDN businesses and transfer the four Additional Transco Licences relating to the IDNs to the four relevant wholly owned Transco subsidiary companies at 06.00 BST on 1 May 2005.

**Accordingly the Authority hereby issues the following directions in order to bring into effect in accordance with the sequencing outlined in paragraph 15 above, its previous decisions in relation to the Proposed Transaction.**

**Part 1 – section 8AA Implementation Direction**

16. The Authority hereby directs that the Consent shall be brought into effect in accordance with the sequencing in paragraph 15 above in the form and manner as described in paragraphs 17 to 22 (inclusive) below and, where appropriate, using the additional directions in Parts 2 to 5 of this Direction.
17. The Standard Special Conditions in Parts A, B and D of the four Additional Transco Licences relating to the IDNs shall be brought into effect in each of the four Additional Transco Licences relating to the four IDNs. For the avoidance of doubt, and, in accordance with the terms of:
  - a. Standard Special Condition A1 (Application/Disapplication of standard conditions in Section A (Interpretation, Application and Payments) and Section B (General) and Application/Disapplication of Standard Special Conditions applicable to both NTS and DN licensees);
  - b. Standard Special Condition B1 (Application/Disapplication of standard conditions in Section A (Interpretation, Application and Payments) and Section B (General) and Application/Disapplication of Standard Special Conditions applicable to NTS licensees); and
  - c. Standard Special Condition D1 (Application/Disapplication of standard conditions in Section A (Interpretation, Application and Payments) and Section B (General) and Application/Disapplication of Standard Special Conditions applicable to DN licensees),

the licence conditions in Parts A, B and D of the four Additional Transco Licences relating to the IDNs (with the exception of paragraphs 1-4 inclusive and paragraph 8 of each of Standard Special Condition A1, B1 and D1) shall not have effect as a result of this Part 1. These remaining conditions shall be brought into effect in accordance with the Application of the A11 direction, the Standard Special Conditions Part A Direction and the Standard Special Conditions Part D Direction as described in Parts 2, 3 and 4 below.

18. In accordance with the sequencing in paragraph 15 above, at stage (d) in the process (paragraph 15(d)), Amended Standard Condition 9 shall be removed from each of the four Additional Transco Licences relating to the IDNs.
19. In accordance with the sequencing in paragraph 15 above, at stage (f) in the process (paragraph 15(f)) all amended standard conditions shall revert to the terms of the Designated standard conditions and all amended standard conditions shall be removed from each of the Additional Transco Licences relating to the IDNs.
20. In accordance with the sequencing in paragraph 15 above, at stage (h) in the process (paragraph 15 (h)), the Special Conditions in Part E of the four Additional Transco Licences relating to the IDNs shall come into effect in each of the Additional Transco Licences relating to the IDNs as follows:

Special Condition	Licence into which condition will be introduced	Location of copy of text
E2A (Revenue restriction definitions in respect of the Distribution Network)	Additional Transco Licence relating to the North of England IDN	Schedule 3 Part E(2) to the Consent
	Additional Transco Licence relating to the Scotland IDN	Schedule 3 Part E(3) to the Consent
	Additional Transco Licence relating to the South of England IDN	Schedule 3 Part E(4) to the Consent

Special Condition	Licence into which condition will be introduced	Location of copy of text
	Additional Transco Licence relating to the Wales and West IDN	Schedule 3 Part E(5) to the Consent
E2B (Restriction of revenue in respect of the Distribution Network transportation activity)	Additional Transco Licence relating to the North of England IDN	Schedule 3 Part E(2) to the Consent
	Additional Transco Licence relating to the Scotland IDN	Schedule 3 Part E(3) to the Consent
	Additional Transco Licence relating to the South of England IDN	Schedule 3 Part E(4) to the Consent
	Additional Transco Licence relating to the Wales and West IDN	Schedule 3 Part E(5) to the Consent
E3 (Allocation of revenues and costs for calculations under the price control in respect of the Distribution Network)	Additional Transco Licence relating to the North of England IDN	Schedule 3 Part E(2) to the Consent
	Additional Transco Licence relating to the Scotland IDN	Schedule 3 Part E(3) to the Consent
	Additional Transco Licence relating to the South of England IDN	Schedule 3 Part E(4) to the Consent
	Additional Transco Licence relating to the Wales and West IDN	Schedule 3 Part E(5) to the Consent
E4 (Supplementary provisions of the revenue restrictions in respect of the	Additional Transco Licence relating to the North of England IDN	Schedule 3 Part E(2) to the Consent

Special Condition	Licence into which condition will be introduced	Location of copy of text
Distribution Network)	Additional Transco Licence relating to the Scotland IDN	Schedule 3 Part E(3) to the Consent
	Additional Transco Licence relating to the South of England IDN	Schedule 3 Part E(4) to the Consent
	Additional Transco Licence relating to the Wales and West IDN	Schedule 3 Part E(5) to the Consent
E5 (Restriction of prices in respect of tariff capped metering activities)	Additional Transco Licence relating to the North of England IDN	Schedule 3 Part E(2) to the Consent
	Additional Transco Licence relating to the Scotland IDN	Schedule 3 Part E(3) to the Consent
	Additional Transco Licence relating to the South of England IDN	Schedule 3 Part E(4) to the Consent
	Additional Transco Licence relating to the Wales and West IDN	Schedule 3 Part E(5) to the Consent
E6 (Information to be provided to the Authority in connection with the transportation system revenue restriction in respect of the Distribution Network)	Additional Transco Licence relating to the North of England IDN	Schedule 3 Part E(2) to the Consent
	Additional Transco Licence relating to the Scotland IDN	Schedule 3 Part E(3) to the Consent
	Additional Transco Licence relating to the South of England IDN	Schedule 3 Part E(4) to the Consent
	Additional Transco Licence	Schedule 3 Part E(5) to the

Special Condition	Licence into which condition will be introduced	Location of copy of text
	relating to the Wales and West IDN	Consent
E11 (Amendment to credit rating of the licensee)	Additional Transco Licence relating to the North of England IDN	Schedule 3 Part E(2) to the Consent
	Additional Transco Licence relating to the Scotland IDN	Schedule 3 Part E(3) to the Consent
	Additional Transco Licence relating to the South of England IDN	Schedule 3 Part E(4) to the Consent
	Additional Transco Licence relating to the Wales and West IDN	Schedule 3 Part E(5) to the Consent

21. In accordance with the sequencing in paragraph 15 above, at stage (i) in the process (paragraph 15(i)), the existing Special Conditions in each of the Additional Transco Licences relating to the IDNS shall be removed.
22. In accordance with the sequencing in paragraph 15 above, at stage (j) in the process (paragraph 15(j)), the consent to Proposed Transfers shall come into effect.

## **Part 2 – Application of A11 Direction**

23. Following stage (a) of the process outlined in paragraph 15 above (paragraph 15(a)), as a result of the application of part of the section 8AA Implementation Direction, (as set out in paragraph 17 above) only paragraphs 1 to 4 inclusive and paragraph 8 of Standard Special Condition A1 are in full force and effect. A Standard Special Conditions Part A direction (as defined in Standard Special Condition A1) can be issued pursuant to these paragraphs. Such a direction allows the Authority to apply or disapply as a whole or in part the provisions of each of the Additional Transco Licences relating to the IDNs contained in Part

A (Standard Special Conditions applicable to both NTS and DN licensees) as set out in Schedule 3 Part A of the Consent and Sections A and B of the Designated standard conditions. In accordance with the terms of Standard Special Condition A1, the consent of the licensee is not required in order for the Standard Special Conditions Part A direction in this Part 2 to be issued.

24. As set out in paragraph 11 above, the Authority indicated that it would use the powers conferred on it by Standard Special Condition A1 to apply or disapply specified provisions of each of the four Additional Transco licences which relate to the IDNs.
25. The Authority, pursuant to Standard Special Condition A1, hereby directs that, subject to the sequencing in paragraph 15 above, at stage (b) in the process (paragraph 15(b)), Standard Special Condition A11 (Network Code and Uniform Network Code) shall have effect in each of the four Additional Transco Licences relating to the IDNs and, at stage (d) of the process (paragraph 15(d)), having noted that the 0745 Decision Letter has come into effect and that the SFC Designations are already effective, Amended Standard Condition 9 shall be removed from each of the four Additional Transco Licences relating to the IDNs in accordance with this Direction.

### **Part 3 –Standard Special Conditions Part A Direction**

26. As stated in Part 2 above, the Authority has the powers and has indicated that it shall use such powers contained in Standard Special Condition A1 in order to apply or disapply certain provisions in each of the Additional Transco Licences relating to the IDNs.
27. The Authority, pursuant to Standard Special Condition A1, hereby directs that, subject to the sequencing in paragraph 15 above, at stage (e) in the process (paragraph 15(e)), the Standard Special Conditions in Part A of the four Additional Transco Licences relating to the IDNs (with the exception of Standard Special Condition A11 (Network Code and Uniform Network Code) which is already in effect) shall have effect as a whole in each of the four Additional Transco Licences relating to the IDNs and, at stage (g) in the process (paragraph 15(g)), the effect of the standard conditions listed below shall be

suspended, such suspension to apply to the entire licence and not just in respect of Part A<sup>30</sup>:

- a. Standard Condition 4 (Charging Gas Shippers – General);
- b. Standard Condition 4A (Obligations as Regard Charging Methodology);
- c. Standard Condition 4C (Charging Gas Shippers – Supplemental Connection Charges);
- d. Standard Condition 4D (Conduct of Transportation Business);
- e. Standard Condition 4E (Requirement to Enter into Transportation Arrangements in Conformity with Network Code);
- f. Standard Condition 5 (System Development Obligations);
- g. Standard Condition 5A (Information to be Provided to a Designated Registrar of Pipes);
- h. Standard Condition 6 (Emergency Services and Enquiry Service Obligations);
- i. Standard Condition 8 (Provision and Return of Meters);
- j. Standard Condition 9 (Network Code);
- k. Standard Condition 13 (Change Co-ordination for the Utilities Act 2000);
- l. Standard Condition 16 (Pipe-line System Security Standards);
- m. Standard Condition 17 (Provision of Services for Persons who are of Pensionable Age or Disabled or Chronically Sick: Arrangements in Respect of Meters);
- n. Standard Condition 18 (Provision of Services for Persons who are Blind or Deaf);
- o. Standard Condition 19 (Arrangements in Respect of Powers of Entry);

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<sup>30</sup> For the avoidance of doubt, the interpretation of the provisions of Standard Special Conditions B1 and D1 may not be read to contradict the effect of this Direction.



- p. Standard Condition 19A (Authorisation of Officers);
- q. Standard Condition 19B (Exercise of Powers of Entry);
- r. Standard Condition 21 (Complaint Handling Procedure);
- s. Standard Condition 22 (Preparation, Review of and Compliance with Statements and Codes);
- t. Standard Condition 23 (Record of and Report on Performance);
- u. Standard Condition 24 (Provision of Information to the Authority);
- v. Standard Condition 29 (Disposal of Assets);
- w. Standard Condition 30 (Regulatory Accounts);
- x. Standard Condition 30A (Change of Financial Year); and
- y. Standard Condition 31 (Supply Point Information Service).

#### **Part 4 - Standard Special Conditions Part D Direction**

28. Following stage (a) of the process outlined in paragraph 15 above (paragraph 15(a)), as a result of the application of part of the section 8AA Implementation Direction, (as set out in paragraph 17 above) only paragraphs 1 to 4 inclusive and paragraph 8 of Standard Special Condition D1 are in full force and effect. A Standard Special Conditions Part D direction (as defined in Standard Special Condition A1) can be issued pursuant to these paragraphs. Such a direction allows the Authority to apply or disapply as a whole or in part the provisions of each of the Additional Transco Licences relating to the IDNs contained in Part D (Standard Special Conditions applicable to DN licensees) of the four Additional Transco Licences relating to the IDNs as set out in Schedule 3 Part D of the Consent and Sections A and B of the Designated standard conditions. In accordance with the terms of Standard Special Conditions A1, the consent of the licensee is not required in order for the Standard Special Conditions Part A direction in this Part 2 to be issued.
29. As set out in paragraph 11 above, the Authority indicated that it would use the powers conferred on it by Standard Special Condition D1 to apply or disapply

specified provisions of each of the four Additional Transco licences which relate to the IDNs held by Transco.

30. The Authority, pursuant to Standard Special Condition D1, hereby directs that, subject to the sequencing in paragraph 15 above, at stage (e) in the process (paragraph 15(e)), the Standard Special Conditions in Part D of the four Additional Transco Licences relating to the IDNs shall have effect as a whole in each of the four Additional Transco Licences relating to the IDNs and, at stage (g) in the process (paragraph 15(g)), in addition to the standard conditions listed in paragraph 27 as being suspended, the effect of Standard Condition 25 (Long Term Development Statement) shall be suspended.

#### **Part 5 - TSO Direction**

31. Following stages (a) to (f) of the process outlined in paragraph 15 above (paragraphs 15(a) to (f)), the provisions of standard condition 2 are still effective in the Additional Transco Licences relating to the IDNs. Pursuant to standard condition 2, the Authority has power to issue a TSO Direction which allows the application or disapplication of standard conditions in Section C of the designated standard conditions only. However, under the terms of standard condition 2, the consent of the licensee is required for the application of the TSO Direction. On 25 April 2005, Transco on its own behalf and on behalf of Blackwater G Limited, Blackwater F Limited, Blackwater 2 Limited and Blackwater SC A Limited, provided its written consent to the issuing of the TSO Direction in the form set out in this Direction.
32. With the written consent of Transco, Blackwater G Limited, Blackwater F Limited, Blackwater 2 Limited and Blackwater SC A Limited, the Authority, pursuant to Standard Condition 2 (Application of Section C (Transportation Services Obligations)) hereby directs that, subject to the sequencing in paragraph 15 above, at stage (g) in the process (paragraph 15(g)), the effect of the following standard conditions shall be suspended in each of the four Additional Transco Licences relating to the IDNs:
- a. Standard Condition 32 (Interpretation of Section C);
  - b. Standard Condition 33 (Designated Registrar of Pipes);

- c. Standard Condition 38 (Availability of Data Formats);
- d. Standard Condition 39 (Restriction on Use of Certain Information and Independence of the Transportation Business);
- e. Standard Condition 40 (Appointment of Compliance Officer);
- f. Standard Condition 41 (Prohibition of Cross Subsidies);
- g. Standard Condition 43 (Restriction on Activity & Financial Ring-fencing)
- h. Standard Condition 44 (Availability of Resources);
- i. Standard Condition 46 (Credit Rating of Licensee)
- j. Standard Condition 47 (Indebtedness); and
- k. Standard Condition 48 (Last Resort Supply Payment Claims).

### **Reasons**

33. Pursuant to section 38A of the Act the reasons for granting this Direction in relation to the Proposed Transfers and making the modifications to each of the four Additional Transco Licences relating to the IDNs as set out in this Direction are stated in:
- a. the S.8AA Notice<sup>31</sup>;
  - b. the documents listed in the S.8AA Notice;
  - c. Transco's update on the process regarding conditions precedent of the Authority's Consents Directions<sup>32</sup>;
  - d. the Second S. 23 Direction;
  - e. the ASC 29 Decision Letter;
  - f. the 0745 Decision Letter;

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<sup>31</sup> [http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/10218\\_Appendix58AANotice.pdf](http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/10218_Appendix58AANotice.pdf)

<sup>32</sup> [http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/11193\\_TRANSCO\\_20050418\\_Ofgem\\_letter.pdf](http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/11193_TRANSCO_20050418_Ofgem_letter.pdf)

- g. Transco's final assessment on the process regarding conditions precedent of the Authority's Consents Direction; and
  - h. the Approval of hive-down letter.
34. In order to address requests from respondents to previous consultations and due to the fact that there are substantial modifications to the Additional Transco Licences relating to the IDNs as a result of the making of the modifications pursuant to the Consent on 25 April 2005 and their coming into effect in accordance with this Direction, a complete copy of the restructured Additional Transco Licences relating to the IDNs<sup>33</sup> is available on Ofgem's website. In addition, the table in Schedule 1 to this Direction indicates which of the conditions in that complete licence are applicable in each of the Additional Transco Licences relating to the IDNs<sup>34</sup>.
35. Copies of the documents referred to in paragraph 32 are available (free of charge) from the Ofgem library, 9 Millbank, London SW1P 3GE (telephone 020 7901 7003) or on the Ofgem website at [www.ofgem.gov.uk](http://www.ofgem.gov.uk).

#### **Additional information**

36. It should be noted that the Authority has today contemporaneously issued a separate but related direction (the "**Associated section 23 Direction**") pursuant to the Second S.23 Direction modifying the Additional Transco Licence in respect of the RDNs and the Original Transco Licence in respect of Transco's NTS activities. Following the making and taking effect of this Associated Section 23 Direction, the Authority has also made contemporaneously with this Direction certain further directions which also reflect the sequencing outlined in paragraph 15 above of this Direction (including the bringing into effect of the 0745 Decision Letter as it relates to Transco's Network Code and the Original Transco Licence and the Additional Transco Licence relating to the RDNs) namely:
- a. Part 1 – directions to implement the Second S.23 Direction (the "**section 23 Implementation Direction**");

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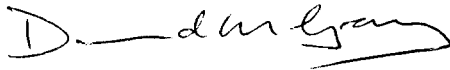
<sup>33</sup> This also contains the relevant conditions of the Original Transco Licence and the Additional Transco Licence relating to the RDNs

<sup>34</sup> Again, this also contains the relevant conditions of the Original Transco Licence and the Additional Transco Licence relating to the RDNs

- b. Part 2 - directions under Standard Special Condition A1 of relevant gas transporters licences in order bring into effect Standard Special Condition A11 to facilitate the introduction of new industry code arrangements (the **"Section 23 Application of A11 Direction"**);
  - c. Part 3 - directions under Standard Special Condition A1 of relevant gas transporters licences in order to bring into effect the remaining conditions of Part A and disapply certain standard conditions (the **"Section 23 Standard Special Conditions Part A Direction"**);
  - d. Part 4 - a direction under Standard Special Condition B1 of relevant gas transporters licences in order to bring into effect the conditions in Part B and disapply certain standard conditions in the Original Transco Licence only (the **"Section 23 Standard Special Conditions Part B Direction"**);
  - e. Part 5 - a direction under Standard Special Condition D1 of relevant gas transporters licences in order to bring into effect the conditions in Part D and disapply certain standard conditions in the Additional Transco Licence relating to the RDNs only (the **"Section 23 Standard Special Conditions Part D Direction"**); and
  - f. Part 6 - direction under Standard Condition 2 of relevant gas transporters licences in order to disapply certain standard conditions in each of the Original Transco Licence and the Additional Transco Licence relating to the RDNs (the **"Section 23 TSO Direction"**).
37. The modification to the Original Transco Licence in respect of the NTS and the Additional Transco Licence in respect of the RDNs, will be made in parallel with the modifications made under this Direction to the four Additional Transco Licences relating to the IDNs.
38. In issuing this Direction it is important to make clear that following the Authority's decisions in relation to the Proposed Transaction on 20 January 2005, 25 April 2005 and today, there can be no expectation on the part of NGT, Transco, shippers, suppliers, potential DN purchasers or any other interested parties as to any further decisions which the Authority may be required to take or any further consents which the Authority may be required to grant (including for the avoidance of doubt any decisions or consents which

may be necessary pursuant to a condition subsequent attached to the consents granted by the Authority on 20 January 2005) in relation to the Proposed Transaction. For the avoidance of doubt nothing in this document shall fetter the Authority's discretion.

The Official Seal of the Gas and Electricity Markets Authority affixed to this Direction is authenticated by:

A handwritten signature in black ink, appearing to read 'D. Gray', with a stylized flourish at the end.

.....  
**David Gray**  
**Managing Director, Networks**

**Duly authorised by the Gas and Electricity Markets Authority**

**29 April 2005**

## Schedule 1

### Conditions applicable in each of the Transco Licences

Following the Column headed "Licence Conditions", the next four columns of the table outline the conditions applicable to each of the four Additional Transco Licences relating to the four IDNs.

The sixth column outlines the conditions applicable to the Original Transco Licence in respect of the NTS and the seventh column outlines the conditions applicable to the Additional Transco Licence in respect of the RDNs all with effect from 06.00 BST on 1 May 2005.

<b>Licence conditions</b>	<b>The Additional Transco Licence relating to the North Distribution Network</b>	<b>The Additional Transco Licence relating to the Scotland Distribution Network</b>	<b>The Additional Transco Licence relating to the South Distribution Network</b>	<b>The Additional Transco Licence relating to the Wales and West Distribution Network</b>	<b>The Original Transco Licence relating to the NTS</b>	<b>The RDN Transco Additional Licence relating to the RDNs</b>
Standard Conditions applicable to all NTS and DN GTs	✓	✓	✓	✓	✓	✓
Standard Special Conditions applicable to all NTS and DN GTs – Part A	✓	✓	✓	✓	✓	✓
Standard Special Conditions applicable to the NTS GT – Part B	x	x	x	x	✓	x
Special Conditions applicable to the Transco NTS GT – Part C	x	x	x	x	✓	x
Standard Special	✓	✓	✓	✓	x	✓

Licence conditions	The Additional Transco Licence relating to the North Distribution Network	The Additional Transco Licence relating to the Scotland Distribution Network	The Additional Transco Licence relating to the South Distribution Network	The Additional Transco Licence relating to the Wales and West Distribution Network	The Original Transco Licence relating to the NTS	The RDN Transco Additional Licence relating to the RDNs
Conditions applicable to all DN GTs – Part D						
Special Conditions Part E Part 1 applicable to the RDNs only	x	x	x	x	x	✓
Special Conditions Part E Part 2 applicable to the North of England DN only	✓	x	x	x	x	x
Special Conditions Part E Part 3 Applicable to the Scotland DN only	x	✓	x	x	x	x
Special Conditions Part E Part 4 Applicable to the South of England DN only	x	x	✓	x	x	x
Special Conditions Part E Part 5 Applicable	x	x	x	✓	x	x



Licence conditions	The Additional Transco Licence relating to the North Distribution Network	The Additional Transco Licence relating to the Scotland Distribution Network	The Additional Transco Licence relating to the South Distribution Network	The Additional Transco Licence relating to the Wales and West Distribution Network	The Original Transco Licence relating to the NTS	The RDN Transco Additional Licence relating to the RDNs
to the Wales & West DN only						