

To:

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

**IMPLEMENTATION OF DIRECTION MADE ON 25 APRIL 2005 UNDER SECTION 23  
GAS ACT 1986 AND DIRECTIONS MADE UNDER OTHER SPECIFIED PROVISIONS  
OF TWO 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 direction issued by the Authority on 25 April 2005 pursuant to section 23 of the Gas Act 1986 (the “**Act**”) in connection with the Proposed Transaction (the “**Second S.23 Direction**”)². Pursuant to the Second S.23 Direction, certain modifications were made to the two licences which are the subject of this Direction³. The Second S.23 Direction noted that while made, the modifications would not take effect until the Authority was satisfied with a hive-down report⁴ received from Transco and, in any event, until the Authority issued an Associated Direction.
3. This Direction is issued in six parts⁵ in order to bring into effect, in the manner and order that the Authority considers appropriate, the modifications made by

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<sup>1</sup> It is anticipated that four of the six GT licences currently held by Transco (relating to the four DNs to be sold) will be transferred to four wholly owned Transco subsidiaries on 1 May 2005.

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

<sup>3</sup> The relevant two licences are the Original Transco Licence and the Additional Transco Licence relating to the RDNs.

<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.

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

the Authority pursuant to that Second S.23 Direction and in order to address the sequencing of the coming into effect of such modifications 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 four other licences held by Transco<sup>6</sup> and transfer of those licences pursuant to section 8AA of the Act (the “**Associated section 8AA Direction**”). The Associated section 8AA 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 Second S.23 Direction.

## **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 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

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<sup>6</sup> The Additional Transco Licences relating to the IDNs (as defined in the Second S.23 Direction).

<sup>7</sup> As described further in the Second S.23 Direction. 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)

<sup>9</sup> [http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/11298\\_ASC29\\_letter.pdf](http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/11298_ASC29_letter.pdf)

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 subject to the appropriate sequencing of the Authority's decisions<sup>12</sup>;
- c. issued the Second S.23 Direction 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 a consent and direction pursuant to section 8AA of the Act (the "**Consent**")<sup>13</sup> 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 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**").

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<sup>10</sup> However, in the ASC 29 Decision letter (which, for the avoidance of doubt is the Conditions Precedent letter referred to at paragraph 27 of the Second S.23 Direction), 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/11303\\_S8AA\\_direction.pdf](http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/11303_S8AA_direction.pdf)

It was noted in the ASC29 Decision Letter, the Second S.23 Direction and the Consent 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 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 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 on inter alia, 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>.
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**

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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

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 on 1 May 2005 in the manner set out in the directions to be issued pursuant to 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 Associated S.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.

12. In addition, it was also noted in that document that the existing power in standard condition 2 (Application of Section C (Transportation Services Obligations)) could be used to disapply certain standard conditions contained

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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 Consent in respect of the Additional Transco Licences relating to the IDNs

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 the licence conditions which were the subject of the Second S.23 Direction of 25 April 2005 to the Original Transco Licence and the Additional Transco Licence in relation to the RDNs and to issue a separate but associated direction in order to bring into effect 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.

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

14. This Direction<sup>23</sup> is issued in six parts which reflect the structure and sequence of the coming into effect of the modifications made in the Second S.23 Direction 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 points in the process outlined in paragraph 15 below, the modifications made by Second S.23 Direction in relation to each of the Original Transco Licence and the Additional Transco Licence relating to the RDNs and the 0745 Decision Letter (the “**section 23 Implementation Direction**”);
- 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 Original Transco Licence and the Additional Transco Licence in order to bring into effect in accordance with the process outlined at paragraph 15 below, Standard Special Condition A11 (Network Code and Uniform Network Code) in each of the Original Transco Licence and the Additional Transco Licence relating to the RDNs (the “**Application of A11 direction**”);

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<sup>23</sup> It should be noted that the Associated section 8AA Direction will mirror this direction in relation to Additional Transco Licences relating to the IDNs.

- 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 Original Transco Licence and the Additional Transco Licence relating to the RDNs (the **“Standard Special Conditions Part A Direction”**);
- d. Part 4: a direction issued pursuant to 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) in order to bring into effect, in accordance with the process outlined at paragraph 15 below, the Standard Special Conditions in Part B and disapply certain standard conditions in the Original Transco Licence (the **“Standard Special Conditions Part B Direction”**);
- e. Part 5: a direction 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 the Additional Transco Licence relating to the RDNs (the **“Standard Special Conditions Part D Direction”**); and
- f. Part 6: 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 Original Transco Licence and the Additional Transco Licence relating to the RDNs (the **“TSO Direction”**).

For the avoidance of doubt, collectively, Parts 1-6 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 Second S.23 Direction relating to each of the Original Transco Licence and the Additional Transco Licence relating to the RDNs 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>24</sup> in the following order in respect of the Original Transco Licence and the Additional Transco Licence relating to the RDNs only:
- a. the bringing into effect of the conditions contained in Parts A, B, and D of the Original Transco Licence and the Additional Transco Licence relating to the RDNs as set out in Schedule 3 to the Second S.23 Direction in accordance with the section 23 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 (which incorporates the Uniform Network Code by reference<sup>25</sup>) in respect of each of the Original Transco Licence and the Additional Transco Licence relating to the RDNs;

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<sup>24</sup> The Associated section 8AA Direction will mirror this sequencing in respect of the Additional Transco Licences relating to the IDNs.

<sup>25</sup> The short form codes of the IDNs are already in effect as a result of the SFC designations and shall apply when Standard Special Condition A11 becomes operative as part of the Associated section 8AA Direction.



- d. the removal of Amended Standard Condition 9 in accordance with the section 23 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>26</sup> and Part D<sup>27</sup> (if applicable) of the Original Transco Licence and the Additional Transco Licence relating to the RDNs in accordance with the Standard Special Conditions Part A Direction, the Standard Special Conditions Part B Direction and the Standard Special Conditions Part D Direction (as described in Parts 3, 4 and 5 below);
- f. the reversion of all amended standard conditions contained in the Original Transco Licence and the Additional Transco Licence relating to the RDNs 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 23 Implementation Direction as 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 Original Transco Licence and the Additional Transco Licence relating to the RDNs in accordance with the Standard Special Conditions Part A Direction, the Standard Special Conditions Part B Direction (if applicable) the Standard Special Conditions Part D Direction (if applicable) and the TSO Direction (as described in Parts 3, 4 and 5 respectively below);

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<sup>26</sup> Part B is, for the avoidance of doubt, brought into effect in relation to the Original Transco Licence only.

<sup>27</sup> Part D is, for the avoidance of doubt, brought into effect in relation to the Additional Transco Licence relating to the RDNs only.

<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.

- h. the bringing into effect of the conditions contained in Parts C of the Original Transco Licence and Part E of the Additional Transco Licence relating to the RDNs (as set out in Schedule 3 to the Second S.23 Direction)<sup>29</sup> in accordance with the section 23 Implementation Direction (as described in Part 1 below);
- i. the removal of all existing Special Conditions in accordance with the section 23 Implementation Direction (as described in Part 1 below);
- j. although not applicable to the Original Transco Licence and the Additional Transco Licence relating to the RDNs, following stages (a) to (i) above it should be noted that the consent to transfer of the four Additional Transco Licences relating to the IDNs in accordance with the section 8AA Implementation Direction (as defined in paragraph 39 below) and the Approval of hive-down letter shall both come into effect in order to permit Transco to hive-down the 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 23 Implementation Direction**

16. The Authority hereby directs that the Second S.23 Direction and the 0745 Decision Letter shall be brought into effect in accordance with the sequencing in paragraph 15 above in the form and manner as described in paragraphs 17 - 22 below and, where appropriate, using the additional directions in Parts 2 to 6 of this Direction.

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<sup>29</sup> The Special Conditions relating to the Original Transco Licence are contained in Part c of Schedule 3 to the Second S.23 Direction. The conditions in Part E (contained in Schedule 3 to the Second S.23 Direction) are in five parts. The relevant special conditions for the Additional Transco Licence relating to the RDNs are contained in Part E (1).

17. The Standard Special Conditions in Parts A, B and D of the Original Transco Licence and the Additional Transco Licence relating to the RDNs shall be brought into effect in each of the Original Transco Licence and the Additional Transco Licence relating to the RDNs. 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 Original Transco Licence and the Additional Transco Licence relating to the RDNs (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 A11 direction, the Standard Special Conditions Part A Direction, the Standard Special Conditions Part B Direction and the Standard Special Conditions Part D Direction as described in Parts 2, 3, 4 and 5 below.

18. In accordance with the sequencing in paragraph 15 above, at stage (c) in the process (paragraph 15(c)) and subject to Part 2 below, the modification contained in the 0745 Decision Letter shall come into effect.
19. In accordance with the sequencing in paragraph 15 above, at stage (d) in the process (paragraph 15(d)) and subject to Part 2 and paragraph 18 above,

Amended Standard Condition 9 shall be removed from each of the Original Transco Licence and the Additional Transco Licence relating to the RDNs.

20. In accordance with the sequencing in paragraph 15 above, at stage (f), and subject to Parts 2, 3, 4 and 5 below, 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 Original Transco Licence and the Additional Transco Licence relating to the RDNs.
21. In accordance with the sequencing in paragraph 15 above, at stage (h) in the process (paragraph 15(h)), and subject to Parts 2, 3, 4 and 5 below, the Special Conditions in Parts C of the Original Transco Licence and Part E of the Additional Transco Licence relating to the RDNs shall come into effect in each of the Original Transco Licence and the Additional Transco Licence relating to the RDNs respectively. The conditions and schedule in Table 1 below shall come into effect in relation to the Original Transco Licence and the conditions in Table 2 shall come into effect in relation to the Additional Transco Licence relating to the RDNs:

**Table 1:**

<b>Special Condition</b>	<b>Licence into which condition will be introduced</b>	<b>Location of copy of proposed text</b>
C1 (Amendments to Standard Special Conditions relating to LNG)	Original Transco Licence relating to the NTS	Schedule 3 Part C to the second S.23 Direction
C1A (NTS definition of supply of transportation services)	Original Transco Licence relating to the NTS	Schedule 3 Part C to the second S.23 Direction
C2 (Long Term Development Statement)	Original Transco Licence relating to the NTS	Schedule 3 Part C to the second S.23 Direction

Special Condition	Licence into which condition will be introduced	Location of copy of proposed text
C3 (Restriction of Prices for LNG Storage Services)	Original Transco Licence relating to the NTS	Schedule 3 Part C to the second S.23 Direction
C4 (Prohibited Procurement Activities)	Original Transco Licence relating to the NTS	Schedule 3 Part C to the second S.23 Direction
C5 (Licensee's procurement and use of system management services)	Original Transco Licence relating to the NTS	Schedule 3 Part C to the second S.23 Direction
C6 (Independent Market for balancing)	Original Transco Licence relating to the NTS	Schedule 3 Part C to the second S.23 Direction
C7 (Charging obligations)	Original Transco Licence relating to the NTS	Schedule 3 Part C to the second S.23 Direction
C8A (Revenue restriction definitions in respect of the NTS transportation owner activity and NTS system operation activity)	Original Transco Licence relating to the NTS	Schedule 3 Part C to the second S.23 Direction
C8B (Restriction of revenue in respect of the NTS transportation owner activity and NTS system operation activity)	Original Transco Licence relating to the NTS	Schedule 3 Part C to the second S.23 Direction
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)	Original Transco Licence relating to the NTS	Schedule 3 Part C to the second S.23 Direction

Special Condition	Licence into which condition will be introduced	Location of copy of proposed text
C10 (Supplementary provisions of the revenue restrictions in respect of the NTS transportation owner activity and NTS system operation activity)	Original Transco Licence relating to the NTS	Schedule 3 Part C to the second S.23 Direction
C12 (Restriction of prices in respect of tariff capped metering activities)	Original Transco Licence relating to the NTS	Schedule 3 Part C to the second S.23 Direction
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 operation activity)	Original Transco Licence relating to the NTS	Schedule 3 Part C to the second S.23 Direction
C15 (Licensee's methodology for determining incremental entry capacity volumes)	Original Transco Licence relating to the NTS	Schedule 3 Part C to the second S.23 Direction
C16 (NTS performance reporting)	Original Transco Licence relating to the NTS	Schedule 3 Part C to the second S.23 Direction
C17 (Exit Code Statement)	Original Transco Licence relating to the NTS	Schedule 3 Part C to the second S.23 Direction
C19 (Undertaking from ultimate controller concerning non-discrimination between the NTS transportation activity and the Distribution Network transportation activity)	Original Transco Licence relating to the NTS	Schedule 3 Part C to the second S.23 Direction

<b>Special Condition</b>	<b>Licence into which condition will be introduced</b>	<b>Location of copy of proposed text</b>
C20 (Separation of NTS and Distribution Network Businesses)	Original Transco Licence relating to the NTS	Schedule 3 Part C to the second S.23 Direction
C21 (Appointment and duties of the business separation compliance officer)	Original Transco Licence relating to the NTS	Schedule 3 Part C to the second S.23 Direction
Schedule A (NTS output measures for the price control)	Original Transco Licence relating to the NTS	Schedule 3 Part C to the second S.23 Direction
Table A1 (NTS TO baseline entry capacity (GWh/day))	Original Transco Licence relating to the NTS	Schedule 3 Part C to the second S.23 Direction
Table A2 (Initial NTS SO baseline entry capacity (GWh/day))	Original Transco Licence relating to the NTS	Schedule 3 Part C to the second S.23 Direction
Table A3 (NTS baseline firm exit capacity (GWh/day))	Original Transco Licence relating to the NTS	Schedule 3 Part C to the second S.23 Direction
Table A4 (NTS baseline interruptible exit capacity (GWh/day))	Original Transco Licence relating to the NTS	Schedule 3 Part C to the second S.23 Direction
Table A5 (NTS baseline exit flow flexibility)	Original Transco Licence relating to the NTS	Schedule 3 Part C to the second S.23 Direction

**Table 2:**

<b>Special Condition</b>	<b>Licence into which condition will be introduced</b>	<b>Location of copy of proposed text</b>
E2A (Revenue restriction definitions in respect of the Distribution Network)	Additional Transco Licence relating to the RDNs	Schedule 3 Part E(1) to the second S.23 Direction
E2B (Restriction of revenue in respect of the Distribution Network transportation activity)	Additional Transco Licence relating to RDNs	Schedule 3 Part E(1) to the second S.23 Direction
E3 (Allocation of revenues and costs for calculations under the price control in respect of the Distribution Network)	Additional Transco Licence relating to the RDNs	Schedule 3 Part E(1) to the second S.23 Direction
E4 (Supplementary provisions of the revenue restrictions in respect of the Distribution Network)	Additional Transco Licence relating to the RDNs	Schedule 3 Part E(1) to the second S.23 Direction
E5 (Restriction of prices in respect of tariff capped metering activities)	Additional Transco Licence relating to the RDNs	Schedule 3 Part E(1) to the second S.23 Direction
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 RDNs	Schedule 3 Part E(1) to the second S.23 Direction



Special Condition	Licence into which condition will be introduced	Location of copy of proposed text
E10 (Separation of NTS and Distribution Network Businesses)	Additional Transco Licence relating to the RDNs	Schedule 3 Part E(1) to the second S.23 Direction

22. In accordance with the sequencing in paragraph 15 above, at stage (i) in the process (paragraph 15(i)), and subject to Parts 2, 3, 4 and 5 below, the existing Special Conditions in each of the Original Transco Licence and the Additional Transco Licence relating to the RDNs shall be removed.

## **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 23 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 Original Transco Licence and the Additional Transco Licence relating to the RDNs contained in Part A (Standard Special Conditions applicable to both NTS and DN licensees) of the Original Transco Licence and the Additional Transco Licence relating to the RDNs as set out in Schedule 3 Part A of the Second S.23 Direction 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 Original Transco Licence and the Additional Transco Licence relating to the RDNs.

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 Original Transco Licence and the Additional Transco Licence relating to the RDNs and, at stage (d) of the process (paragraph 15(d)) and subject to the coming into effect of the 0745 Decision Letter, Amended Standard Condition 9 shall be removed from each of the Original Transco Licence and the Additional Transco Licence relating to the RDNs 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 Original Transco Licence and the Additional Transco Licence relating to the RDNs.
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)), and subject to Parts 1 and 2 above, the Standard Special Conditions in Part A of the Original Transco Licence and the Additional Transco Licence relating to the RDNs (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 Original Transco Licence and the Additional Transco Licence relating to the RDNs 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);

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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.

- 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);
- 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 B Direction**

28. Following stages (a) to (d) of the process outlined in paragraph 15 above (paragraphs 15 (a) to (d)), as a result of the application of part of the section 23 Implementation Direction, (as set out in paragraph 17 above) only paragraphs 1-4 inclusive and paragraph 8 of Standard Special Condition B1 are in full force and effect. A Standard Special Conditions Part B direction (as defined in Standard Special Condition B1) 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 the Original Transco Licence contained in Part B (Standard Special Conditions applicable to NTS licensees) as set out in Schedule 3 Part B of the Second S. 23 Direction and Sections A and B of the Designated standard conditions. In accordance with the terms of Standard Special Conditions B1, the consent of the licensee is not required in order for the Standard Special Conditions Part B direction in this Part 4 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 B1 to apply or disapply specified provisions of the Original Transco Licence held by Transco in relation to the NTS.
30. The Authority, pursuant to Standard Special Condition B1, hereby directs that, subject to the process stated in paragraph 15 above, at stage (e) in the process (paragraph 15(e)) and subject to Parts 1 and 2 above, the Standard Special Conditions in Part B shall have effect as a whole in the Original Transco Licence and in addition to the standard conditions listed in paragraph 27 as being suspended, at stage (g) in the process (paragraph 15(g)), the effect of Standard Condition 25 (Long Term Development Statement) shall be suspended in the Original Transco Licence.

## **Part 5 - Standard Special Conditions Part D Direction**

31. Following stages (a) to (d) of the process outlined in paragraph 15 above (paragraphs 15 (a) to (d)), as a result of the application of part of the section 23 Implementation Direction, (as set out in paragraph 17 above) only paragraphs 1-4 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 D1) 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 the Additional Transco Licence relating to the RDNs contained in Part D (Standard Special Conditions applicable to DN licensees) as set out in Schedule 3 Part D of the Second S. 23 Direction and Sections A and B of the Designated standard conditions. In accordance with the terms of Standard Special Conditions D1, the consent of the licensee is not required in order for the Standard Special Conditions Part D direction in this Part 5 to be issued.
32. 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 the Additional Transco Licence relating to the RDNs.
33. 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 Original Transco Licence and the Additional Transco Licence relating to the RDNs shall have effect as a whole in the Additional Transco Licence relating to the RDNs 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**

34. Following stages (a) to (f) of the process outlined in paragraph 15 above (paragraphs (a) to (f)), the provisions of standard condition 2 are still effective in the Original Transco Licence and the Additional Transco Licence relating to the RDNs. 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 provided its written consent in relation to both the Original Transco Licence and the Additional Transco Licence relating to the RDNs to the issuing of the TSO Direction in the form set out in this Direction.

35. With the written consent of Transco, 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 Original Transco Licence and the Additional Transco Licence relating to the RDNs:
- 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**

36. Pursuant to section 38A of the Act the reasons for granting this Direction in relation to the Proposed Transaction and making the modifications to each of

the Original Transco Licence and the Additional Transco Licence relating to the RDNs as set out in this Direction are stated in:

- a. the Second S.23 Notice<sup>31</sup>;
- b. the documents listed in the Second S.23 Notice;
- c. Transco's update on the process regarding conditions precedent of the Authority's Consents Directions<sup>32</sup>;
- d. the Consent.
- e. the ASC 29 Decision Letter;
- f. the 0745 Decision Letter;
- g. Transco's final assessment on the process regarding conditions precedent of the Authority's Consents Directions; and
- h. the Approval of hive-down letter.

37. In order to address requests from respondents to previous consultations and due to the fact that there are substantial modifications to the Original Transco Licence and the Additional Transco Licence relating to the RDNs as a result of the making of the modifications pursuant to the Second S.23 Direction on 25 April 2005 and their coming into effect in accordance with this Direction, a complete copy of the restructured Original Transco Licence and the Additional Transco Licence relating to the RDNs<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 Original Transco Licence and the Additional Transco Licence relating to the RDNs<sup>34</sup>.

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<sup>31</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>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)

<sup>33</sup> This also contains the relevant conditions of the Additional Transco Licences relating to the IDNs.

<sup>34</sup> Again, this also references the relevant conditions of the Additional Transco Licences relating to the IDNs.

38. Copies of the documents referred to in paragraphs 36 and 37 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).

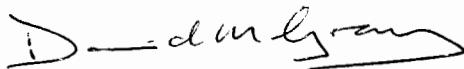
#### **Additional information**

39. It should be noted that the Authority has today contemporaneously issued a separate but related direction (the “**Associated section 8AA Direction**”) pursuant to the Consent modifying the four Additional Transco Licences relating to the IDNs. Following the making and taking effect of this Associated Section 8AA 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 namely:
- a. Part 1 – directions to implement the Consent (the “**section 8AA Implementation Direction**”);
  - 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 8AA 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 8AA Standard Special Conditions Part A Direction**”);
  - d. Part 4 - 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 Licences relating to the IDNs only (the “**Section 8AA Standard Special Conditions Part D Direction**”); and
  - f. Part 5 - direction under Standard Condition 2 of relevant gas transporters licences in order to disapply certain standard conditions in each of the Additional Transco Licences relating to the IDNs (the “**Section 8AA TSO Direction**”).



40. The modification to the four Additional Transco Licences in respect of the IDNs, will be made in parallel with the modifications made under this Direction to the Original Transco Licence and the Additional Transco Licence relating to the RDNs.
41. 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:



.....  
**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.

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
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						