



*Promoting choice and  
value for all customers*

Your Ref:  
Our Ref: RFA/IPGT/16  
Direct Dial: 020 7901 7046  
Email: joanna.whittington@ofgem.gov.uk

23 January 2006

Dear Sir,

**Statutory notice pursuant to section 23 of the Gas Act proposing to modify licence conditions 43, 44, 46 and 47**

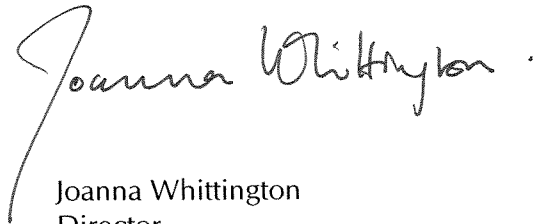
1. All independent gas transporters (IGTs) have consented to financial ring fencing standard licence conditions 32, 43, 44, 45, 46, and 47 in Section C taking effect in their gas transporter (GT) licence. Attached to this letter is a notice pursuant to section 23 of the Gas Act 1986 proposing to modify standard licence conditions 43, 44, 46 and 47.
2. The Gas and Electricity Markets Authority (the Authority) will consider the outcome of this consultation and modify the conditions in due course. If there are statutory objections to the licence modification proposal which satisfy either of the blocking minority threshold tests set out in the Gas Act 1986 and the Electricity and Gas (Modification of Standard Conditions of Licences) Order 2003, the modification cannot be made. In that case, Ofgem can make a statutory reference to the Competition Commission to introduce the modifications.

**Submission of formal requests for consent and/or derogation**

3. I would also like to remind you that appropriate written requests for consent and/or derogation regarding non-compliance with specific aspects of the modified financial ring fencing conditions should be submitted to Ofgem on or before 23 February 2006. However, we suggest that you submit all written requests well in advance of this date, ideally by 13 February, in order to allow Ofgem sufficient time to consider them and discuss with you as necessary. The requests should include those relating to consent and/or derogation that we have agreed in principle. All requests should clearly state the reasoning behind them and any request must specify the length of time for which derogation is required.

4. In the first instance, I would be grateful if you could forward all requests for consideration to Samanta Padalino at [samanta.padalino@ofgem.gov.uk](mailto:samanta.padalino@ofgem.gov.uk). We will then be available to meet with you if needed to clarify any request on our position in due course. We intend to issue derogation and consent letters before modifying the licence conditions.

Yours sincerely,

A handwritten signature in black ink that reads "Joanna Whittington". The signature is written in a cursive style with a large initial 'J'.

Joanna Whittington  
Director  
Gas Distribution

Enc.

**Notice under section 23(1)(b) of the Gas Act 1986**  
**Proposal to modify licences granted or treated as granted under**  
**section 7 of the Gas Act 1986**

The Gas and Electricity Markets Authority (the "Authority") hereby gives notice pursuant to section 23(1)(b) of the Gas Act 1986 (the "Act") as follows:

1. The Authority proposes to modify the licences (the "Licences") granted or treated as granted by the Authority under section 7 of the Act to all gas transporters.
2. The proposals are to modify the following standard conditions (the "Conditions") in Section C of the Licences -
  - (a) Condition 43 (Restriction on Activity and Financial Ring Fencing);
  - (b) Condition 44 (Availability of Resources);
  - (c) Condition 46 (Credit Rating of Licensee); and
  - (d) Condition 47 (Indebtedness),as set out in Schedule 1 to this notice.

3. In summary –

- (a) the Authority proposes, in order to protect the interests of consumers, to introduce modified financial ring fencing arrangements for new and existing independent gas transporters, being those licensed gas transporters for whom in September 2001, the Secretary of State did not provide for Section C to have effect in their Licences by a scheme made under Schedule 7 of the Utilities Act 2000, but which in relation to each existing gas transporter, the Authority issued a Transportation Services Direction bringing Section C into effect on 19 January 2006 ;
- (b) The proposed modifications will align the financial ring fencing conditions in independent gas transporter Licences with the financial ring fencing conditions in all other gas transporter Licences granted or treated as granted under section 7 of the Act and in all transmission and distribution licences granted or treated as granted under sub-paragraphs (b) and (c) respectively of section 6(1) of the Electricity Act 1989; and

the reasons for these modifications are fully set out in documents published by the Authority, including -

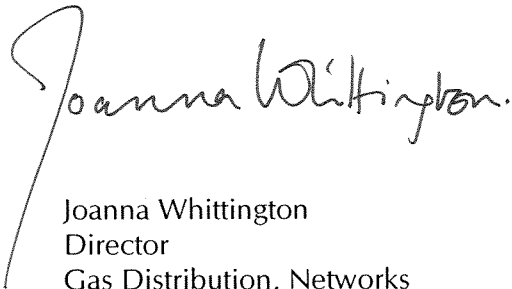
- (i) *The regulation of independent gas transporter charging – Draft proposals, December 2002 87/02;*
- (ii) *The regulation of Independent gas transporter charging – Final Proposals – July 2003, 64/03;*
- (iii) *Financial ring fencing for new and existing independent gas transporters – Initial proposals – November 2004, 205/04; and*

*(iv) Financial ring fencing for new and existing independent gas transporters –  
Final proposals – September 2005, 209/05,*

copies of which are available (free of charge) from the Ofgem library, 9 Millbank, London SW1P 3GE (020 7901 7003) or the Ofgem website ([www.ofgem.gov.uk](http://www.ofgem.gov.uk)).

4. The effect of the proposed modifications is to implement changes to independent gas transporters' financial ring fencing conditions, which were developed in order to protect consumers connected to their networks by providing safeguards for the financial stability of each gas transporter against any financial pressures arising from its affiliates.
5. "Relevant licence holders" for the purpose of giving notice of objection to the modification proposals are all and any gas transporters in whose Licences the conditions are in effect (pursuant to the Transportation Services Directions issued by the Authority on 18 January 2006) on the expiration of this notice.
6. A pro forma that a relevant licence holder may wish to use in order to give notice of objection is given in Schedule 2 to this notice.
7. Any representations or objections to the proposed licence modifications must be made in writing on or before 23 February 2006 and should be addressed to Samanta Padalino, 9 Millbank, London SW1P 3GE (020 7901 7033) or [samanta.padalino@ofgem.gov.uk](mailto:samanta.padalino@ofgem.gov.uk).

Dated 23 January 2006



Joanna Whittington  
Director  
Gas Distribution, Networks

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Authorised on behalf of the Authority