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31 May 2006

Dear Colleague,

**Proposal to modify Standard Licence Conditions C5 ("Use of system charging methodology") and C6 ("Connection charging methodology") of the electricity transmission licence and Standard Special Condition A5 ("Obligations as regard charging methodology") of the gas transporters licence.**

This letter sets out Ofgem's intention to propose a modification to Standard Licence Conditions ("SLC") C5 and SLC C6 of the electricity transmission licence and Standard Special Condition ("SSC") A5 of the gas transporters licence and seeks the views of interested parties.

**Background**

The Electricity and Gas Acts in respect of the SLCs and the gas transporters licence in respect of the SSCs make provision for the modification of licences by the Authority. There are a number of circumstances in which the Authority may seek to modify a licence including where it considers it to be requisite or expedient having regard to its statutory duties.

**Issue**

SLC C5 and SLC C6 of the transmission licence set out the basis of charges for use of and connection to the GB transmission system. SSC A5 sets out the basis for use of system charges for the gas transportation system. In the event that a change is proposed to the use of system charging methodology or the connection charging methodology the relevant licensee must provide the Authority with a report before implementing the proposed change. SLC C5, SLC C6 and SSC A5 state that unless the Authority has issued a direction to the licensee within 28 days of the report being received that the modification may not be made then the modification can take place<sup>1</sup>.

Under Section 5A of the Utilities Act 2000, where the Authority is proposing to do anything for the purposes of, or in connection with, the carrying out of any function

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<sup>1</sup> SLC 4B of the gas transporters' licence sets out the basis of charges for connection to the gas transportation system. Unlike SLC C5 and C6 of the transmission licence and SSC A5 of the gas transporters licence, the basis of charges and changes to this basis under SLC 4B do not require the approval of Ofgem.

exercisable under or by virtue of Part 1 of the Gas Act 1986 or the Electricity Act 1989 and where it appears that such proposals are "important", Ofgem has a statutory duty to undertake and publish an impact assessment. Section 5A(2) provides detail of the criteria against which importance should be assessed.

Ofgem considers that conducting an impact assessment is an integral part of taking a structured approach to decision making. Consequently, Ofgem has committed to aim to set a minimum consultation period of 6 weeks and where the period is shorter to explain why. At present the requirement under SLC C5, SLC C6 and SSC A5 for Ofgem to take a decision on a charging methodology proposal within 28 days constrains Ofgem's ability to undertake impact assessments.

Ofgem recently rejected a modification proposal (Modification Proposal UNC073<sup>2</sup>) to the gas Uniform Network Code ("UNC"), which sought to extend the notice period gas transporters are required to give users of a change in transportation charges from two to four months. It is important to note that whereas this was a proposal to extend the notification period after Ofgem has made a decision for all cases, this consultation is only seeking to extend the time Ofgem has to consider proposals to three months where an impact assessment, and therefore consultation, is required. This consultation also only proposes a change to Ofgem's period for consideration of changes in the structure of charges and not their overall level, whereas the UNC modification proposal would have covered changes to the structure and level of charges.

### **Proposed modification**

Ofgem proposes to modify SLC C5, SLC C6 and SSC A5 to provide scope for the time period for the Authority to take a decision on a proposed modification to be extended to three months in circumstances where Ofgem deems it necessary to undertake a consultation on proposed modifications. Where it is not deemed necessary, the consultation period would revert to the 28 day period currently in place. These changes would also make the transmission licence more consistent with the equivalent provisions of the electricity distribution licence contained in SLC B4 ("Charges for use of system") and SLC B4B ("Connection charging methodology").

Ofgem welcomes views on the proposed modification set out above. For the avoidance of doubt this letter is not part of the statutory consultation process but may inform Ofgem's decision to proceed to a formal modification proposal.

### **Responses**

If any party has any comments on this letter they should be sent to Grant McEachran ([grant.mceachran@ofgem.gov.uk](mailto:grant.mceachran@ofgem.gov.uk)) by 30 June 2006. All responses will be published on our website unless confidentiality is requested.

Yours faithfully



Robert Hull  
**Director of Transmission**

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<sup>2</sup> Revision to the Notice Period regarding the implementation of changes to Transportation Charges, May 2006