



To Gas Distribution Networks,
Independent Gas Transporters
and other interested parties

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Dear Colleague,

Emergency arrangements provided by Gas Distribution Networks to Independent Gas Transporters – Decision letter

Purpose of this letter

This letter explains that after careful consideration Ofgem¹ has recommended to the Authority not to put in place a licence condition obliging Gas Distribution Networks (GDNs) to provide emergency services to Independent Gas Transporters (IGTs).

This letter sets out:

- ◆ the background information to reaching its decision including Ofgem's consultations and July 2005 workshop;
- ◆ the present position of GDN / IGT contractual negotiations; and
- ◆ the reasons for Ofgem's decision.

Background

IGTs currently source gas emergency services through contractual arrangements between each GDN and each IGT. The IGT emergency service contracts were novated from National Grid Gas (formerly Transco) to each GDN in May 2005 and are due to expire on 31 March 2006.

Ofgem's consultations and July 2005 Workshop

Ofgem's principal objective in carrying out its statutory functions is to protect the interests of consumers. Given that the current IGT emergency service contracts are due to end on 31 March 2006, Ofgem published two consultation documents that considered

¹ Ofgem is the office of the Gas and Electricity Markets Authority.

whether any regulatory action was required. Ofgem's June 2005 consultation² sought views on how best to protect the interests of consumers when the current contractual arrangements come to an end.

A workshop was held on 20 July 2005. During the workshop IGTs and GDNs identified the following way forward:

- ◆ to review and amend the existing voluntary gas emergency services contracts and agree a set of revised prices for 1 April 2006; and
- ◆ to roll over the existing emergency services contracts until revised contracts are put in place since contractual negotiations could still be ongoing when the contracts expire.

Ofgem expressed its support for the continuation of the voluntary contractual arrangements and stated that it would consider whether it was appropriate to include a licence condition to this effect for GDNs in accordance with its principal objective.

Ofgem's December 2005 initial proposals document³ included a draft licence condition for consideration, provided a progress overview in respect of IGT / GDN contractual negotiations and discussed responses received to our June consultation document.

Consultation responses to December initial proposals document

Ofgem received responses from a number of industry stakeholders. The consultation responses were split between support for and opposition to the introduction of a licence condition for GDNs.

IGTs and suppliers supported the introduction of a licence condition as the best means of ensuring certainty for IGT customers in the future provision of emergency services and in the interests of competition since there is no alternative emergency service provider for IGTs at the present time.

GDNs opposed this and suggested that a licence condition was unnecessary because:

- ◆ the continuation of the existing contractual arrangements demonstrated a commitment to provide the required emergency services to IGTs; and
- ◆ Ofgem already has sufficient powers under the Competition Act 1998 (if a GDN withdrew from the provision of emergency services to IGTs).

Competition Act

Ofgem has received legal advice on the viability of using existing powers under the Competition Act as a means to take action against a GDN that decides to stop providing emergency services to IGTs. It is possible that withdrawing these services could be considered as an abuse of a dominant position. This would need to be assessed against the market situation at the time.

² 156/05 Emergency Service Arrangements provided by Distribution Networks to Independent Gas Transporters - Consultation document. June 2005

³ 286/05 Emergency Service Arrangements provided by Distribution Networks to Independent Gas Transporters - Initial proposals document. December 2005.

Contractual negotiations current position

Wales & West Utilities (WWU) and IGTs have agreed to rollover the existing contract for a further three month period. During this time WWU will commence negotiations with IGTs and intend to implement revised contractual arrangements by 30 June 2006.

The other four GDNs (National Grid Gas, Northern Gas Networks, Southern Gas Networks and Scotland Gas Networks) have concluded contractual negotiations and agreed terms and prices with IGTs. In each case, revised contracts will be implemented from 1 April 2006 for a three year period, with two additional one year extension periods. The new contracts require a minimum three month notice period to be provided by either party wishing to withdraw from the agreement.

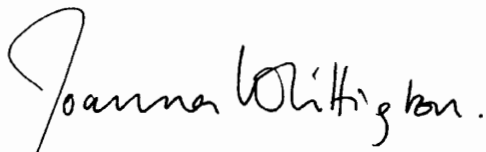
Ofgem's decision

Ofgem notes GDNs' commitment to continue to provide emergency services to IGTs. Contracts have been agreed with four GDNs with the remaining GDN, deciding to roll over the existing contracts for a three month period with a commitment to negotiate and agree revised contracts. Ofgem considers that against this background the voluntary contractual arrangements currently provide adequate protection for IGT customers. Ofgem concludes that a licence condition is not necessary at this time.

However, Ofgem can propose the introduction of a licence condition for GDNs in the future if it is considered that consumers' interests are not being adequately protected by contractual arrangements.

If you wish to discuss any aspect of this decision please contact Roger Morgan on 020 7901 7346 or Nicola Love 020 7901 7036.

Yours faithfully,



Joanna Whittington
Director, Gas Distribution