Promoting choice and value for all gas and electricity customers

Independent Gas Transporters Network Code Governance

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Overview:

There are 14 independent Gas Transporters (iGTs) providing connections to over 750,000 customers. Each of the active iGTs operates their own Network Code. Although these Network Codes are broadly similar in content, any differences in processes and procedures can have cost and efficiency implications for shippers operating across those networks. These arrangements also increase the administrative burden and cost of pursuing industry change through the modification process and as such may be a disincentive for Network Code development.

The iGTs are seeking greater alignment of their arrangements by creating a single Uniform Network Code (UNC) for iGTs. Ofgem fully supports this initiative. The purpose of this document is to seek views on the modifications to the standard conditions of the GT licence, which we consider to be necessary to facilitate the effective introduction of an iGT equivalent of the UNC (an 'iGT UNC').

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Context

Currently, each Gas Transporter (GT) is required to enter into transportation arrangements that comply with its network code; a document it is obliged to produce under the terms of its GT licence. The Large Transporters are also required by their licences to enter into, and have entered into, a UNC. Ofgem understands that there is an aspiration by industry participants to introduce new governance arrangements for independent Gas Transporters (iGTs), in the form of an iGT Uniform Network Code (UNC).

Ofgem is committed to the principles of better regulation and is continually seeking to improve efficiency and effectiveness within the GT industry. As part of our simplification plan, contained within Ofgem's Corporate Strategy and Plan 2006–2011, we identified an iGT UNC as a potential means of reducing the unnecessary burden imposed by the need for stakeholders to deal with multiple documents. This document is the next stage in the consultation process launched in July 2006 and focuses on proposed modifications to the standard conditions of the GT licence in facilitation of such an iGT UNC.

Associated Documents

- Initial consultation letter: independent Gas Transporters Network Code governance, 21 July 2006 (Ref No. 128/06): http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/16778_iGT_UNC_letter_210706.pdf?wtfrom=/ofgem/work/index.jsp&section=/areasofwork/gasgovernance

- Way forward letter: independent Gas Transporters Network Code governance, 24 November 2006: http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/17771_iGT_UNC_wayforward241106.pdf?wtfrom=/ofgem/work/index.jsp&section=/areasofwork/gasgovernance

E-Public Register

Each of the current licence conditions referred to in this document can be found on the E-Public Register on Ofgem's website. For ease of reference, links to the most relevant licence condition are as follows:

- SLC 9 (consolidated) "Network Code" is available at: http://195.12.224.140/document_fetch.php?documentid=4311

- SSC A11 (consolidated) "Network Code and Uniform Network Code" is available at: http://195.12.224.140/document_fetch.php?documentid=6547

- SSC A12 (consolidated) "Joint Office Governance Arrangements" is available at: http://195.12.224.140/document_fetch.php?documentid=6548

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Summary

➔ This document seeks views on what we consider are likely to be the appropriate modifications to the Standard Conditions of the Gas Transporters licence in order to give full effect to an independent gas transporters' (iGT) unified network code (UNC) for current and future iGTs. Where appropriate we have drawn on experience from the sale of four of National Grid Gas' Distribution Networks, which necessitated the introduction of the existing UNC. We therefore consider it appropriate to create a structure for the iGT UNC similar to that of the existing UNC, unless there is a clear rationale to deviate from it.

Background

In addition to the Large Transporters there are currently 24 transportation licences held by 14 iGTs, though many of these are no longer active in the market, or are storage operators with the licence conditions relating to their Network Code turned off. Each of the remainder produces a network code setting out its transportation arrangements, in accordance with its licence.

There are in excess of 750,000 consumers connected to these iGT networks. We are aware that the differing processes and procedures applied by iGTs have cost and efficiency implications for shippers operating on those networks, in particular during customer switching. In addition we are also aware of concerns raised by energywatch in relation to supplementary charges which are levied by some gas suppliers against customers on iGT networks. It is considered by some gas suppliers that the supplementary charge is necessary to cover amongst other things the extra administrative costs of providing a service to these customers.

Whilst shippers have in the past sought to harmonise the disparate iGT processes, this task has not been aided by the equally disparate modification rules applying to the respective iGT Network Codes. This document follows up our initial consultation on introducing new arrangements for the governance of the independent Gas Transporters (iGTs), specifically through greater alignment and harmonisation of their Network Codes. Having considered responses to that initial consultation, we consider that it will be appropriate for the iGTs to adopt arrangements similar to those in place for the larger transporters, who are party to the Uniform Network Code (UNC).

We are also aware of discussions around the potential for a common provider of data transfer systems for all iGTs. However, we consider that to be a separate subject to the development of an iGT UNC. We have therefore not sought to address any of the issues associated with systems provision within this document.

Licence modifications

1.1. Having considered responses to our July consultation letter, we are of the view that in order for the UNC arrangements to be successful, both in terms of ensuring that all iGTs become signatories and that the UNC doesn't simply duplicate the provisions of their own Network Codes as required under licence, the UNC would itself need to be backed by appropriate licence conditions. This would have the effect of obliging IGTs, both present and future; to accede to and comply with an iGT UNC that facilitates the achievement of appropriate objectives.

1.2. Throughout this document we refer to the proposed document as being the iGT UNC; however, this is itself a matter where we would welcome views. We are conscious that this may create some confusion, particularly where the iGT UNC and current UNC are being referred to in the same context.

In developing the initial proposed modifications to the GT licence, as detailed in Chapter 1, we have had three key objectives:

- Introduce a licence framework to support and facilitate the iGT UNC, drawing upon lessons learned from the introduction of the existing UNC, with minimal further change;
- Harmonise and strengthen the different arrangements which have previously applied to iGT network code modification procedures, particularly recognising the multi-party nature of the iGT UNC; and,
- Consistent with the principles of Better Regulation and projects such as the Supply Licence Review, consider which licence provisions could suitably be modified or 'switched off', particularly if their terms are adequately provided for in new licence conditions introduced to facilitate the iGT UNC.

Modification rules

We are of the view that the modification rules applying to the iGT UNC will appropriately form part of the iGT UNC itself. It will therefore be for the parties to determine what should be contained within those rules. However, Chapter 2 sets out our thinking on a framework for the modification rules which is a part of our initial proposed licence conditions.

Chapter 2 also sets out some of our thoughts on what must be achieved as part of any **transition** to the iGT UNC arrangements. In particular, we consider that any modification to an individual iGT network code which the Authority has directed to be made should be given full effect in the iGT UNC. An exception to this may be where changed circumstances have made the original modification obsolete or otherwise inappropriate.

Way forward

Finally, Chapter 3 sets out the way forward, together with a notional timetable. Whilst we will endeavour to operate our own licence modification consultations in tandem with those of the iGTs on their Network Code modification proposals, this will not fetter the discretion of the Authority or the timing of the exercise of it in respect of its decisions, either on the proposed licence modifications, or the network code modification proposals.

1. Proposed licence modification

Chapter Summary

This chapter sets out the rationale for each of the provisions which we propose to insert into the standard conditions of the GT licence, by way of modification to standard condition 9 and the insertion of a new standard condition 10

Question 1: Do you agree that standard condition 9 should replicate, as far as is appropriate, the provisions of standard special condition A11of the Large Transporters' licence?
Question 2: Do you consider that standard condition 9 should additionally require implementation dates to be included in the final modification report (FMR)?
Question 3: Do you consider that Ofgem should take this opportunity to remove licence provisions in relation to the iGT's network codes which will be unnecessary following the introduction of new and modified licence conditions to facilitate the iGT UNC and/or could appropriately be provided for as part of the modification rules and if so, which?
Question 4: Do you consider that the proposed licence modifications should ensure the rights of appropriate third parties to participate in the Network Code and/or the iGT UNC modification procedures?

1.1. A standard licence condition (SLC) is a condition that is standard in its provisions across all licences of that type. However, while SLCs are a part of all licences, they are not necessarily always '***turned on***'[1](or effective) in each licence of that type.

1.2. In the case of the National Transmission System (NTS) licence held by National Grid Gas plc (NGG) and the Gas Distribution Network (GDN) licences held by NGG and the new owners of four of its former GDNs, SLC 9 - "Network Code", is turned off and no longer applies to them. Instead, the NTS and GDN licence contain standard special condition (SSC) A11 - "Network Code and Uniform Network Code".

1.3. The implementation of SSC A11, together with the Authority's direction to implement network code modification 745[2], gave effect to the Uniform Network Code

[1] Note that the phrases “turning on”, “switching on” and “giving effect” may be used interchangeably in this document as may “turning off”, “switching off” and “removing from effect”.
[2] Network Code modification 745: 'Modification of the Network Code into Transco's individual (Short Form) Network Code'.

(UNC). Having considered responses to our July consultation, we consider that it will be appropriate for the iGTs to adopt arrangements similar to those in place for the Larger Transporters, who are parties to the UNC (UNC).

1.4. In coming up with the proposed modifications to the standard conditions of the GT licence we have therefore had three key objectives:

- Introduce a licence framework to support and facilitate the iGT UNC, drawing upon lessons learned from the introduction of the existing UNC;
- Harmonise and strengthen the arrangements which have previously applied to iGT network code modification procedures, particularly recognising the multi-party nature of the iGT UNC; and,
- Consistent with the principles of Better Regulation and projects such as the Supply Licence Review, consider which licence provisions could suitably be removed, particularly if adequately provided for elsewhere, such as within the iGT UNC modification rules.

1.5. Given these three objectives, we have sought to show in Appendix 7 how the modified GT licence would look if all of our proposed provisions were included. However, as made clear in this Chapter, subject to responses, we would consider modification of these terms.

Proposed Amended Standard Condition 9 - Network Code and iGT Uniform Network Code

1.6. Standard Condition 9 of the GT licence obliges the licensee to establish a network code to facilitate the achievement of specified objectives, including the efficient and economic operation of the pipeline and the securing of effective competition between gas shippers and suppliers. The condition also requires the licensee to establish modification rules which set out the procedures for reviewing and if appropriate modifying the network code. Currently, Ofgem's approval is required to modify the network code in any way. Ofgem also retains the power to direct modifications to the network code without consultation[3] in specific circumstances.

1.7. We would welcome views more generally on which, if any, of the provisions of the existing or proposed licence could alternatively be incorporated into the iGT UNC itself, therefore retaining regulatory oversight whilst allowing for more flexible modifications to those provisions.

[3] Where Ofgem issues any directions to the licensee under section 19 or 21(1) of the Gas Act 1986, the licensees shall make such modifications to the network code as may be necessary to comply with those directions.

1.8. We also consider that where possible, compliance with provisions of the iGT UNC should be enforced through sanctions and/or incentives within that code. However, we recognise that amendments to the current enforcement regime are not within the scope of this project and could delay the implementation of the iGT UNC.

1.9. Whilst consideration may be given to the future governance of network code charging methodologies, our preliminary view is that changes are not required to other conditions of the GT licence, such as standard condition 4 "Charging Gas Shippers - General", and standard condition 4A - "Obligations as Regard Charging Methodology", which require conformity with the relevant provisions of the Network Code. Our initial view is that as 'short form' Network Codes will be retained by each iGT, incorporating the substantive provisions of the iGT UNC by reference, any other licence conditions which reference the Network Codes will continue to apply and will be equally effective. This is also true of references within the Gas Shippers licence. Our preliminary view is, therefore, that the necessary licence modifications can be limited to standard condition 9, and potentially the introduction of a new standard condition 10.

1.10. For the purpose of clarity and in order to achieve a greater degree of consistency with the existing UNC, the various obligations proposed under SLC9 have been grouped under the equivalent headings as SSC A11.

Relevant objectives

1.11. We propose to insert two new relevant objectives into SLC 9. The first of these recognises that the iGT UNC covers a multi GT environment. Whereas a similar relevant objective in the existing UNC caters for proposals which impact upon the entire pipeline system, we consider that similar drafting in the iGT UNC could either relate to all of the iGTs pipelines, particularly any proposals which i.e. nested Connected System Exit Points (CSEPs).

1.12. We also consider that it would be beneficial to introduce a relevant objective relating to the promotion of efficiency in the implementation and administration of the iGT UNC and/or the individual Network Codes. Under the existing UNC this relevant objective has been used primarily in the assessment of governance modification proposals, particularly to the UNC modification rules and we consider it would serve a useful equivalent function under the iGT UNC.

1.13. Paragraph 2 of SSC A11 provides that in relation to any proposed modification to the network code modification procedures, a reference to the relevant objectives (in paragraph 1 of SSC A11) is a reference to the requirements under paragraphs 9 and 12 of that condition, i.e. the procedures that the modification rules must provide for from the outset (paragraph 9) and related permissive provisions (paragraph 12) Whereas the relevant objectives are aspirational insofar as they can be incrementally improved.

1.14. Assuming the adoption of the relevant objectives outlined above, we consider that, in principle and subject to the detail of it, any proposed modification to the

modification rules themselves could appropriately be considered under the relevant objective of promoting efficiency in the implementation and administration of the network code. We also consider that any proposal which puts in place procedures referenced in paragraphs 9 and 12 would fall under relevant objective (c) the efficient discharge of the licensee's obligations under its licence. We therefore do not propose to introduce the equivalent of SSC A11 (2) to SLC 9.

1.15. It is worth noting that unlike the applicable objectives of the Balancing and Settlement Code (BSC)[4] for instance, which are considered to be of equal importance, the relevant objectives of the Large Transporters' Network Code and UNC are tiered. In essence this gives a hierarchy to the objectives, ensuring that any proposal which seeks to facilitate competition must also be consistent with the efficient and economic operation of the pipeline, and so on. Such a hierarchy may be useful in terms of establishing the relative weight to be given to conflicting aspects of a proposal etc. Whilst noting the inconsistency of approach between gas and electricity codes, we consider that this matter could, if necessary, be more appropriately looked at as part of a more holistic review of governance in the industry, such as the Industry Codes Compliance Review (ICCR)[5]. We therefore propose to maintain the structure currently applying to relevant objectives in the gas industry codes.

Network Code

1.16. Under SSC A11 (4), a company which holds more than one relevant GT licence may, with the consent of the Authority, prepare a single network code with respect to the pipelines to which those licences relate. Mindful of the level of consolidation that has occurred within the iGT sector, we consider that such a provision with SLC9 could reduce the administrative burden upon those companies which currently operate more than one, (albeit in some cases substantively identical) network codes.

iGT Uniform Network Code

1.17. This aspect of the proposed licence condition would give effect to the iGT UNC for the purposes of the licence, and the regulatory regime as a whole. Again, we have sought to align this paragraph as closely as possible with that under SSC A11. However, we would welcome views on whether the drafting is entirely appropriate, given that it effectively requires the relevant GTs to have prepared a document prior to the condition becoming effective, i.e. it could be considered to be immediately defunct, unless the Authority consents in writing to the iGT UNC being completed at some later date. There may be merit in making the drafting more closely resemble paragraph 6 of SSC A11, i.e. by removing the reference to when the iGT UNC should be prepared by.

[4] See: http://195.12.224.140/document_fetch.php?documentid=4151
[5] Industry Codes Compliance Review Consultation. June 2006. Ref 109/06

1.18. Notwithstanding these issues, we consider that a final decision on the appropriate temporal text to use within this paragraph, if at all, could suitably be taken at a later date, when more is known on the progress towards developing an iGT UNC and its status at that time.

Network Code Modification Procedures

1.19. In contrast to a number of existing industry codes and agreements, the iGT network codes do not currently provide for the participation of other interested parties. For instance, the Gas and Electricity Consumer's Council ('*energywatch*') is able to raise modification proposals to both the BSC and certain areas of the UNC. SSC A11 (10) and SSC A11 (11) explicitly provide the ability for a '*third party participant'* to make a modification proposal to either the Large Transporters' UNC or their short form networks codes, respectively. This is also reflected within the UNC modification rules.

1.20. Having considered responses to the July consultation, we are of the view that it would be appropriate to recognise the participation of appropriate third parties in the iGT UNC arrangements, and this is reflected in the proposed drafting. However, we recognise that under the UNC, this right is restricted to the raising of proposals with the aim of making further information available to the market. We would welcome views, both on whether the right of third party participants to raise modification proposal under the iGT UNC should similarly be restricted, and whether this right should apply to the network codes of each individual iGT as well as the iGT UNC.

1.21. SC 9 (6) refers to the licensee preparing a document known as the *'code modification rules*'. Whilst according to that condition, amendments to the modification rules required the consent of the Authority prior to their inclusion within the Network Codes they did not necessary need to go through the same procedure as a modification to the Network Code itself.

1.22. Following on from the Authority's decision to accept modification 679[6], which inserted the former Transco modification rules into its Network Code, SSC A11 (8) now specifies that unless the Authority consents otherwise, the modification rules shall be contained in the UNC. In practice, the modification rules of each iGT are also now included within their Network Codes, either by design or as a result of modifications. Given this, we consider that the substantive modification rules of the iGT UNC should be contained within the iGT UNC albeit subject to the framework set out in the proposed amended SC9.

1.23. However, adoption of the drafting used in SSC A11 (8) would also require that the modification rules of the individual network codes should also be provided as part of the iGT UNC. We note that there have been several modifications to iGT network

[6] Network Code modification 679: 'Formally include the Network Code Modification Rules within the Network Code'.

codes recently seeking to achieve greater harmony between the various modification rules, and in turn a more consistent and coordinated approach to industry wide change. We also note that unlike the 'short form' Network Codes of the GDNs it is anticipated that the iGTs may retain some substantive provisions within their own Network Codes, at least insofar as it does not prove possible to harmonise certain arrangements prior to the iGT UNC coming into effect. We would therefore welcome views on whether this provision is appropriate for the iGT sector, rather than each licensee having discretion to develop and operate its own modification procedures in respect of its Network Code.

1.24. Each iGT is currently responsible for overseeing the modification procedures of its own network code. We are aware of concerns that to date there has been less robust governance within the iGT sector than elsewhere. With the move to a multi-GT document, we consider that the discretion previously afforded to the relevant iGT should be appropriately fulfilled by a representative iGT UNC panel, acting as far as practicable in an impartial manner. This panel would have responsibility for overseeing the modification process and ensuring its transparency and efficiency.

1.25. Whereas some industry codes, for instance the Distribution Connection and Use of System Agreement (DCUSA)[7] explicitly provide for such a panel to be created, we note that SSC A11 does not. Instead, the UNC modification panel is constituted entirely in accordance with the UNC modification rules. It should be noted however, that the UNC and its associated modification rules were to a large extent carried over from the prevailing NGG Network Code arrangements, which included a panel. In contrast, there is nothing currently resembling a modification panel in the iGT sector.

1.26. Our initial view is that it would be appropriate for the standard licence conditions to require the establishment of an iGT UNC panel, but for the constitution and other arrangements of that panel to be set out in the iGT UNC modification rules. However, in line with the principles set out above, if this is adequately provided for within the modification rules from the outset, further prescription within the GT licence may be superfluous.

1.27. It is commonplace in electricity codes for modifications proposals to include an implementation date, which is itself consulted upon. In directing that the modification be made, the Authority also directs when it is to be made. This requirement differs in the gas sector, where implementation dates have been largely at the relevant GTs discretion. In the case of iGTs this has led to concerns, particularly amongst shippers, about modifications not being given full and timely effect. In a multiple GT agreement, we are also concerned that change should not necessarily be made at the pace of the slowest, or that investment made by other parties in order to achieve agreed implementation dates be put at risk. We consider that to some extent these concerns can be addressed in the proposed standard

[7] See: http://195.12.224.140/document_fetch.php?documentid=8378

licence conditions, though it is likely that the modification rules, as overseen by an iGT UNC panel will also have a role here.

Modification of Network Code and iGT Uniform Network Code

1.28. Although Ofgem is yet to conclude its ICCR, we consider that for the time being at least all modifications to the iGT UNC should require the consent of the Authority. This will be in keeping with the existing SC 9 (7) and SSC A11 (13).

1.29. Decision making under the iGT UNC could perhaps be revisited at some point in the future, along with that in other codes. In the meantime, further consideration could be given to the iGT UNC panel playing a greater role. This is discussed further in Chapter 2.

1.30. Currently, SC 9(8) provides for the licensee to propose a modification to its network code where it considers that such a modification could appropriately deal with a matter relating to the protection of the public from dangers arising from the conveyance of gas through its pipe-line system, as provided in a notice from the Health and Safety Executive (the HSE). Modification proposals stemming from this obligation differ from others insofar as they will be treated as furthering the relevant objectives of the relevant network codes as long as they are at least consistent with those objectives. This condition remains substantively the same in SSCA11, albeit re-structured and including a reference to the UNC. We propose to amend the drafting within SLC9, in line with that used in SSC A11 (14), to include a reference to the iGT UNC.

1.31. As previously mentioned, concerns have been raised as to the manner in which some iGTs currently apply their discretion to the modification rules. Whilst we consider a degree of discretion to be appropriate, recognising the differing resources of each organisation etc, we also consider that other Parties are entitled to some certainty, for instance around the timetable for modification procedures etc. This has been the subject of various Network Code modification proposals recently.

1.32. Although the existing licence condition does not seek to prescribe when, for instance, the final modification report should be submitted to the Authority, it does refer to it being as soon as is reasonably practicable. Of course this could change on a case by case basis. We therefore think it would aid clarity if the proposed amended SC 9 (15) referred back to the timetable within the Network Codes rules, allowing parties themselves to come to an agreement on a reasonable timescale, but ensuring that it is then adhered to.

1.33. Recommendations on whether or not the Authority should direct the implementation of a UNC modification proposal are made by the UNC panel. This role is set out in the UNC modification rules and is reflected in SSC A11 (15). Subject to the creation of an iGT UNC panel, it may be appropriate for that panel to undertake an equivalent role under the iGT UNC. Therefore the panel could either be referred to directly within the proposed licence modification, or alternatively by reference to the iGT UNC modification rules. Our initial view is that adopting the

same drafting as SSC A11 would provide a greater degree of flexibility, for instance if the iGT UNC parties decided to introduce voting arrangements which are wider than only the panel members.

Determinations by the Authority

1.34. SSC A11 (18) provides that any question over whether any provision of the Network Code and/or UNC requiring the GT to make a determination pursuant to the relevant objectives, shall itself be determined by the Authority. Whilst this gives the Authority clear vires to make such determinations, we would welcome views on whether such a provision is required to remain part of the GT licence. For instance, perhaps they could be adequately provided for solely within the iGT UNC modification rules.

1.35. The licence also states that the network code modification procedures shall provide that any questions arising under those procedures as to whether:

a. a gas shipper or other person is likely to be materially affected by a proposal were it to be implemented, or;
b. representations relating to a proposal and made in pursuance of the rules have been properly considered by the licensee

shall be determined by the Authority.

1.36. Assuming the network code modification procedures do adequately provide for such questions to be referred to the Authority, and given that the Authority must approve any change to those procedures, there may be little value in either of these provisions additionally being a permanent feature of the licence.

1.37. We also consider that all representations made in response to a modification proposal should be considered, regardless of whether the licensee considers the respondent to be materially affected. Ofgem currently receives all representations made in respect of a modification proposal and considers them in full. We would expect this to continue under the iGT UNC modification rules. Given this, we would welcome views on whether this particular provision has any enduring value, and if so, whether it could more appropriately be targeted upon the iGT UNC panel for instance, in determining whether to recommend the implementation of a modification proposal.

1.38. As mentioned above, we consider that it may be beneficial for the proposed implementation date of a modification to be part of the consultation, and ultimately part of any direction by the Authority. However, it is acknowledged that circumstances change, and there will be instances where an agreed implementation date for a modification can no longer be reasonably be met. We therefore consider that if implementation dates are to be introduced into the formal direction, there must be a means of amending that implementation date without the licensees being in breach of their obligations. A requirement to seek the consent of the Authority therefore seems to be a proportionate arrangement, and in keeping with the

equivalent arrangements, as provided for under paragraph 9.7.2 of the UNC modification rules[8].

1.39. Currently, all iGTs are required under SLC 9 (11) to publish a summary of their Network Code and modification rules. The large GTs are required under SSC A11 (17) to publish a summary both of their own Network Code and the UNC. Ofgem would be interested in the views of respondents on whether these summaries are of value, particularly in relation to the iGTs. This may determine whether we retain or remove the obligation. In any case the existing SLC 9 (11) obligation to publish modification rules will not be carried across as these will be contained within the iGT UNC itself.

1.40. Under the provisions of SSC A11 the relevant GTs are required both to make available a copy of their own Network Code and the UNC to any person who asks for one (subject to a reasonable payment), and to make them available on a web-site freely available to all interested parties. Given the combined resources of the iGTs we do not consider that it would be disproportionate or otherwise inappropriate to require the publication of the iGT UNC on a freely available web-site, and propose to adopt this provision within the standard licence conditions. However, this also seems to obviate the need to make copies of the iGT UNC (and short form Network Codes) available to any person who asks for one by an alternative means, particularly as the licence does not refer to the medium by which the copy should be made available. We therefore do not propose to introduce the equivalent of SSC A11 (17) (b) into the standard conditions.

Miscellaneous

1.41. We would welcome views on what, if anything should be included in the miscellaneous section of the licence condition. For instance, whether it would add clarity to the condition as a whole if further definitions were to be provided. A definition included as part of this condition would apply only to that condition, obviating the need for a wider review of the licence, and avoids the need to amend standard condition 1.

Proposed Standard Condition 10 - Joint Governance Agreement

1.42. Standard condition 10 of the GT licence is currently not used.

1.43. We consider that it would be appropriate for the iGTs to put in place a joint governance agreement (JGA) to establish how the iGT UNC will be administered on an ongoing basis, in particular how the secretariat function will be provided for. Further details on this role are set out in Chapter 2. However, we do not seek to prescribe that the iGTs should adopt a Joint Office arrangement as the large GTs

[8] www.gasgovernance.com

have done. It is recognised that there may be alternative means of discharging this function, which will be influenced to an extent by the expected number of modification proposals etc. Reference to an 'office' has therefore been removed from the title of the proposed licence condition.

1.44. Regardless of whether the administration of the iGT UNC is conducted by a permanent office or some other means, we consider that some form of JGA is necessary in order to ensure that the principles outlined in Chapter 2 can be adhered to. In particular we would be concerned at the potential for bias, either between individual iGTs, or between iGTs and shippers if this role were to be conducted by an employee of any given licensee.

1.45. It appears that paragraphs 1 and 2 of SSC A12 would be as relevant to the iGT UNC as they are to the existing UNC, and could therefore be usefully adopted.

Funding

1.46. Ofgem does not anticipate that the creation of an IGT UNC should have any impact on IGT charging methodologies. Under the Gas Distribution Price Control Review (GDPCR) the revenue that the GDNs are allowed to recover takes account of the operating costs associated with managing the UNC. Ofgem considers that by using RPC to set IGT transportation charges at a level consistent with the incumbent GDN charge, the future cost to IGTs of managing and implementing an IGT UNC would be accounted for in this methodology. It is further noted that at its outset, Ofgem agreed that the RPC charging methodology would endure for at least ten years. In addition, IGTs have a licence condition which states that they can only submit a dis-application request from RPC on a date which is not less than 10 years after 1 January 2004.

1.47. Our initial view is therefore that it will be for the iGTs to determine how the JGA should be funded between them. Given this, and the fact that there is no reference to funding in the equivalent SSC A12, we do not consider it necessary to refer to funding within the proposed licence conditions. However, we note that this is in contrast to recent licence modifications introducing the DCUSA, and would consider making explicit reference to the funding of the JGA if respondents consider it would be of value. For instance, it may ensure that all licensees contribute to the funding of the JGA, absent any contractual means.

Change control of the JGA

1.48. Our initial view is that to make changes to the iGT UNC JGA subject to the prior approval of the Authority would not be consistent with the principles of Better Regulation, or our desire to move to lighter touch regulation more generally. In particular, we do not consider that such approval would be proportionate, or targeted.

1.49. However we do consider that the change control of that document should be transparent and accountable. Whilst it may be possible for the iGTs to oversee that

document between them, we consider that the creation of an iGT UNC panel provides the opportunity for a more inclusive approach, with input from shippers as well as iGTs. Subject to adequate provision within the iGT UNC modification rules or elsewhere, we think paragraph 3 could be removed from the proposed SLC 10.

1.50. Although paragraph 4 of SSC A12 may provide a degree of certainty, in particular that the licensees are able to discharge their obligations under that licence condition via the JGA, it does not appear to be absolutely necessary. In essence, the role of the JGA in discharging the licensees' obligations should be no different to those of any other agent which the licensee may employ to carry out its regulated activities. Again, in the interests of keeping the proposed licence conditions to the minimum, we do not propose to include these provisions within the proposed licence modifications.

2. Modification Rules

Chapter Summary

Whereas previously there has been a requirement upon each licensee to prepare and operate network code modification procedures, new arrangements will be required for a document to which several licensees will be party and all have collective responsibility. This chapter also gives some initial views on these issues, and those that must be addressed as part of a transition from the current Network Codes to an iGT UNC

Question 1: Should the ability of 3rd parties to raise modification proposals be restricted in the same way as in the GDN's UNC?

2.1. As part of its consultation on recent gas industry codes, namely the Supply Point Administration Agreement (SPAA) and the existing UNC, Ofgem set out certain principles of good governance[9] that we consider should be adhered to by any governing body, code or agreement. These are broadly in line with the principles of better regulation to which the Authority itself must have regard. These are as follows:

- Effectiveness – the code would be of little value if it did not achieve what it was set up to do. The provisions of the iGT UNC should adequately reflect what the arrangements actually are, and be capable of enforcement to ensure that provisions are complied with;
- Efficiency – the functions carried out as part of the agreement should be carried out in an efficient manner, ensuring that modification proposals or breaches of conditions are dealt with quickly and that management and administration costs are kept to a minimum. Decision making in particular must balance the need for timely resolution and thorough consideration of issues;
- Transparency – the operation of the agreement and decisions taken should be transparent to both signatories and external parties. This means that appropriate information should be made available to all interested parties;
- Participation – the key issue of participation is not merely accession to the iGT UNC but the ability to actively and effectively participate in its operation. There

[9] Respectively: 'Gas Retail Governance - Further Consultation: June 2003' and 'National Grid Transco - potential sale of network distribution businesses. Agency and governance arrangements. Regulatory impact assessment: April 2004'

should be no exclusion of relevant information or viewpoints. Consequently, appropriate contributions should be allowed from all interested parties on key decisions;

- Accountability – once implemented, parties to the iGT UNC will be accountable to each other (and potentially the Authority) for their performance against the obligations the iGT UNC places upon them. Equally, any body set up to discharge the JGA should be accountable to the iGTs and/or the iGT UNC panel, who in turn should be accountable to all Parties for the actions they take in fulfilling that role, and;

- Consistency – the iGT UNC must not allow for any form of bias, either between individual iGTs, or between iGTs and shippers. Also, the iGT UNC will not operate in isolation and there may be instances where its relationship with other governance tools such as the UNC, Network Exit Agreements (NEXAs) etc should be recognised and provided for in order to avoid inconsistencies between the various documents.

2.2. Whilst these principles can, to an extent be enshrined within the proposed licence conditions, as set out in Chapter 1, the iGT UNC including its modification rules and the ongoing administration of the iGT UNC must provide for their practical application.

Modification rules

2.3. Historically, each licensee has had a degree of discretion to establish and subsequently operate its own network code modification procedures. Indeed the preparation of a document known as "*the code modification rules"* is a requirement of the GT licence. This has created difficulties for shippers in particular, when trying to introduce change across the industry. Whilst new arrangements will be required for a document to which several licensees will be party and all have collective responsibility, this also creates an opportunity to facilitate coordinated change.

2.4. As discussed in Chapter 1, we are of the view that the modification rules (the rules) applying to the iGT UNC will appropriately form part of the iGT UNC itself. It will therefore be for the parties themselves, particularly through the development of the iGT UNC drafting, to determine what should be contained within the rules. However, there are areas where we consider the rules must address as a minimum, in order to fully discharge the obligations either currently in place or part of the proposed licence modifications. We also consider that robust and efficient governance arrangements will be fundamental to the enduring success of an iGT UNC, and will be an important consideration when the Authority decides upon the necessary Network Code modifications.

Third Party Representation

2.5. As discussed in Chapter 1, we consider that the iGT UNC modification rules should provide a role for Third Party participants. In contrast to the BSC, where

energywatch can raise a modification proposal to any aspect of the arrangements, under the existing UNC, they are limited to proposals which increase the level of information available to the market. However, we consider that the scope of third party proposals should be considered in the context of the issues that the iGT arrangements create for third parties, in particular consumers. There may therefore be benefit in having third party rights to raise proposals to wider aspects of the arrangements, such as those relating to supply points.

2.6. It has recently been announced[10] that energywatch is to be replaced by a new consumer body, "***Consumer Voice***". We therefore consider that it would be appropriate to allow a greater degree of flexibility than would be afforded by naming a given body within the licence. The modification rules could incorporate some text similar to that of the current UNC, providing for any person or organisation to raise third party proposals, where designated for that purpose by the Authority.

Panel

2.7. Each iGT is currently responsible for overseeing the modification procedures of its own network code. With the move to a multi-GT environment we consider it would be appropriate for this role to be fulfilled by a representative panel, acting as far as practicable in an impartial manner. There are a number of industry codes panels in existence, and it may be appropriate for the iGTs to consider the constitutions of those bodies and any perceived best practice, before drafting their own. Whilst we would be happy to facilitate the development of such a panel, providing advice and views on what we consider to be best practice where appropriate, we will not seek to prescribe how such a panel should operate.

Recommendations

2.8. Currently, SLC 9 of the GT licence provides for the licensee to provide their view on whether any modification should or should not be made. Such recommendations have taken on increased importance in several industry codes, including the UNC, as determining whether or not the Authority's subsequent decision should be open to appeal to the Competition Commission[11].

2.9. Notwithstanding whether the Authority's decisions on iGT UNC modification proposals could in future be subject to appeal, we consider that the recommendation should appropriately come from a representative body of iGT UNC parties. We therefore consider it appropriate that, if a panel is to be created, one of its functions should be to provide the Authority with a recommendation on whether or not a modification proposal should be implemented.

[10] Reference: Government News Network - 17 October 2006.
[11] Introduced by the Energy Act 2004.

Decision making

2.10. In the July consultation we noted that Ofgem was consulting upon an Industry Codes Compliance Review (ICCR)[12], aiming to examine the appropriate roles for regulatory enforcement and self-governance of the various contractual codes and agreements within the GB gas and electricity industries. In addition to compliance this considered change control arrangements. This consultation closed out 1 September 2006.

2.11. We noted in July that we would expect the development of an iGT UNC to be cognisant of the work carried out under the ICCR, particularly any conclusions reached, but did not consider the development of the iGT UNC should be held up in the meantime. This is still the case, with Ofgem expected to publish its way forward on the ICCR early next year.

2.12. We also noted that currently, the Authority is required to make a decision on any modification to the Network Codes, regardless of its nature or materiality, and the development of an iGT UNC may present an opportunity to reconsider this. Recent agreements such as the Supply Point Administration Agreement (SPAA) and Distribution Connection and Use of System Agreement (DCUSA) effectively have a two tier arrangements, whereby proposals to modify only certain provisions must come to the Authority.

2.13. The timetable being pursued by the iGTs may preclude a thorough review of the proposed iGT UNC to determine what, if any, distinction could be made between those provisions which must continue to come to the Authority and which could suitably be agreed by some alternative means. However, this does not prevent a more proportionate approach being adopted in future. For instance, the iGT UNC panel could have a role in approving changes to certain ancillary documents, such as AQ review documentation or the JGA. This would be consistent with the approach under the UNC, whereby the UNC Committee, which is made up of the same members as the UNC panel, has a role in agreeing changes to certain procedural documents. Several recent UNC modifications have enhanced this role[13].

Consents

2.14. Aside from the usual modification procedures, the existing licence provisions allow for the modification of the Network Code and/or the UNC with the consent of the Authority. This approach offers a proportionate means of dealing with relatively immaterial changes to the Network Codes, typically the correction of typographical errors, or changes to references which do not impact upon other parties, such as to a company name or address etc. Whilst the very nature of the consents process

[12] Industry Codes Compliance Review Consultation. June 2006. Ref 109/06
[13] For instance, UNC modification 098A: 'Modification to codify emergency curtailment quantity (ECQ) methodology'.

means that it does not need to be reflected in the iGT UNC modification rules, there may be an opportunity for Parties to establish some criteria for when consent to modify will be sought, rather than a formal modification proposal, or how they should be communicated. For instance, following a UNC panel request, consents to modify the UNC are now brought to the panel's attention.

Secretariat

2.15. This activity is related to the administration of the modification process to the Network Code. Each iGT currently performs this obligation under its GT licence, though the extent to which it does so is limited. For instance, there is little opportunity for proposals to be further developed once they have been raised, even to the extent of submitting legal text which the proposer does not feel reflects the intent of the proposal. We consider this role therefore needs to be discharged more effectively under the iGT UNC, with a secretariat which supports and is to an extent accountable to the iGT UNC panel. We would envisage that the secretariat may undertake the following duties:

- preparation of reports on the modification proposals;
- manage the consultation process, including chairing any meetings (e.g. iGT UNC panel meetings) and issuing minutes of the meetings;
- collate responses to the consultation process; and,
- ensure appropriate legal text to support the modification proposal.

2.16. Of course this list above is not exhaustive and we would anticipate that parties themselves will further define the role of the secretariat in developing the iGT UNC modification rules.

Transitional rules

2.17. When the existing UNC was introduced for NGG and the GDNs, a modification panel and single code governance already existed. This set up was largely carried over into the new regime, albeit the make up of the panel was amended in order to provide each of the relevant GTs a seat, balanced with 5 Shipper representatives.

2.18. The transitional rules which applied to the UNC are available of the Joint Office website[14], and we would expect several useful lessons to be learnt from those. However, the iGT UNC differs insofar as several Network Codes will need to be consolidated. While many key features of the governance process have been aligned via the existing modification rules, this could still pose a number of issues to be addressed as part of the transition to an iGT UNC. In particular, the transitional rules should establish the iGT UNC and set out the arrangements for any live

[14] http://www.gasgovernance.com/NR/rdonlyres/DCBCFBBB-F11A-4B6D-8CF9-63CD32D66E57/9000/01_09_TDIII.pdf

modification proposals, including those which have been directed but are yet to be implemented.

Modification Panel

2.19. Although the creation of an iGT UNC panel could potentially await the implementation of the iGT UNC itself, they may be an opportunity to expedite matter, particularly if the panel is required to discharge any of its functions from the outset. For instance, the UNC transitional rules required the establishment of the UNC modification panel prior to the '*first day'* of the UNC, which essentially set out what would happen to the modification panel previously constituted under the NGG Network Code.

2.20. For the iGT UNC this may in practice mean establishing the panel constitution and if necessary carrying out a vote on its membership on an informal basis and subject to the subsequent approval of the facilitating Network Code modifications.

2.21. Whilst we consider that the actual constitution of the iGT UNC panel should be for parties themselves to agree, through the development of the iGT UNC, we consider that the UNC modification rules could be a useful starting point, albeit with membership numbers being tailored to suit the iGT market structure.

Live Modification Proposals

2.22. Whilst work progresses on the iGT UNC it will remain open to Network Code parties to propose modifications to the existing codes. However, we would encourage such parties to consider whether the defect they are seeking to address requires immediate attention, or could more appropriately be dealt with through a modification to the iGT UNC, once introduced. We would also encourage all iGTs to progress outstanding or new modifications proposals in a timely manner. We ourselves will endeavour to complete the iGT modification proposals that are with us for a decision as quickly as practicable, prior to the iGT UNC going live.

2.23. However, we consider that transitional rules will need to establish how modification proposals which are live at the time of iGT UNC implementation will be handled. In particular, they will need to ensure that any outstanding modification proposals are appropriately carried over to, and dealt with under, the new regime.

2.24. The current nature of iGT modifications may mean that there are several live modification proposals all seeking to address the same issue in what will then be a single document. This may indicate an early role for the iGT UNC panel, as one of its functions may be to amalgamate existing proposals, or even identify those which are entirely obsolete and should not proceed. We would expect the latter to be done with the consent of the proposer and/or the Authority.

2.25. We consider that the modification proposals which need to be handled at the transition will fall broadly into 3 categories:

- those which are still in the modification process, i.e. the consultation or development stage;
- those which are with the Authority for a decision; and,
- those which the Authority has directed be made, but which have not yet been implemented in either the short form codes or the iGT UNC at the 'last' day.

2.26. It may be appropriate for modification proposals which are still in the modification process to simply be deemed to be a proposal to the iGT UNC and renumbered accordingly. From that point on they will follow whatever procedures are laid down in the iGT UNC modification rules as opposed to those of the iGT Network Code to which they were raised. However, as mentioned, there may be some issues to resolve where there are effectively duplicate proposals or they relate to a provision which no longer exists in its original form.

2.27. As mentioned, we will endeavour to ensure there are no outstanding modifications with the Authority for a decision at the time of cutover to the iGT UNC, though to an extent this is outside of our control and depends on the behaviour of parties in raising and administering modification proposals leading up to this point. Subject to adequate provision in the modification rules, it may be possible for the iGT UNC panel to initiate a re-consultation on any modification which is with the Authority, if it considers that the circumstances have materially changed. This would be similar to the provision under section 9.5 of the UNC modification rules.

2.28. If the Authority has directed that a modification to the Network Code(s) be made, but it has not yet been implemented (or incorporated into the drafting of the iGT UNC) the Parties could apply to the Authority for consent to modify the iGT UNC. This may be necessary as the original direction would be in relation to the Network Code of the relevant iGT and not the iGT UNC. However, if the proposer intended the proposal to apply only to that individual iGT, consent may not be necessary as the modification could be given effect in the short form Network Code. We consider that consent would be a proportionate approach, given that the proposal will already have been subject to consultation and analysis.

3. Way Forward

Chapter Summary

Whereas previously it has been a requirement upon each licensee to prepare and operate network code modification procedures, new arrangements will be required for a document to which several licensees will be party and all have collective responsibility.

This chapter also gives some initial views on the issues that must be addressed as part of a transition from the current Network Codes to an iGT UNC.

Question 1: Do you consider the timetable set out below to be reasonable?

3.1. The iGTs have indicated that in their opinion it should be possible for their work to be completed in the first quarter of 2007, with an iGT UNC potentially going live in April 2007. The necessary modification proposals have been raised to each of the active Network Codes and circulated to shippers. We have made this documentation available on the Ofgem website[15].

3.2. Given this timetable, Ofgem intends to carry out its own consultations on potential modifications to the GT licences and on the governance arrangements which should apply to the iGT UNC, as far as practical in parallel with the work of industry parties and in order to meet their aspirations.

3.3. However, none of this will fetter the discretion of the Authority in respect of proposed modifications to the GT licences, or indeed the current Network Codes. In particular, each and every modification proposal raised to the latter will need to further the relevant objectives of that Network Code, notwithstanding the benefits that may accrue from aligning it with those of other GTs. We consider that the inclusion of robust and enduring governance arrangements for the iGT UNC, facilitating future developments in the iGT sector, will be fundamental to its success.

3.4. We have been encouraged by the progress made to date by the group of iGTs responsible for producing an initial draft of the iGT UNC. In particular, we note that in several instances they have sought to include what is considered to be best practice amongst them, rather than simply adopting the 'lowest common denominator' from existing drafting. We also consider that the short form codes of each iGT will provide a means of ensuring that any beneficial, but not yet common, provisions are not lost in the transition to the iGT UNC.

[15] See the Gas Network Codes area of the Ofgem website: http://www.ofgem.gov.uk/ofgem/work/index.jsp?section=/areasofwork/gasnetworkcodes

3.5. We will ourselves conduct analysis to ensure that any recent, or as yet to be issued, directions to modify the network code are appropriately captured either by the iGT UNC at go live, or by the transitional rules mentioned in Chapter 2.

Timetable

3.6. The following timetable is notional, and each milestone will depend to a large extent on the successful completion of those prior to it:

1 December 2006 - iGTs circulate Network Code modification proposals, including a draft iGT UNC.

15 December 2006 - Ofgem published its informal consultation on modifications to the standard conditions of the GT licence.

22 December 2006 - Initial responses provided to iGTs modification proposals

08 January 2007 - Draft Modification Report published

17 January 2007 - Ofgem seminar on the proposed licence drafting (see below)

29 January 2007 - Responses to the Draft Modification Report due

02 February 2007 - Responses to Ofgem's informal consultation due

12 February 2007 - Final Modification report issued to the Authority

16 February 2007 - Ofgem issues Section 23 Notice seeking to modify the standard conditions of the GT licence through the Collective Licence Modification process

16 March 2007 - Responses to Section 23 Notice due

02 April 2007 - Subject to the Authority's direction to implement the licence and Network Code modifications, the iGT UNC comes into effect.

Seminar

3.7. To progress debate and discussion of the issues in this consultation, in particular the drafting of the proposed licence modifications, Ofgem will host an open meeting. This will be held at Ofgem's Millbank offices on 17 January 2007. This may also be an opportunity to set out in greater detail how these issues may be taken forward, subject to responses. If you would like to attend the meeting, please contact Jenny Boothe by email at industrycodes@ofgem.gov.uk or by telephone on 020 7901 7122 by no later than **5 January 2007**.

3.8. Subject to the value participants get from this seminar, Ofgem is willing to schedule further meetings as appropriate.

Impact Assessment

3.9. Section 5A of the Sustainable Energy Act 2003 (Section 5A) inserted into the Utilities Act 2000 a new duty upon the Authority to conduct an Impact Assessment where it is proposing to do anything in connection with any function exercisable by it under part 1 of the Gas Act 1986, which appears to it to be important. This may include proposals to modify a licence.

3.10. However, our current view is that the proposal to modify the standard condition of the GT licence does not fall within the definition of importance for the purposes of Section 5A. An assessment carried out under section 5A must assess the likely effects on the environment of implementing the proposal, and must also relate to such other matters as Ofgem considers appropriate.

3.11. Aside from the intended reduction in paperwork, the introduction of an iGT UNC will have no discernible effect on the environment. Nor will it involve a change in the activities carried out by the Authority. Whilst the introduction of an iGT UNC would have an impact upon persons engaged in the shipping and transportation of gas, we do not consider that this will be significant, since it merely offers a more efficient and economic means of discharging their current rights and obligations, as contained within the existing Network Codes.

3.12. However, any future modifications proposals to the iGT UNC will be assessed on their own merits and could themselves be considered important for the purposes of Section 5A.

Appendices

Index

Appendix 1 - Consultation Response and Questions

1.1. Ofgem would like to hear the views of interested parties in relation to any of the issues set out in this document. In particular, we would like to hear from independent Gas Transporters, Gas Shippers and Consumers Representatives.

1.2. We would especially welcome responses to the specific questions which we have set out at the beginning of each chapter heading and which are replicated below.

1.3. Responses should be received by **02 February 2007** and should be sent to:

Jonathan Dixon
Head of Industry Codes, Markets
Ofgem
9 Millbank
London, SW1P 3GE
industrycodes@ofgem.gov.uk

1.4. Unless marked confidential, all responses will be published by placing them in Ofgem's library and on its website www.ofgem.gov.uk. Respondents may request that their response is kept confidential. Ofgem shall respect this request, subject to any obligations to disclose information, for example, under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.

1.5. Respondents who wish to have their responses remain confidential should clearly mark the document/s to that effect and include the reasons for confidentiality. It would be helpful if responses could be submitted both electronically and in writing. Respondents are asked to put any confidential material in the appendices to their responses.

1.6. Next steps: Having considered the responses to this consultation, Ofgem intends to issue a formal notice under Section 23 of the Gas Act 1986 of its proposal to modify the standard conditions of the GT licence. Any questions on this document should, in the first instance, be directed to:

Jenny Boothe
Senior Policy Analyst
Industry Codes and Licensing
Ofgem
9 Millbank
London, SW1P 3GE
industrycodes@ofgem.gov.uk

CHAPTER: One

Question 1: Do you agree that standard condition 9 should replicate, as far as is appropriate, the provisions of standard special condition A11?
Question 2: Do you consider that standard condition 9 should additionally provide for pre-determined implementation dates for successful modification proposals and the creation of a panel to oversee the iGT UNC modification procedures?
Question 3: Do you consider that Ofgem should take this opportunity to remove provisions which are unnecessary and/or could appropriately be provided for as part of the modification rules and if so, which?
Question 4: Do you consider that the proposed licence modifications should ensure the rights of third parties to participate in the Network Code and/or the iGT UNC modification procedures?

CHAPTER: Two

Question1: Should the ability of 3rd parties to raise modification proposals be restricted in the same way as in the GDN's UNC?

CHAPTER: Three

Question 1: Do you consider the timetable set out below to be reasonable?

Appendix 2 – Summary of Responses

➔ This appendix provides a summary of responses to Ofgem's 21 July 2006 consultation on iGT Network Code governance. Ofgem received a total of 17 responses to that consultation, all of which are published in full on the Ofgem website.

1.1. While respondents were not restricted to commenting solely on the content of the July consultation letter, the questions posed, together with respondents views and Ofgem's subsequent conclusions are set out below:

Do you support the introduction of an iGT UNC?

Respondents views

1.2. The majority of respondents supported the principle of the introduction of an iGT UNC. Many pointed to this solution as the best way to overcome existing shortcomings in the current governance arrangements. In particular, some shippers pointed to the issues and problems that have arisen as a result of a fragmented governance system, which have existed across the iGT market for a number of years. The mixed level of performance amongst iGTs was also noted; while some consistently adhere to their modification rules others appear to be less diligent.

1.3. One respondent commented that the existing governance arrangements are no longer fit for purpose. This respondent also drew attention to past attempts at introducing new initiatives to improve governance and the lack of success in this area. It was commented that the majority of such initiatives having stalled due to a lack of support and competing priorities across the iGTs.

1.4. One respondent identified that there would be a need to ensure that robust IT systems to support such an initiative would be essential and that a full Impact Assessment which considered the potential impacts on iGT price controls would need to be completed. The Better Regulation Agenda was also identified as a potential driver behind the need for an iGT UNC. Existing governance arrangements were considered by some respondents to be inconsistent with this agenda and any new arrangements should be developed with this in mind.

Ofgem's conclusion

1.5. We remain of the view that an iGT UNC should be developed containing provisions relating to transportation arrangements and modification procedures which are common to all iGTs. Each iGT would also retain its own Network Code, containing provisions particular to its own network(s) and incorporating the provisions of the iGT UNC by reference, operating in much the same way as the 'short form' Network Codes currently used by the GDNs.

Could iGTs appropriately be party to the existing UNC and if so, what issues would need to be resolved?

Respondents views

1.6. There was a mixed response on whether iGTs should be party to the existing UNC. While some parties consider that the most appropriate way forward would be for iGTs and Shippers to become party to the existing UNC, others felt that the development of a new UNC, aimed specifically at iGTs is a more suitable solution.

1.7. Those in support of becoming party to the existing UNC believe that it is a tried and tested format and so would reduce the amount of work required to develop a new UNC from scratch.

1.8. Those respondents against iGTs acceding to the existing UNC believe that the current UNC is too complex for the iGT market. They also felt that work to simplify the document would be lengthy and potentially outweigh any eventual benefits. The complexities involved in iGTs becoming party to the existing UNC would also be far more difficult to overcome than simply developing a specific iGT UNC. Some concern was also expressed over the speed at which iGTs would be able to accede to the existing UCN arrangements. As such, some respondents consider that implementing an iGT UNC is a more pragmatic approach but support the principle of undertaking a fill Impact Assessment to examine the merits of extending the signatories to the existing UNC.

1.9. Again, potential IT problems were identified as an issue to be overcome if iGTs are to accede to the existing UNC. Questions over whether the IT and technical implications for existing support systems and how they might cope with 13 new entrants were raised.

1.10. One respondent highlighted that existing iGT governance arrangements are inconsistent with the Better Regulation Agenda, i.e. they are not currently proportionate, targeted, consistent, transparent and accountable. As an example it was noted that although iGTs account for less than 5% in customer numbers, the time spent on their governance and administration is disproportionate. It was considered that fragmented governance has also led to unaccountable processes and poor compliance among iGTs. Differing timescales in modification rules has led to inconsistent progression and implementation of modification proposals. The respondent also considered that the absence of a central administrator makes the process opaque and difficult to manage and understand. The existing arrangements are not targeted at the problem areas. A more robust governance system would allow Ofgem to step back and not use draconian measures against parties in breach of their network codes and/or modification rules.

1.11. Furthermore, DNs may not have the resource to commit to such a change at this time, as Exit and Interruption arrangements are still being worked on and represent an already significant work commitment from the DNs.

1.12. Some respondents felt that signing the UNC may be an achievable longer term aim. The extent of changes required and any work to reconstitute the Joint Office could outweigh the benefits of any merger. Alternatively, a merger of the existing UNC and any future iGT UNC may also be an option.

Ofgem's conclusion

1.13. We agree with those respondents who suggested that existing UNC would need a fundamental review before it could be applied to the iGTs. There are large sections of that code which simply do not apply to the types of networks being operated by the iGTs, and those that do would also require major changes. In particular, much of the UNC presupposes that communications will be via the UK Link secure network. The iGTs do not currently have access to these systems, and to extent its use to the iGT sector would require careful consideration of funding etc.

1.14. We consider that extending the scope of the UNC to the iGTs would require a lot of input from the existing Parties in particular the relevant GTs, and that this burden may not be appropriately targeted, given that they are not the source of these particular issues. We concur with those respondents who consider that the development of an iGT UNC is a pragmatic step towards addressing many of the issues of governance in the iGT sector, and do not consider that its development should preclude further integration with the existing UNC, should that in future be considered appropriate.

Would you support the early modification of the GT licence to facilitate an iGT UNC?

Respondents views

1.15. Views on when a licence modification should be carried out vary across respondents.

1.16. There was a large amount of support for a modification to the GT licence requiring the development and implementation of an iGT version of the UNC. However, there were a range of views on the appropriate timing for this step. Shippers felt that a licence modification was required early in the process in order to ensure the work is progressed and to a reasonable timescale. The iGTs themselves, whilst agreeing to the principle of licence modification to accommodate the iGT UNC, felt that this could come later in the process following the completion of the code itself. There was also some concern that undertaking a licence modification in the early stages of this project could detract from work to actually develop and implement the iGT UNC.

1.17. It was also noted that any licence changes should be specific to iGTs and directly related to the implementation of an iGT UNC. GDN respondents in particular were keen to ensure that any changes to the iGT licence should not impact upon the GDN licensees.

Ofgem's conclusions

1.18. We remain of the view that it will be essential for the ongoing success of the iGT UNC that it be enshrined in the standard conditions of the GT licence. This will not only ensure that the existing regulatory arrangements are in effect carried over to the new regime, but that there will be an enduring requirement for all iGTs to be party to the iGT UNC, including any new entrants to this sector. There is otherwise a risk that this project will achieve little more than a temporary alignment of each iGTs arrangements, to again become fragmented over time.

1.19. Whereas licence modifications have preceded the development of some recent industry codes, for instance the DCUSA, this does not appear to be necessary in this case. An early licence modification could give certainty to participants, not only that the project will proceed and therefore there efforts will not be wasted, but also give clarity on the parameters within which the new arrangements must operate. However there is also an argument that the detailed work should precede any licence modification, in order to give comfort to licensees on what, if any, additional obligations will be placed upon them.

1.20. We note the concern raised by the GDNs in respect of the impact of this process upon them. However, we do not consider this will be the case, as the proposed modifications are to be made to conditions which are switched off in the GDN licence.

What further issues do you consider need to be addressed in order to facilitate an iGT UNC?

Respondents views

1.21. Some respondents expressed concern over costs and benefit allocation and whether the last iGT price control would need to be re-examined.

1.22. On timing, one respondent suggested that it would take approximately one year to implement the iGT UNC, and therefore supported the idea of migrating key sections of the code, which would help to support the early development of the project/momentum, with less critical area to follow at a later date. However, other respondents considered that the iGT UNC should be developed

1.23. One respondent considered that Ofgem's role under any new arrangements was also seen as an issue which would require resolution as part of this project. Ofgem's role in industry governance cannot be legislated out. In particular, Ofgem's statutory duties mean that we have an obligation to protect consumers' interests.

1.24. The need for transitional arrangements for the treatment of live modification proposals was identified as an issue that would need to be resolved.

Ofgem's conclusions

1.25. As mentioned, since we initially consulted upon an iGT UNC the manner of its introduction has been clarified insofar as the iGTs themselves have developed a draft code, using the existing East Surrey Pipelines Network Code as a starting point. It is therefore envisaged that the iGT UNC will be introduced in its entirety, rather than a piecemeal, albeit potentially prioritised, approach. However we consider that this should be seen only as the first step. Whilst there are tangible benefits from harmonising the existing arrangements, the greater prize may be in the further improvements that an iGT UNC facilitates. We therefore agree with those respondents who identified the governance arrangements for the iGT UNC as being a critical area to be developed. This is commented on further in Chapter 2.

1.26. Some of the issues that respondents raised seemed to be matters which need to be given wider consideration than simply issues with the implementation of an iGT UNC. We also understand that the iGTs have maintained a log of issues which have been identified but not yet resolved as they have gone through the development of the initial draft. It may be appropriate for these and other issues to be considered in the context of potential modification proposals to the iGT UNC once it is in effect.

What should be the role of Ofgem and consumer representatives in an iGT UNC?

Respondents views

1.27. Some respondents believe that Ofgem's role within the iGT UNC should mirror that of the existing UNC. The option of a more self-regulating system was considered inappropriate as this was rejected as an option for the existing UNC. In addition, it is felt that the inclusion of 3rd party proposals should also be extended to iGTs as this would mirror arrangements under the current UNC (energywatch in particular).

1.28. One respondent felt that Ofgem's role should be in the project management side of implementing a UNC and that iGTs should lead on this initiative. However, iGTs have indicated that they do not have the resources to manage such a project within reasonable timescales and so Ofgem's role may need to be bolstered. Concern has been expressed that delays could occur if the correct resources are not committed and correctly allocated to this project.

1.29. Another respondent felt that both Ofgem and consumer representatives should be invited to speak but not vote at governance meetings. Furthermore, Ofgem's role should be one of approval for core code obligations and dispute resolution and mediation between UNC parties.

1.30. The decision-making role should be retained by Ofgem. However, it should be noted that the ICCR is still ongoing and the outcome of this review could impact on the way forward with an iGT UNC.

1.31. Better Regulation is considered a key element/driver and aim of this project. Ultimately, some respondents would like to see a move towards greater levels of self governance.

Ofgem's conclusions

1.32. Given that a way forward has not yet been established on the ICCR project, we consider it would be appropriate for the iGT UNC to proceed in accordance with the current arrangements, i.e. all modifications to it require the approval of the Authority. However, we do not consider that this should preclude the iGT UNC decision making arrangements from being reviewed at some point in the future, and we would welcome any such initiatives.

1.33. As set out in Chapters 1 and 2, we consider that it would be appropriate for consumer representatives to have a role in the iGT UNC as a third party participant. We look forward to receiving proposals on how this will be incorporated.

Appendix 3 – The Authority's Powers and Duties

1.1. Ofgem is the Office of Gas and Electricity Markets which supports the Gas and Electricity Markets Authority ("the Authority"), the regulator of the gas and electricity industries in Great Britain. This Appendix summarises the primary powers and duties of the Authority. It is not comprehensive and is not a substitute to reference to the relevant legal instruments (including, but not limited to, those referred to below).

1.2. The Authority's powers and duties are largely provided for in statute, principally the Gas Act 1986, the Electricity Act 1989, the Utilities Act 2000, the Competition Act 1998, the Enterprise Act 2002 and the Energy Act 2004, as well as arising from directly effective European Community legislation. References to the Gas Act and the Electricity Act in this Appendix are to Part 1 of each of those Acts.[16]

1.3. Duties and functions relating to gas are set out in the Gas Act and those relating to electricity are set out in the Electricity Act. This Appendix must be read accordingly[17].

1.4. The Authority's principal objective when carrying out certain of its functions under each of the Gas Act and the Electricity Act is to protect the interests of consumers, present and future, wherever appropriate by promoting effective competition between persons engaged in, or in commercial activities connected with, the shipping, transportation or supply of gas conveyed through pipes, and the generation, transmission, distribution or supply of electricity or the provision or use of electricity interconnectors.

1.5. The Authority must when carrying out those functions have regard to:

- The need to secure that, so far as it is economical to meet them, all reasonable demands in Great Britain for gas conveyed through pipes are met;
- The need to secure that all reasonable demands for electricity are met;
- The need to secure that licence holders are able to finance the activities which are the subject of obligations on them[18]; and
- The interests of individuals who are disabled or chronically sick, of pensionable age, with low incomes, or residing in rural areas.[19]

[16] entitled "Gas Supply" and "Electricity Supply" respectively.
[17] However, in exercising a function under the Electricity Act the Authority may have regard to the interests of consumers in relation to gas conveyed through pipes and vice versa in the case of it exercising a function under the Gas Act.
[18] under the Gas Act and the Utilities Act, in the case of Gas Act functions, or the Electricity Act, the Utilities Act and certain parts of the Energy Act in the case of Electricity Act functions.
[19] The Authority may have regard to other descriptions of consumers.

1.6. Subject to the above, the Authority is required to carry out the functions referred to in the manner which it considers is best calculated to:

- Promote efficiency and economy on the part of those licensed[20] under the relevant Act and the efficient use of gas conveyed through pipes and electricity conveyed by distribution systems or transmission systems;
- Protect the public from dangers arising from the conveyance of gas through pipes or the use of gas conveyed through pipes and from the generation, transmission, distribution or supply of electricity;
- Contribute to the achievement of sustainable development; and
- Secure a diverse and viable long-term energy supply.

1.7. In carrying out the functions referred to, the Authority must also have regard, to:

- The effect on the environment of activities connected with the conveyance of gas through pipes or with the generation, transmission, distribution or supply of electricity;
- The principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed and any other principles that appear to it to represent the best regulatory practice; and
- Certain statutory guidance on social and environmental matters issued by the Secretary of State.

1.8. The Authority has powers under the Competition Act to investigate suspected anti-competitive activity and take action for breaches of the prohibitions in the legislation in respect of the gas and electricity sectors in Great Britain and is a designated National Competition Authority under the EC Modernisation Regulation[21] and therefore part of the European Competition Network. The Authority also has concurrent powers with the Office of Fair Trading in respect of market investigation references to the Competition Commission.

[20] or persons authorised by exemptions to carry on any activity.
[21] Council Regulation (EC) 1/2003

Appendix 4 - Glossary

B

Balancing and Settlement Code (BSC)

The code that sets out the trading arrangements for electricity in the UK.

C

Connected System Exit Point (CSEP)

The point of connection of an independent gas transporter pipeline system to the pipeline system of a larger gas transporter.

G

Gas Distribution Networks

Gas Distribution Networks, of which there are eight, four of which are owned by National Grid Gas plc, and four of which were sold by Transco plc (now National Grid Gas plc) to third party owners on 1 June 2005.

R

Relative Price Control (RPC)

RPC was implemented on 1 January 2004 and protects the interests of consumers connected to an IGTs pipeline system by capping IGT transportation charges at a level broadly consistent with the incumbent GDN charge.

U

Uniform Network Code (UNC)

As of 1 May 2005, the UNC replaced National Grid Gas' network code as the contractual framework for the National Transmission System, GDNs and system users.

Appendix 5 - Feedback Questionnaire

1.1. Ofgem considers that consultation is at the heart of good policy development. We are keen to consider any comments or complaints about the manner in which this consultation has been conducted. In any case we would be keen to get your answers to the following questions:

1. Do you have any comments about the overall process, which was adopted for this consultation?
2. Do you have any comments about the overall tone and content of the report?
3. Was the report easy to read and understand, could it have been better written?
4. To what extent did the report's conclusions provide a balanced view?
5. To what extent did the report make reasoned recommendations for improvement?
6. Please add any further comments?

1.2. Please send your comments to:

Andrew MacFaul
Consultation Co-ordinator
Ofgem
9 Millbank
London
SW1P 3GE
andrew.macfaul@ofgem.gov.uk

Appendix 6 - Current Standard Conditions

Standard Condition 9 - Network Code

The hyperlink to the gas transporter licence standard condition 9 is below:

http://epr.ofgem.gov.uk/index.php?pk=folder132651

Appendix 7 - Proposed Standard Conditions

Proposed Amended Standard Condition 9. Network Code and [iGT Uniform Network Code]

Transportation Arrangements

1.The licensee shall establish transportation arrangements, in respect of matters other than those to which Standard Conditions 4 (Charging Gas Shippers - General) and 4A (Obligations as Regard Charging Methodology) relate, which are calculated, consistent with the licensee's duties under section 9 of the Act, to facilitate the achievement of the following objectives –

(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 coordinated, efficient and economic operation of 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 between relevant shippers and between relevant suppliers;

(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 [iGT uniform network code];

hereinafter referred to as the "relevant objectives".

2. In relation to a proposed modification of the network code modification procedures, a reference to the relevant objectives is a reference to the requirements in paragraphs 9 and 12 of this condition (to the extent that those requirements do not conflict with the objectives set out in paragraph 1).

Network Code

3. The licensee shall, prepare a document (the "**network code**") setting out (together with the terms of any other arrangements which the licensee considers it appropriate to set out in the document):

(a) the terms of the arrangements made in pursuance of paragraph 1 save in so far as they relate to matters regulated by standard condition 4B (Connection Charges etc) or 4C (Charging Gas Shippers – Supplemental Connection Charges or are contained in such an agreement, or an agreement of such a class or description, as may be designated by the Authority for the purposes of this condition; and

(b) the network code modification procedures established pursuant to [paragraph 7] to the extent that such procedures differ from those set out in the [iGT uniform network code] following Authority consent pursuant to [paragraph 8]

and the licensee shall furnish the Authority with a copy thereof.

4. Where the holder of this licence also holds, in the same legal entity, one or more other gas transporter licences for relevant gas transporters, it may apply to the Authority for written consent to prepare a single network code in respect of the pipe-line systems to which those licences relate, which consent may be granted subject to such conditions as the Authority may direct.

5. The network code prepared by or on behalf of the licensee shall incorporate by reference the terms of the [iGT uniform network code] except where the Authority consents otherwise in writing; and references in the conditions of this licence to the network code include the [iGT uniform network code] (as may be varied from time to time) as so incorporated, unless otherwise stated.

[iGT uniform network code]

6. The licensee shall, together with the other relevant gas transporters, by the date at which this condition becomes effective (unless the Authority consents otherwise in writing), have prepared a document (the "[**iGT uniform network code**]") setting out:

(a) the terms of transportation arrangements established by the licensee and other relevant gas transporters, to the extent that such terms are common, or are not in conflict, between relevant gas transporters; and

(b) the network code modification procedures established pursuant to paragraph 7, which are, subject to paragraph 8, incorporated by reference into each network code prepared by or on behalf of each relevant gas transporter,

and the licensee shall furnish the Authority with a copy thereof.

Network Code Modification Procedures

7. The licensee shall, together with the other relevant gas transporters, establish and operate procedures ("**network code modification procedures**"), for the modification of the [iGT uniform network code] and/or of any network code prepared by or on behalf of each relevant gas transporter (including modification of the network code modification procedures themselves) so as to better .facilitate, consistent with the licensee's duties under section 9 of the Act, the achievement of the relevant objectives.

8. In accordance with paragraphs 5 and 6, unless the Authority consents otherwise in writing, the network code modification procedures shall be contained in the [iGT uniform network code].

9. The network code modification procedures shall provide for:

(a) a mechanism by which any of
  (i) the [iGT uniform network code]; and
  (ii) each of the network codes prepared by or on behalf of each relevant gas transporter,

may be modified;

(b)
  (i) the making of proposals for the modification of the [iGT uniform network code] in accordance with paragraph 10 (a) of this condition; and/or
  (ii) the making of proposals for the modification of a network code prepared by or on behalf of a relevant gas transporter in accordance with paragraph 11(a) of this condition;

(c) the making of alternative modification proposals in accordance with paragraphs 10(b) and 11(b) of this condition, except in a case where the Authority otherwise directs in writing;

(d) the giving of adequate publicity to any such proposal including, in particular, drawing it to the attention of all relevant gas transporters and all relevant shippers and sending a copy of the proposal to any person who asks for one;

(e) the seeking of the views of the Authority on any matter connected with any such proposal;

(f) the consideration of any representations relating to such a proposal made (and not withdrawn) by the licensee, any other relevant gas transporter, any relevant shipper, or any gas shipper or other person likely to be materially affected were the proposal to be implemented;

(g) a proposed implementation date such as to enable any modification proposal to be made as soon as practicable after receipt of a direction under paragraph 15(b),

(h) establishing and maintaining, in accordance with such procedures for appointment or election as may be specified, a panel (the "[iGT UNC panel]") which is to be responsible, by way of proceedings as may be specified, for the governance and administration of the [iGT uniform network code]; and

(i) where the Authority accepts that the [iGT uniform network code] or a network code prepared by or on behalf of a relevant gas transporter may require modification as a matter of urgency, the exclusion, acceleration or other variation, subject to the Authority's approval, of any particular procedural steps which would otherwise be applicable.

10. In respect of the [iGT uniform network code]:

(a) a modification proposal may be made by the following:
(i) the licensee,
(ii) each other relevant gas transporter,
(iii) any relevant shipper identified in the network code modification procedures as being entitled to propose a modification, and/or
(iv) any other relevant person (a "**third party participan**t") identified (individually or as a member of a class of persons) in the network code modification procedures as being entitled to propose a modification; and

(b) where a modification proposal has been made under paragraph 10(a) of this condition (an "original proposal") alternative modification proposals may be made, in respect of any such original proposal, by any of the parties listed in paragraph 10(a) of this condition with the exception of the person who made the original proposal.

11. In respect of each network code prepared by or on behalf of the licensee (excluding the terms of the [iGT uniform network code] incorporated within it):

(a) a modification proposal may be made by one of the following:
(i) the licensee, to the extent that the modification proposed relates to the pipe-line system to which this licence relates;
(ii) any relevant shipper identified in the network code modification procedures as being entitled to propose a modification; or
(iii) any other relevant person (a "third party participant") identified (individually or as a member of a class of persons) in the network code modification procedures as being entitled to propose a modification and designated for that purpose by the Authority

(b) where a modification proposal has been made under paragraph 11(a) in respect of any such original proposal, by any of the parties listed in paragraph 11(a) of this condition with the exception of the person who made the original proposal.

12. Subject to paragraphs 9, 10 and 11 of this condition, the network code modification procedures may include provisions which differ as between proposed modifications to the [iGT uniform network code] and proposed modifications to each network code prepared by or on behalf of each relevant

gas transporter (excluding the terms of the [iGT uniform network code] incorporated within it).
Modification of Network Code and [iGT uniform network code]

13. The licensee shall not make any modification to the network code prepared by or on behalf of the licensee (excluding the terms of the [iGT uniform network code] incorporated within it) or make or permit any modification to the [iGT uniform network code] except:

(a) to comply with paragraph 15(b) or 16; or
(b) with the written consent of the Authority;

and shall furnish or cause to be furnished to the Authority a copy of any such modification made.

14. Where:
(a) the Health and Safety Executive have given a notice to the licensee in pursuance of this paragraph referring to a matter relating to the protection of the public from dangers arising from the conveyance of gas through the pipe-line system to which this licence relates; and

(b) a modification to the network code prepared by or on behalf of the licensee (excluding the terms of the [iGT uniform network code] incorporated within it) and/or the [iGT uniform network code] could, consistent with the relevant objectives, appropriately deal with the matter,

the licensee shall propose such a modification in accordance with the network code modification procedures, and any requirement that a modification be such as to better facilitate the achievement of the relevant objectives shall be treated as met if the modification is consistent with those objectives.

15. Where a proposal is made in accordance with the network code modification procedures to modify the network code prepared by or on behalf of the licensee, (excluding the terms of the [iGT uniform network code] incorporated within it) or the [iGT uniform network code] the licensee shall:

(a) as soon as is reasonably practicable, and no later than the time specified in the network code modification procedures, give notice to the Authority:
(i) giving particulars of the proposal;
(ii) where an alternative proposal is made in respect of the same matter as the original proposal, giving particulars of that alternative proposal;
(iii) giving particulars of any representations by the licensee, any relevant shipper or any other person with respect to those proposals;
(iv) including a recommendation (on the part of such person or body as may be provided for in the network code modification procedures/ by the [iGT UNC Panel]) as to whether any proposed modification should or should not be made, and the

factors which (in the opinion of such person or body) justify the making or not making of a proposed modification; and

(v) giving such further information as may be required to be given to the Authority by the network code modification procedures; and

(b) comply with any direction of the Authority to make a modification to the network code prepared by or on behalf of the licensee (excluding the terms of the [iGT uniform network code] incorporated within it) and/or the [iGT uniform network code] in accordance with a proposal described in a notice given to the Authority under paragraph 15(a) which, in the opinion of the Authority, will, as compared to the existing provisions of the network code prepared by or on behalf of the licensee (excluding the terms of the [iGT uniform network code] incorporated within it) and/or (as the case may be) the [iGT uniform network code] or any alternative proposal, better facilitate, consistent with the licensee's duties under section 9 of the Act, the achievement of the relevant objectives.

16. Where any directions are given to the licensee under section 19 or 21(1) of the Act, the licensee shall make such modifications to the network code prepared by or on behalf of the licensee (excluding the terms of the [iGT uniform network code] incorporated within it) and/or the [iGT uniform network code] as may be necessary to enable the licensee to comply with the directions under section 19 or 21(1) of the Act without contravening Standard Condition 4E (Requirement to Enter into Transportation Arrangements in Conformity with the Network Code).

17. The licensee shall:

(a) prepare and publish a summary of (i) the network code prepared by or on behalf of the licensee (excluding the terms of the [iGT uniform network code] incorporated within it) and (ii) the [iGT uniform network code] as modified or changed from time to time in such form and manner as the Authority may from time to time direct;

(b) make available a copy of the network code prepared by or on behalf of the licensee (excluding the terms of the [iGT uniform network code] incorporated within it) and the [iGT uniform network code] as modified from time to time to any person who asks for one and makes such payment to (or to a person nominated by) the licensee in respect of the cost thereof as it may require not exceeding such amount as the Authority may from time to time approve for the purposes hereof; and

(c) provide, or cause to be provided, a copy of the network code prepared by or on behalf of the licensee (excluding the terms of the [iGT uniform network code] incorporated within it) and the [iGT uniform network code] as modified from time to time on a web-site freely available to all interested parties (the web-site address of which shall be disseminated to such interested parties).

Determinations by the Authority

18. Where a provision of the network code prepared by or on behalf of the licensee (excluding the terms of the [iGT uniform network code] incorporated within it) and/or the [iGT uniform network code] requires that, in circumstances specified in the provision, a determination by the licensee pursuant to that provision in a particular case should be such as is calculated to facilitate the achievement of the relevant objectives, any question arising thereunder as to whether the licensee has complied with that requirement shall be determined by the Authority.

19. The network code modification procedures shall provide that any question arising under the network code modification procedures as to:

(a) whether a gas shipper or other person is likely to be materially affected by a proposal to modify the network code prepared by or on behalf of the licensee (excluding the terms of the [iGT uniform network code incorporated within it) and/or the [iGT uniform network code] were it to be implemented; or
(b) whether representations relating to such a proposal and made in pursuance of the rules have been properly considered by the licensee, shall be determined by the Authority.

20. Following a direction under paragraph 15(b), the implementation date may be altered with the consent of, or as directed by the Authority.

Miscellaneous

21. If the Authority so consents, this condition shall have effect as if the definition of "transportation arrangements" in Standard Condition 1 (Definitions and Interpretation) referred only to gas consisting wholly or mainly of methane.

Proposed Standard Condition 10. Joint Governance Arrangements.

1. The licensee shall:

(a) together with all other relevant gas transporters, establish, develop and operate (or otherwise procure the operation of (including without limitation on a sub-contracted basis)) arrangements ("**joint governance arrangements**") for:

(i) the administration of the network code modification procedures;
(ii) giving effect to the provisions of Standard Conditions 4 (Charging Gas Shippers - General) and 4A (Obligations as Regard Charging Methodology) relating to the administering of

the coordination of the modification of the licensee's and the other relevant gas transporters' respective charges or reserve prices or charging methodologies (as the case may be);

(iii) the administration of such matters as are provided for in the [iGT uniform network code] to be implemented by the relevant gas transporters on a common, joint or coordinated basis;

(iv) so far as is consistent with sub-paragraphs (i) to (iii), the promotion of efficiency in the implementation and administration of the network code and/or [iGT uniform network code]; and

(v) such other matters as they may decide, subject to their licence and statutory obligations;

(b) by the date at which this condition becomes effective (unless the Authority consents otherwise in writing), have entered into an agreement ("**JGA agreement**") with the other relevant gas transporters, providing for the establishment and operation of the joint governance arrangements;

(c) provide or cause to be provided to the Authority a copy of the JGA agreement and each amendment thereof; and

(d) publish, or cause to be published, a copy of the JGA agreement as modified from time to time, with the exception of information agreed in writing as being confidential by the Authority.

2. The joint governance arrangements shall, without limitation, be such as are calculated, consistent with the efficient discharge of each relevant gas transporter's obligations under the Act and its respective licence:

(a) to ensure compliance with the network code modification procedures;

(b) so far as consistent with sub-paragraph (a), to promote efficiency in the administration of the network code modification procedures and the other matters subject to the JGA agreement; and

(c) to avoid undue discrimination or preference as between the relevant gas transporters.

3. The licensee shall submit, or cause to be submitted, any proposed amendment to the JGA agreement to the Authority and shall not make or permit any amendment to the JGA agreement until the expiry of 90 days from the date on which the Authority receives the proposed amendment unless prior to such date the Authority either:

(a) consents in writing to the licensee making or permitting the amendment on an earlier date, or

(b) directs the licensee in writing not to make or permit the amendment.

4. (a) In relation to Standard Condition 9 (Network Code and [iGT uniform network code]) of this licence, the licensee shall comply directly or

shall procure compliance by means of the joint governance arrangements, with the requirements in:

(i) paragraph 6 of Standard Condition 9 (Network Code and [iGT uniform network code]) to furnish to the Authority a copy of the [iGT uniform network code],
(ii) paragraph 13 of Standard Condition 9 (Network Code and [iGT uniform network code]) to furnish to the Authority a copy of any modification made,
(iii) paragraph 14 of Standard Condition 9 (Network Code and [iGT uniform network code]) to propose a modification,
(iv) paragraph 15(a) of Standard Condition 9 (Network Code and [iGT uniform network code]) to give notice to the Authority
(v) paragraph 15(b) of Standard Condition 9 (Network Code and [iGT uniform network code]) to comply with a direction to make a modification
(vi) paragraph 16 of Standard Condition 9 (Network Code and [iGT uniform network code]) to make a modification; and
(vii) paragraph 17 of Standard Condition 9 (Network Code and [iGT uniform network code]) to prepare and publish a summary, to send a copy, and to provide a copy on a freely available web-site.

(b) Where a licensee has, directly or indirectly by means of the joint governance arrangements, provided the information or taken the action specified in sub-paragraphs 4(a) (i) to 4(a) (vii) inclusive, it shall have, without prejudice to any other obligations it may have, been deemed to have complied with the requirement to have provided the information or to have taken the action specified.