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Rhif 24 awr os bydd nwy yn gollwng

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caiff galwadau eu recordio a gellir eu monitro

31 August 2005

Dear Ms Brown

**Information release under Gas Transporters Licence Standard Special Condition A7 –
Guidance Document – June 2005**

I am writing in response to the above Guidance Document issued in June on behalf of Wales and West Utilities Ltd.

We do not have any general confidentiality concerns with the information contained in Appendix 9 being released. We do have some general concerns, however, if the level of detail and the format of the information to be released caused us to be in breach of confidentiality provisions or injunctions.

In instances where there are pre-existing confidentiality provisions, which as a result of a Code Modification lead us to being sued and having to pay damages, then we would expect the cost to be allowed in our formula. We recognise that this could cause some technical difficulties in terms of the operation of the formula, and perhaps an *ex post* adjustment would be appropriate. We think it appropriate for such costs to be recoverable as in these instances we are not getting any benefit from disseminating the information, unlike the shippers who are benefiting.

Secondly in an instance where a party obtained an injunction against the transporter preventing disclosure we would expect Ofgem not to require the information to be disseminated and any such Code Modification should contain this caveat. It is not acceptable that we would be in the position of being in contempt of court for breaching an injunction or facing enforcement and/or fines under the Gas Act and licence for not disclosing this information.

On a more general point there should be an industry review of all new confidentiality clauses in UNC documents, particularly Ancillary documents that Ofgem needs to approve, so that new agreements entered into comply with this regime.

Please note that there is a small typing error on Page 5 of the document in the final paragraph – the reference to Section 358 of the Gas Act should refer to Section 35.



I trust that our comments are helpful, however please do not hesitate to contact me if you require any further information on 029 2058 8290 bob.westlake@wwutilities.co.uk

Yours sincerely

BOB WESTLAKE
Regulation Manager