



Promoting choice and
value for all consumers

Matt Golding
Commercial Manager
UK Transmission
NGT House
Warwick Technology Park
Gallows Hill
Warwick
CV34 6DA

Your Ref:
Our Ref: CON/306
Direct Dial: 020 7901 7050
Email: robert.hull@ofgem.gov.uk

And for the attention of all
Interested Parties

26 April 2006

Dear Colleague,

Determination under Condition A11(18) of National Grid Gas's Gas Transporter Licence approving amendments to the Interconnection Agreement between National Grid Gas and Interconnector (UK) Limited dated 25 August 1998, and Reasons for making the determination

On 4 April 2006 Ofgem¹ published an open consultation letter² which invited responses in relation to a request from National Grid Gas (NGG) for a determination approving proposed amendments to the Interconnection Agreement (IA)³ between NGG and Interconnector (UK) Ltd (IUK) as detailed in the Eleventh Letter Agreement.

Paragraph J 6.4.1 of Section J (Exit Requirements) of the Uniform Network Code (UNC) specifies that the Transporter (NGG) will not agree with the Connected System Operator (IUK) to amend any provision of Connected System Exit Point (CSEP) Network Exit Provisions which is directly relevant to the arrangements between the Transporter and Users except with the approval of each User who is at the relevant time a CSEP User. The exception to this is if the Authority gives Condition A11 (18)⁴ approval to such amendment.

Due to practical difficulties in identifying and obtaining approval from each User NGG has historically requested Condition A11(18) approval of any proposed changes to the exit element of the IA, and has asked us to approve the new proposals.

The current IA is due to expire on 1 May 2006 and NGG's proposed amendments seek an extension to 1 May 2011. An Authority decision is therefore required before 1 May 2006.

¹ Ofgem is the office of the Authority.

² Proposed amendments to the Interconnection Agreement – Consultation Letter. 62/06

http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/14557_6206.pdf?wtfrom=/ofgem/work/index.jsp§ion=/areasofwork/connections/conngas

³ The IA is, in effect, an amalgamation of a Network Entry Agreement and a Network Exit Agreement reflecting the capability of the facility to act as an entry and exit point from the National Transmission System (NTS). The IA governs the interface between National Transmission System and the Bacton/Zeebrugge Interconnector.

⁴ Standard Special Condition A11 (Network Code and Uniform Network Code).

This letter explains the background to this issue, reports on the views of respondents to the consultation letter and sets out the Authority's reasons for its decision. This letter also constitutes the notice which is required under section 38A of the Gas Act 1986, of reasons for the Authority's decision in relation to a determination under Condition A11(18), and will be published on Ofgem's website.

For the avoidance of doubt, in reaching its decision the Authority is **not** exercising any functions under the Competition Act 1998 and is exercising its functions under and by virtue of the Gas Act 1986. Consequently, any decision pursuant to NGG's application is without prejudice to such powers and to any other approval, exemption or clearance that may be required under either EU or UK competition legislation.

The decision is based on the assumption that the documents and information provided to the Authority are true copies of the originals of the same, are complete and accurate and do not have any misstatements or omissions which may be material to the Authority in considering the application and reaching a decision. Therefore, the Authority reserves the right to rescind or amend any approval given in the event that this assumption should prove to be incorrect or misplaced.

Details of amendments

The proposed amendments seek an extension of the IA to 1 May 2011. Other significant amendments refer to the removal or replacement of clauses or diagrams and to changes to gas quality limits at the Bacton terminal. These amendments and the reasons for them were outlined in detail in the consultation letter published on 4 April 2006².

Respondents' views

Six responses to the consultation letter were received. All respondents stated that they supported the proposed amendments, in particular regarding the proposal to change the gas quality exit specifications at the Bacton terminal to bring them in line with recent changes to the gas quality entry provisions at the terminal.

Three respondents stated that they had previously supported the implemented modification 0049⁵ with one stating that they also supported the implemented modification 0069⁶. These respondents stated that the proposals put forward to gas quality exit provisions, at the Bacton terminal, outlined in the consultation letter were in line with these modifications.

One respondent stated that they believed that the proposed amendments would promote increased gas flows and facilitate greater interoperability between the UK and Belgian gas markets. Two respondents stated that they supported the changes to gas quality limits as these are in line with EASEE-gas⁷ specifications.

⁵ Uniform Network Code modification 049 "Optional limits for inert gases at System Entry Points"
http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/13384_049D.pdf

⁶ Uniform Network Code modification proposal 069 "Amendment of Network Entry Provisions at the European Interconnector sub-terminal at Bacton"
http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/13825_UNC069D.pdf

⁷ European Association for the Streamlining of Energy Exchange (EASEE) (www.easee-gas.org)

The non-confidential responses have been placed on the Ofgem website⁸.

Condition A11(18) of NGG's licence

Under Condition A11(18) of NGG's licence, the Authority is required to consider whether the amendments proposed by NGG comply with the requirement that they are calculated to facilitate the achievement of the "relevant objectives", set out in paragraph 1 (a), (b), (c), (d), (e) and (f) of that Condition and which are outlined below.

The proposed amendments should facilitate the achievement of:

- a) the efficient and economic operation of the pipe-line system to which this licence relates;
- b) so far as is consistent with sub-paragraph (a), the co-ordinated, efficient and economical operation of (i) the combined pipe-line system, and/or (ii) the pipe-line system of one or more other relevant gas transporters;
- c) so far as is consistent with sub-paragraphs (a) and (b), the efficient discharge of the licensee's obligations under this licence;
- d) so far as is consistent with sub-paragraphs (a) to (c) the securing of effective competition:
 - i. between relevant shippers;
 - ii. between relevant suppliers; and/or
 - iii. between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers;
- e) so far as is consistent with sub-paragraphs (a) to (d), the provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards (within the meaning of paragraph 4 of standard condition 32A (Security of Supply – Domestic Customers) of the standard conditions of Gas Suppliers' licences) are satisfied as respects the availability of gas to their domestic customers; and
- f) so far as is consistent with sub-paragraphs (a) to (e), the promotion of efficiency in the implementation and administration of the network code and/or the uniform network code.

Authority's Determination

Ofgem⁹ is at present undertaking work in a number of policy areas that could be relevant to the question of Network Exit Agreements (NEXAs) and their provisions. In that context, developments as a result of any future review of the exit capacity arrangements or the sale of one or more of NGG's retained Distribution Networks could result in a more fundamental reassessment of all NEXAs, and this would include the NEXA provisions in the IA.

⁸<http://www.ofgem.gov.uk/ofgem/work/index.jsp?section=/areasofwork/connections/conngas&levelids=,113508#top13508>

⁹ Ofgem is the office of the Authority

However, in accordance with its principal statutory objective and general duties, the Authority considers that the proposed amendments put forward by National Grid in the Eleventh Letter Agreement will continue to facilitate the achievement of the relevant objectives. In particular the amendments will help to secure effective competition and encourage the economic and efficient operation of the pipe-line system by aligning the gas quality limits for exit in line with recently approved Uniform Network Code (UNC) modifications for entry. This will help ensure that the interconnector is operating to appropriate and updated gas quality limits as reflected in the recently updated UNC and, all other things remaining equal, could result in increased gas flows.

The extension of the IA to 1 May 2011 will provide certainty to NGG, IUK and users of the interconnector.

In approving the changes to the IA, the Authority, however, would like to draw attention to NGG's obligations under Standard Special Condition A6 (Conduct of Transportation Business) of NGG's licence and its general duty as a gas transporter under section 9(1A) of the Gas Act 1986.

Condition A6 requires, amongst other obligations, that NGG shall not conduct its transportation business in a way that allows any gas shipper or supplier or DN operator to obtain any unfair commercial advantage including, in particular, any such advantage from a preferential or discriminatory arrangement. Moreover, under section 9 (1A) of the Gas Act, NGG is under a duty to facilitate competition in the supply of gas and by virtue of section 9(2) of the Act, to avoid any undue preference or undue discrimination in specified circumstances.

Thus, in making these changes to the IA, NGG must be aware of and comply with these obligations with respect to other NEXAs to which it is a signatory and to all other contractual provisions related to gas quality that its customers are required to comply with.

Condition A11(18) Approval

Therefore, in accordance with Condition A11(18) of NGG's gas transporter licence, the Authority determines that NGG's amendments as set out in the Eleventh Letter Agreement are calculated to facilitate the achievement of the relevant objectives set out in Condition A11(18) and the Authority hereby gives approval to the amendments.

If you have any queries in relation to the issues raised in this letter, please feel free to contact Lesley Nugent on 0141 331 6007, Roger Morgan on 020 7901 7346 or Nicola Love on 020 7901 7036.

Yours faithfully,



Robert Hull
Director, Transmission