

Gas Act 1986

Section 23(1)(a)

MODIFICATION OF THE GAS TRANSPORTER LICENCE GRANTED TO BRITISH GAS PIPELINES LIMITED PURSUANT TO SECTION 23(1)(a) OF THE GAS ACT 1986

1. Pursuant to section 23(3) of the Gas Act 1986 ("the Act") the Gas and Electricity Markets Authority ("the Authority") gave notice on 25 October 2005 ("the Notice") that it proposed to modify the gas transporter licence ("the Licence") granted to British Gas Pipelines Limited (company number 3226380) ("the Licensee") on 28 June 2004 under section 7 of the Act, by amending Special Condition 1 (Charging of Gas Shippers – Relative Price Control) ("SC1") of the Licence in the manner set out in the appendix to this Modification.
2. The Authority gave notice to the Secretary of State of its intention to make the proposed licence modification and did not receive a direction not to make the proposed licence modification.
3. On 1 February 2006 the Licensee gave its written consent to the proposed licence modification of SC1 of the Licence in the manner set out in the appendix to this Modification.
4. The Authority did not receive any objections or representations relating to the proposed licence modification.
5. The purpose and effect of the proposed licence modification is to amend errors that have been identified in the formulae and wording of SC1 that was originally inserted into the Licence to put in place arrangements to restrict charges made to shippers for transportation arrangements in order to protect the interests of consumers connected to the distribution system of the Licensee.

6. The reasons for the original insertion of SC1 into the Licence were set out in Ofgem's final proposals document 'The Regulation of Independent Gas Transporter Charging – Final Proposals, July 2003' ("the Proposal Document").
7. The reason for the proposed licence modification is to amend SC1 to have in effect a charging restriction in line with the Proposal Document which currently applies to other independent gas transporters.
8. This Modification constitutes notice pursuant to section 38A of the Act.
9. A copy of this Modification and the Proposal Document can be obtained (free of charge) from Melanie Everitt, Ofgem, 9 Millbank, London, SW1P 3GE and are available on the Ofgem website (www.ofgem.gov.uk).

Now therefore:

In accordance with the powers contained in section 23(1)(a) of the Act, the Authority hereby modifies SC1 in the manner specified in the appendix to this Modification with effect on and from 22 February 2006.

The Official Seal of the Gas and Electricity Markets Authority here affixed is authenticated by the signature of:

Joanna Whittington



Director, Gas Distribution

Authorised on behalf of the Authority

22 February 2006

Appendix

Special Condition 1. Charging of Gas Shippers – Relative Price Control shall be amended as follows:

Special Condition 1. Charging of Gas Shippers – Relative Price Control

1. Subject to paragraph 2, where the licensee makes charges in accordance with paragraph 1 (a) of standard condition 4 (Charging of Gas Shippers – General) after the 31 December 2003 and where,
 - (a) the licensee provides transportation arrangements to a premises,
 - (b) the premises are not defined as legacy sites within paragraph 3 of this condition; and
 - (c) charges, or revenues derived from them, are, in the main, not controlled or limited in pursuance of any condition of this licence other than standard condition 4 (Charging of Gas Shippers – General) or standard condition 4C (Charging of Gas Shippers – Supplemental Connection Charges).then paragraph 5 of standard condition 4 (Charging of Gas Shippers – General) shall cease to have effect in relation to such premises.

2. For premises subject to paragraph 1 above or paragraph 3 (4) of this condition the licensee shall for all such premises, unless the Authority consents otherwise in writing, charge no more than:

$$TC_t = TC_{t-1} \times \left(1 + \frac{wSSP_r}{100} \right)$$

- (a) Where $TC_{t-1} \times \left(1 + \frac{wSSP_r}{100} \right)$ is greater than C_t , then

$$TC_t = C_t$$

(b) Where $TC_{t-1} \times \left(1 + \frac{wSSP_r}{100}\right)$ is less than F_t , then

$$TC_t = F_t$$

(1) Subject to this condition at Entry-point, then

$$TC_t = SSP - CSEP$$

(2) The licensee shall adjust charges on 1 January each year in accordance with this condition. Where the Entry-point is in the immediately preceding period of 1 October to 31 December, the licensee is not required to adjust charges in accordance with paragraph 2 above but shall modify the charges in accordance with this condition each 1 January thereafter.

(3) To determine the level of charges the licensee shall apply Annual Quantity in relation to domestic premises in accordance with standard Annual Quantity as accepted by the Authority, and for other premises as reasonably estimated and agreed between the licensee and any relevant shipper, unless the Authority directs otherwise for those other premises. In this paragraph 2 (3) domestic premises excludes any domestic premises where a surcharge is made pursuant to paragraph 5 of this condition.

(4) At Entry-point , C_t and F_t shall be calculated as follows:

$$C_t = TC_t \times (1 + 0.05)$$

$$F_t = TC_t \times (1 - 0.05)$$

Where t is greater than 1, C_t and F_t shall be calculated as follows:

$$C_t = C_{t-1} \times \left(1 - \frac{\Delta_r}{100}\right) \times \left(1 + \frac{RPI}{100}\right)$$

$$F_t = F_{t-1} \times \left(1 - \frac{\Delta_r}{100}\right) \times \left(1 + \frac{RPI}{100}\right)$$

- (5) Charges made or which fall to be made to premises under paragraph 1 of this condition shall be determined in accordance with this condition for a period of no less than 10 years from Entry-point.
- (6) Where the Authority reviews charges made, or which may be made, under this condition and implements any such review after 2014, the Authority shall, in the course of conducting its review, have regard to previous efficiently incurred capital expenditure made by the licensee in the course of carrying on activities required by or permitted under the Gas Act and relevant licence.

Definitions:

Annual Quantity	means the annual quantity of gas off-taken, or which may be reasonably likely to be off-taken, by a single supply point or connected system exit point;
Ct	means the charge ceiling as determined in accordance with paragraph 2 (4) of this condition;
CSEP	means Transco's connected system exit point charges calculated at the prevailing charge in accordance with the prevailing methodology statement for Network Region r at Entry-point; excepting charges for metering arrangements, meter reading, CSEP administration charges, NTS entry capacity charges where determined by auction, or other charges determined in writing by the Authority;
Entry-point	means the date at which t = 1 and, with the exception of premises subject to paragraph 3 (4) of this condition, shall be determined as either the date of connection of a premises to the licensee's pipe-line system, and where gas has entered the premises' service pipe, or the date the licensee is contractually bound to provide a connection to the person requiring that connection. The licensee shall select the entry-point date within 60 days of the contract to connect, unless the Authority otherwise directs the date of the Entry-point;

- F_t** means the charge floor as determined in accordance with paragraph 2 (4) of this condition;
- RPI** means the value published in October of each year by the Authority and calculated as the percentage change (whether of a positive or a negative value) in the arithmetic average of the retail price index determined in respect of April to September (both inclusive) of the current calendar year and the arithmetic average of the retail price index determined with respect to April to September of the previous calendar year;
- SSP** means Transco's single supply point charges for premises calculated at the prevailing charge in accordance with the prevailing methodology statement for Network Region *r* at the Entry-point; excepting charges for metering arrangements, meter reading, CSEP administration charges, NTS entry capacity charges where determined by auction, or other charges determined in writing by the Authority;
- TC_t** means the maximum charge the licensee may charge for each premises subject to paragraph 2 of this condition in year 't';
- TC_{t-1}** means the maximum charge the licensee may charge each premises subject to paragraph 2 of this condition in the year preceding year 't' or part thereof;
- wSSP_r** means the percentage change in the average of Transco's single supply point charge from year t-1 to year t for each Network Region *r*. Network Regions *r* comprise: *r*₁ Scotland, comprising LDZ exit zones SC; *r*₂ North and Yorkshire, comprising LDZ exit zones NO, NE; *r*₃ North West, comprising LDZ exit zones NW; *r*₄ East England, comprising LDZ exit zones EM, EA; *r*₅ West Midlands, comprising LDZ exist zones WM; *r*₆ Wales and South West, comprising LDZ exit zones WA, SW; *r*₇ North London, comprising LDZ exit zones NT; and *r*₈ South and South East, comprising LDZ exit zones SO, SE. The values for wSSP_r in respect of

each region shall be determined and published in October of each year by the Authority; and

Δ_r means the annual percentage change in respect of the Network Region r in which the premises are located, and has a value according to the schedule below:

Region	Annual percentage change
r ₁ Scotland	0.42
r ₂ North and Yorkshire	1.13
r ₃ North West	1.40
r ₄ East England	1.64
r ₅ West Midlands	1.57
r ₆ Wales and South West	0.36
r ₇ North London	1.23
r ₈ South and South East	1.51

3. In respect of legacy sites the licensee shall, within 60 days of 1 January 2004, calculate and notify to the Authority a date by which all such premises shall be charged according to paragraph 2 above, and the Authority shall then direct a date (the "migration date") as soon as reasonably practicable within six months of the notification.
- (1) In calculating the above date the licensee shall use its best endeavours to take into account the following factors:
- (a) the migration date shall be calculated on a revenue neutral basis and the notification by the licensee shall include, or the licensee shall otherwise provide as required by the Authority, all necessary information for the Authority to determine the reasonableness of such calculation; and
 - (b) from the migration date, charges determined pursuant to paragraph 5 of standard condition 4 (Charging of Gas Shippers - General) or paragraph 4 of standard condition 4C

(Charging of Gas Shippers – Supplemental Connection Charges) shall cease to have effect for legacy sites.

- (2) Where the Authority directs a migration date or conducts a review pursuant to paragraph 2 (6) of this condition, the Authority shall, in each case and where necessary, direct a migration date so as to achieve the objective of revenue neutrality.
- (3) From the beginning of the calendar year immediately following the migration date, charges determined pursuant to paragraph 5 of standard condition 4 (Charging of Gas Shippers - General) or paragraph 4 of standard condition 4C (Charging of Gas Shippers – Supplemental Connection Charges) shall cease to have effect for legacy sites.
- (4) From the beginning of the calendar year immediately following the migration date, the charges to shippers in respect of legacy sites shall thereafter be made in conformity with paragraph 2 of this condition subject to charges calculated on the basis of an Entry-point of 1 January 2004, and inclusive of all relevant adjustments to charges specified in this condition since 1 January 2004 up to the migration date.

Definitions

Legacy site(s) means existing or future premises in respect of which

- (a) the licensee has had a methodology accepted by the Authority pursuant to paragraph 4 of standard condition 4C (Charging of Gas Shippers – Supplemental Connection Charges); or
- (b) the licensee makes, or shall make, charges to shippers under standard condition 4 (Charging of Gas Shippers – General) and at least one premises that forms part of the same clearly identifiable site or project was connected to the licensee’s pipe-line system and gas had entered the premises’ service pipe before 1 January 2004.

4. The Authority may, on written application by the licensee within 60 days of this condition being implemented, consent to charging arrangements other than those required by paragraphs 1, 2 and 3 of this condition. The Authority's written consent may contain such terms and conditions as the Authority determines necessary.
5. Where charges are made in accordance with paragraph 2, they may include a surcharge subject to the following conditions:
- (a) from 1 January 2004 the maximum surcharge is 0.3412 pence per kWh of gas transported, adjusted on 1 January of each subsequent year by a factor of $\left(1 + \frac{RPI}{100}\right)$. RPI has the same meaning as given in paragraph 2 of this condition;
 - (b) the surcharge has a maximum duration of 20 years from when the surcharge to the relevant shipper first falls due;
 - (c) the surcharge may only apply to existing domestic premises which were in existence for not less than 6 months prior to the provision of the gas main extended specifically for connection of those premises, and which have not previously received a supply of natural gas;
 - (d) the licensee has, on request to provide a connection by the owner or occupier of the premises, extended a gas main to specifically connect the premises;
 - (e) the licensee must notify the Authority of the specified amount and specified duration as soon as reasonably practicable but in any event no later than 28 days prior to any such charge falling due; and
 - (f) the Authority may direct the licensee not to make the surcharge within 28 days of the notification in (e) above.

6. The licensee shall furnish the Authority with a statement of charges determined in respect of paragraph 2 in a form approved by the Authority. The licensee shall
 - (a) publish a statement, or revision or amendment of a statement, furnished, or notice given, under paragraph 2 in such manner as will, in its reasonable opinion, secure adequate publicity for it;
 - (b) send a copy of any such statement, revision, amendment or notice so published to any person who asks for one; and
 - (c) the licensee shall furnish the Authority with specified information in respect of its charges in a specified form as requested from time to time.

7. References in paragraphs 2 of special condition 1 (Charging of Gas Shippers - Relative Price Control) to charges do not include references to -
 - (a) charges related to the acquisition or disposal of gas for purposes connected with the balancing of the licensee's pipe-line system;
 - (b) to the extent (if any) to which the Authority has accepted that they should, as respects certain matters, be so determined, to charges determined by reference to provisions in that behalf set out in the Network Code; or
 - (c) charges related to the provision of meters or reading of meters.

8. The charging arrangements in paragraph 2 and paragraph 5 shall apply so long as this licence continues in force but shall cease to have effect in such circumstances and at such times as are described in paragraph 9.

9. Pursuant to paragraph 8, a licensee, in whose licence this condition has effect, may make a disapplication request in writing to the Authority. The disapplication request shall specify the paragraphs of this condition (or any part or parts thereof) to which the request relates and shall state the date (the "disapplication date") from which the licensee wishes the Authority to consent that the specified paragraphs (or the specified parts or parts thereof) shall cease to have effect. The disapplication date is a date which is either:

- (a) not less than 18 months after the date of delivery of the request or more than three years from 1 January 2004; or
 - (b) not less than 10 years after 1 January 2004.
- 10.** The disapplication request may be withdrawn by the licensee at any time prior to the disapplication date.
- 11.** The condition (or any part or parts thereof) to which the disapplication request relates shall cease to have effect from the date specified in the disapplication request or such later date as may be agreed, if the Authority agrees in writing to the disapplication request.
- 12.** If the Authority has not made a reference to the Competition Commission under section 24 of the Act relating to the modification of this licence by the removal of the paragraphs (or any part or parts thereof) specified in the disapplication request before the beginning of 12 months which will end with the disapplication date and the licensee has not withdrawn the disapplication request, the licensee may deliver a termination notice to the Authority. Following the service of a termination notice, with effect from the disapplication date or such later date as may be specified in the termination notice such of the paragraphs (or any part or parts thereof) as are specified in the disapplication request shall cease to have effect in this licence.
- 13.** If the Competition Commission makes a report on a reference in respect of this licence made by the Authority relating to the modifications of this licence by the removal of the paragraphs (or any part or parts thereof) specified in the disapplication request and such report does not include a conclusion that the removal of such paragraphs (or any part or parts thereof) operates or may be expected to operate against the public interest, the licensee may within 30 days after the publication of the report by the Authority in accordance with section 25 of the Act deliver to the Authority a termination notice. With effect from the disapplication date or such later date as may be specified in the termination

notice such paragraphs (or any part or parts thereof) as are specified in the disapplication request and in respect of which the Competition Commission report does not include the aforementioned conclusion shall cease to have effect in this licence.

Definitions:

“Networks Regions” r comprise: Scotland, comprising LDZ exit zones SC; North and Yorkshire, comprising LDZ exit zones NO, NE; North West, comprising LDZ exit zones NW; East England, comprising LDZ exit zones EM, EA; West Midlands, comprising LDZ exist zones WM; Wales and South West, comprising LDZ exit zones WA, SW; North London, comprising LDZ exit zones NT; and South and South East, comprising LDZ exit zones SO, SE. Where LDZ exit zones has the meaning given in Transco’s Network Code.

“Transco” means the licensed Gas Transporter Transco including any of its network regions or distribution networks or any successors to Transco or such Regions or Networks.