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9 February 2007

Dear Indra

Entry arrangements for connecting to the gas distribution network

I am writing further to the publication of the decision document in respect of the entry arrangements for connecting to the gas distribution network issued on 3 January 2007 on behalf of Wales & West Utilities (WWU).

WWU support the principle of a long term commercial and regulatory framework for entering gas into the distribution network. We agree that this needs to be a contractual approach and requires a licence amendment to enable these arrangements to take effect. However, we are concerned that the timescales Ofgem are proposing do not allow adequate time to implement all of the arrangements required for full compliance with the licence condition.

There is a significant element of work involved for the DNs in respect of these new entry arrangements:

- the terms of agreement require drafting
- a review of the implications for the UNC must be undertaken, relating to both TPD and OAD, and the subsequent modifications proposed and implemented;
- an analysis of the impact of the exit and interruption decision (which are not due until late March); and
- the development, consultation and approval of a Charging Methodology for Entry Capacity specifically with regard to the potential changes to the provision of DN Interruptible Capacity from the UNC.

We have approached our drafting on the basis that entry points should have a no more preferential right to connect than exit points and therefore, given that section 9(1)(b) Gas Act 1986 arguably does not apply to entry points (and therefore reference in paragraph 5(a) to section 9 would not cover section 9(1)(b)), our amendments to paragraphs 2 and 3(c) of the draft condition are intended to replicate section 9(1)(b) and section 21.

24 hour gas escape number
Rhif 24 awr os bydd nwy yn gollwng

0800 111 999*

*calls will be recorded and may be monitored
caiff galwadau eu recordio a gellir eu monitro



We remain concerned at the obligation to offer the maximum available capacity and see no objective reason for this discriminatory treatment of a particular class of connectees. Ofgem is requested to re-consider whether this is consistent with the Gas Directive. We are also concerned that the definition is by reference to a demand led capacity obligation when the obligation is a supply led one.

According to the wording within the draft licence condition the terms of agreement would need to be written and in place by 31 March 2007 to enable WWU to offer terms from 1 April 2007 in response to any application. This provides GDNs with less than eight weeks to carry out the work described above which, in the light of the additional workload currently in respect of exit reform, interruptions and the price control, is wholly unreasonable. For this reason, we would not be willing to accept the licence modification in its current state which does not allow sufficient time to enable GDNs to undertake the necessary preparatory work.

We would be in a position, however, to accept an amended licence modification from April 2007 with the obligations taking effect from 1 October 2007, hence allowing gas to be introduced into our system from 1 April 2008. This could be supported by the development of a modification proposal to extend the sunset clause introduced into UNC by modification proposal 0105. An extension of 6 months would enable GDNs sufficient time to draft the relevant terms of agreement, to review and amend the UNC and develop any charging methodologies required.

Please find attached our detailed comments in respect of the proposed licence condition.

Yours sincerely,

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**Entry arrangements for connecting to the gas distribution network
WWU's Detailed comments on the Draft Licence Condition**

Standard Special Condition D12. Requirement to offer terms for the provision of gas entry points

Purpose of licence condition

1. The purpose of this condition is to set out the obligations of the licensee from [from 1 April ~~October~~ 2007] relating to entering into gas entry agreements in respect of gas entry points to ~~the licensee's pipeline system~~.

Requirement to offer terms for gas entry points

2. The licensee shall (subject to paragraph [5]) offer to enter into a gas entry agreement (unless the Authority otherwise consents) so far as it is economical to do so, on receiving a reasonable application on or after [1 April ~~October~~ 2007], made by any person (the "applicant") of an application containing all such information as the licensee may reasonably require for formulating the terms of the offer.

3. In making an offer pursuant to paragraph 2 of this condition, the licensee shall set out the terms on which the licensee shall permit gas to be introduced in to the pipeline system to which this licence relates, including:

a. the date (not being earlier than 1 ~~October 2007~~ April 2008) when the licensee shall allow gas to be introduced into ~~the licensee's pipeline system~~ by means of the gas entry point in respect of which the application was made (time being of the essence, unless otherwise agreed by the ~~applicant person making the application under paragraph 2~~);

b. terms that offer the maximum and minimum flow-rates available on the transportation system at the time of the offer, unless the applicant ~~person~~ requests a lesser flow-rate than the maximum available;

c. terms that require the applicant ~~person~~ to pay the licensee's reasonable ~~costs~~ charges incurred and a reasonable element of profit, so far as the same will not be recoverable by the licensee from elsewhere, through making any necessary reinforcement to ~~the licensee's pipeline system to which this licence relates~~ or carrying out any other activities which are necessary to enable the gas entry point be made available to the applicant;

d. terms that allow the licensee and the applicant ~~person~~ to refer any dispute arising over the variation of the terms of the gas entry agreement to the Authority to be settled pursuant to paragraph 8 of this condition; and

e. such other detailed terms in respect of each gas entry point as are or may be appropriate for the purposes of the gas entry agreement.

4. The licensee shall offer terms for agreements in accordance with paragraph 2 as soon as reasonably practicable and (except where the Authority consents to a longer period) in any

event not more than [6 months] after receipt by the licensee from any person of an application containing all such information as the licensee may reasonably require for the purpose of formulating the terms of the offer.

5. The licensee shall not be obliged pursuant to this condition to offer to enter into any agreement if to do so would be likely to involve the licensee being:

- a. in breach of **its** duties under section 9 of the Act;
- b. in breach either of any regulations made under section 18 of the Act or of any other enactment relating to safety or standards applicable in respect of its transportation business;
- c. in breach of ~~any~~ **its** Network Code [Uniform Network Code]; and
- d. in breach of the conditions of this licence or any other licence granted or treated as granted under Section 7 of the Act and held by the licensee.

Non-discrimination

6. In carrying out the provision gas entry points the licensee shall not unduly discriminate between any persons or class or classes of persons.

Determination of disputes

7. If, after a period which appears to the Authority to be reasonable for the purpose, the licensee has failed to enter into a gas entry agreement with any person entitled or claiming to be entitled thereto under this condition, the Authority may on application of such person or the licensee, settle any terms of the agreement in dispute between the licensee and that person in such manner as appears to the Authority to be reasonable.

8. If either the licensee or any other party to such agreement proposes to vary the contractual terms of any agreement for gas entry points entered into pursuant to this condition, in any manner provided for under such agreement, the Authority may, at the request of either the licensee or other party, settle any dispute relating to such variation in such manner as appears to the Authority to be reasonable.

Publication of principal terms

9. The licensee shall publish as soon as reasonably practicable but no later than one month from the date on which it enters into a gas entry agreement the principal terms of that agreement, while having regard to the commercial sensitivity of the other party.

Definitions

10. In this condition:

<p>“gas entry points”</p>	<p>means a point at which gas may be introduced by a third party into the licensee’s pipeline system to which this licence relates, but shall not include any point at which such</p>
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	<p>pipe-line system is connected to the pipe-line system of the NTS operator.</p>
<p>“gas entry agreement”</p>	<p>means an agreement made on or after 1 April 2006 October 2007 between the licensee and another person for connection to the licensee’s pipeline system to which this licence relates at a gas entry point for the purpose of introducing gas into that pipe-line system and/or the delivery of gas onto that pipe-line system.</p>
<p>“maximum available capacity” “maximum and minimum flow-rates”</p>	<p>means the quantity which the licensee determines to be the maximum quantity which is feasible to make available for entry into the pipeline system to which this licence relates, based on the licensee’s 1 in 20 planning obligations maximum and minimum quantity of gas which the licensee determines can be accepted onto its pipe-line system under either (i) optimum, high demand conditions (maximum flow) or (ii) normal operating low demand conditions (minimum flow) respectively. In determining the maximum and minimum flow rates, the licensee shall have due regard to the temperature, pressure, chemical composition, CV, and Wobbe number of the gas which the applicant is proposing to introduce onto the licensee’s pipe-line system.</p>