

**MODIFICATION PURSUANT TO STANDARD SPECIAL  
CONDITION A2 OF ALL NTS AND DN GAS TRANSPORTER  
LICENCES GRANTED OR TREATED AS GRANTED UNDER  
SECTION 7 OF THE GAS ACT 1986, AND**

**NOTICE PURSUANT TO SECTION 38A OF THE GAS ACT 1986  
OF THE REASONS FOR THE DECISION OF THE GAS AND  
ELECTRICITY MARKETS AUTHORITY TO MODIFY THE NTS  
AND DN GAS TRANSPORTER LICENCES**

**WHEREAS**

1. The companies to whom this document is addressed (the "Licensees"), all hold a gas transporter licence each (the "Licences") granted or treated as granted by the Gas and Electricity Markets Authority (the "Authority") under section 7 of the Gas Act 1986 (the "Act").
2. In accordance with Standard Special Condition A2 (Private Collective Licence Modification Procedure in respect of Standard Special Conditions applicable to both NTS and DN licensees) ("SSC A2") of the Licences, the Authority gave notice on 27 July 2006 on its website that it proposed to make modification to Standard Special Condition A5 (Obligations as Regard Charging Methodology) (the "Condition") of the Licences and specified that any representations or objections to the proposed modification must be made on or before 31 August 2006.
3. The reason why the Authority proposes to modify the Condition is that the current requirement for the Authority to decide on a Licensee's charging methodology proposal within 28 days constrains the Authority's ability to undertake statutory impact assessments on the charging methodology proposal, and the modification extends the period for the Authority to take a decision on a proposed charging methodology modification to 3 months where the Authority deems it necessary to carry out an impact assessment.
4. This reason is set out fully in the May 31 2006 letter 93/06, '*Proposal to modify Standard Licence Conditions C5 (Use of system charging methodology) and C6 (Connection charging methodology) of the electricity transmission licence and SSC A5 (Obligations as regards charging methodology) of the gas transporters licence*', which is 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)).
5. In accordance with SSC A2(3)(b)(ii) the Authority sent a copy of the notice of its intention to make the modification set out in the attached Schedule

to the Secretary of State and did not receive by August 31 2006 or at all, a direction from the Secretary of State not to make any modification.

6. By 31 August 2006 the Authority received 4 representations (all from Licensees) all of which are available (free of charge) from the Ofgem library or website but the Authority received no objection to the proposed modification.

One respondent requested that the Authority should provide a "comfort" letter stating that the Licensee will be notified where the Authority considers that an impact assessment is required, as soon as possible after receiving the report required from the Licensee under paragraph 2(b) of the Condition and another respondent suggested that the consultation process could be improved by including a shorter period of one to two weeks after the receipt of the paragraph 2(b) report within which the Authority should indicate whether or not it intends to consult.

8. Having considered the responses received, the Authority has decided to make the modification to the Condition and consistent with its duty under section 4AA(5A) of the Act to have regard to best regulatory practice, will notify a Licensee in writing within a reasonable time after receiving the Licensee's report under paragraph 2(b) of the Condition, of a decision to carry out an impact assessment.

**NOW** in accordance with the Authority's powers under section 7B(7)(b) of the Act and SSC A2 the Authority **HEREBY MODIFIES** paragraph 2 of the Condition in each and every NTS and DN gas transporter licence granted or treated as granted under section 7 of the Act by omitting:

- i. the word "and" from sub-paragraph (b)(iii) of paragraph 2;
- ii. sub-paragraph (c); and
- iii. the words, "28 days have elapsed since the said report was furnished without the Authority having given the licensee a direction requiring that the modification not be made", from paragraph 2 of the Condition and adding instead, the words –

**"provided that, where the licensee has complied with the requirements of sub-paragraphs (a) and (b), it will not make any modification to the charging methodology where the Authority has, within 28 days (or within three months if the Authority intends to undertake an impact assessment) of the report being furnished to it under sub-paragraph (b) given a direction to the licensee that the modification shall not be made",**

as set out in the attached Schedule **WITH EFFECT** on and from 27 September 2006.

This document also constitutes notice of reasons under section 38A of the Act for the Authority's decision to modify the Licences.

Dated the 27<sup>th</sup> day of September 2006

The official seal of the Gas and Electricity Markets Authority hereto affixed is authenticated by the signature of

David Gray

A handwritten signature in black ink, appearing to read "David Gray", with a long horizontal flourish extending to the right.

Managing Director, Networks  
Authorised on behalf of the Authority

## SCHEDULE

### **Amendment to paragraph 2 of Standard Special Condition A5 (Obligations as Regard Charging Methodology) of the gas transporter licence applicable to both NTS and DN licensees**

2. Except in so far as the Authority otherwise approves, or in response to a determination by the Secretary of State under paragraph 2A of Standard Special Condition A27 (Disposal of Assets), the licensee shall not make a modification of the charging methodology unless –
  - (a) it has consulted relevant shippers on the proposed modification and allowed them a period of not less than 28 days within which to make written representations; and
  - (b) it has furnished the Authority with a report setting out –
    - (i) the terms originally proposed for the modification;
    - (ii) the representation (if any) made by relevant shippers; and
    - (iii) any changes in the terms of the modification intended in consequence of such representations,

provided that, where the licensee has complied with the requirements of sub-paragraphs (a) and (b), it will not make any modification to the charging methodology where the Authority has, within 28 days (or within three months if the Authority intends to undertake an impact assessment) of the report being furnished to it under sub-paragraph (b) given a direction to the licensee that the modification shall not be made.