

Indra Thillainathan
Gas Distribution
Ofgem
9 Millbank
London
SW1P 3GE

16th August 2006

Dear Ms Thillainathan

Re: New Entry arrangements for connecting to the gas distribution network – the long term arrangements

INEOS Enterprises Limited welcomes the opportunity to comment on Ofgem's proposals regarding the long-term arrangements for DN entry points and supports the drive to overhaul the current arrangements. We understand that these were introduced as a measure to provide existing DN entry points with access to the NBP whilst operating within the regulatory and contractual constraints prevailing at the time. We also understand that it was generally accepted that whilst the arrangements were "fit for purpose" they were and remain imperfect. This is partly due to the imposition of a commercial/contractual regime that has limited or no relationship to operational reality.

In principle, we support the approach proposed by Ofgem as it will ensure that the contractual arrangements will better reflect the relationships and interactions between the relevant parties.

In our view a framework should be developed in accordance with the following principles:

- To ensure the financial viability of a project, the entry facility must have access to the NBP.
- Contractual structures and obligations should reflect the degree of control exercised by the relevant party e.g. transportation capacity relating to deliveries from the facility is directly under the control of the local DN.
- The contractual structure must be clear, straightforward and bilateral i.e. a single agreement between the DN and entry facility. (For storage facilities we assume that the entry arrangements would form part of the Storage Connection Agreement).
- The services offered by the DN must be on a non-discriminatory basis.
- The main terms and conditions of an entry point should be published.

- As the primary service is the provision of DN capacity, the DN must be required to release, at all times, the maximum level of capacity to the entry facility.
- The methodology by which the maximum level of capacity is determined should be published by the DN. (We believe it may be appropriate to develop and publish a single methodology to be adopted by all DNs).
- In the event that reinforcement of the DN is required to support the desired flows, the determination and allocation of the cost to the entry facility should be based on a published and approved charging methodology.
- Costs incurred by the DN in relation to its contractual arrangements with the NTS is a matter for the DN. (We are not convinced that a DN would be able to quantify costs associated with flows through a specific offtake relative to flows to other offtakes within the local network. We would therefore expect that the entry facility would be treated in a non-discriminatory manner to any other entry facility or offtake within the DN).

Implementing the contractual approach

We concur with the view expressed by Ofgem with regard to the introduction of a new licence condition giving effect to the new arrangements. We believe it appropriate to oblige the DNs to publish the main terms and conditions and, in addition, believe it important to consider whether they should be subject to a stakeholder governance framework to prevent unilateral alterations. This level of control may, however, not be necessary if the Licence sets out the minimum requirements with regard to the provision of entry capacity and other services.

We agree that the Licence should explicitly identify Ofgem's role in relation to dispute determination as it is not clear whether the Gas Act and/or the EU Gas Directive provides Ofgem with the necessary powers to intervene, at the request of the entry facility, to resolve disputes. However, we would wish to keep the Licence condition simple and non-limiting and therefore do not believe it would be appropriate to list, in the Licence, issues on which Ofgem would or would not determine. Nor do we believe Ofgem should be involved in "minor disputes". We would suggest Ofgem could elect to provide the industry with guidance as to what it is likely to perceive as a "material issue" on which it would wish to determine if there were a dispute.

We welcome Ofgem's proposal to include a Licence obligation that requires the DNs to offer non-discriminatory services. The non-discriminational conditions currently contained within the DN Licenses are designed to prevent unfair practices as they affect shippers and suppliers and these need to be widened to incorporate entry facilities.

With regard to the remaining issues highlighted by Ofgem and in conjunction with the principles we have identified in this response, we suggest the following approaches are considered:

- Access to NBP – should be a Licence obligation for the reasons already stated. It should be stated in the condition relating to the publication of terms and conditions that the contractual arrangements should have the effect of permitting the relevant user entering gas into the DN network, to be allocated the same volume of gas at the NBP.
- Capacity release – this is critical to the entry facility. The level of capacity available and its related cost will determine the feasibility of developing certain projects. We are firmly of the view that the Licence should address this issue and require that maximum levels of capacity are made available. We suggest that the DNs should be required, under Licence, to develop and publish a methodology for determining capacity levels. We believe there would be a benefit in producing a single methodology, but appreciate that this may not be practical. For future reinforcements of a DN needed to support predicted entry volumes, we understand that the determination and allocation of costs will be the subject of separate processes, again in accordance with published methodologies.
- Apportioning available entry capacity – in the event that this service is requested by the entry facility, then we would expect the cost of provision to be bilaterally agreed, bearing in mind that the DN would have to reflect the costs of service provision in setting the charge.
- Transportation charging – we agree that the current Licence conditions concerned with changes to charging methodologies are sufficient and there is no need to set out new conditions to protect users against unfair and non cost reflective charges.
- Revenue recovery – we see no reason to treat entry connections any differently from other connections and expect revenue to be treated in the same manner.

INEOS does not wish to comment on the transition arrangements applicable to the existing DN entry points, but sees merit in introducing the long term arrangements as soon as is practicable.

If you wish to discuss any aspect of this letter please contact either myself on 01928 516562, or Nick Wye on 01295 750099.

Yours sincerely

David Dykes
Business Development Manager