



Gas Transporters, gas storage  
operators, gas shippers/suppliers  
and other interested parties

Our Ref: GDT/TRA/MS/9  
Direct Dial: 020 7901 7046  
Email: [joanna.whittington@ofgem.gov.uk](mailto:joanna.whittington@ofgem.gov.uk)

1 March 2007

Dear Colleagues,

**Notice pursuant to paragraph 3 of Standard Special Condition D2 proposing to introduce standard special condition D12 - Requirements to offer terms for the provision of gas entry points.**

1. Please find attached to this letter the notice pursuant to paragraph 3 of Standard Special Condition D2 proposing to introduce Standard Special Condition D12 (Requirements to offer terms for the provision of gas entry points) into part D of the Gas Transporter (GT) licence. The licence modification is to implement new arrangements governing the entry of gas into the distribution network, which will take effect on 1 October 2007.
2. Subject to the outcome of this consultation, the Authority will issue a direction to introduce the new licence condition on 1 April 2007.
3. Interested parties should make representations or objections by **29 March 2007** and should be addressed to addressed to Indra Thillainathan, 9 Millbank, London SW1P 3GE (020 7901 7294) or [indra.thillainathan@ofgem.gov.uk](mailto:indra.thillainathan@ofgem.gov.uk)

**Amendment to the licence condition**

4. Ofgem would like to take this opportunity to highlight the main change to the current version of the licence condition from the previous version published in our Decision document<sup>1</sup>. The change is in paragraph 3 (b) and relates to the GDN's obligation to offer the maximum available entry capacity to an entry point. After considering responses<sup>2</sup> to this particular requirement, we have decided to amend the method for

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<sup>1</sup> Entry arrangements for connecting to the gas distribution network – Decision document, January 2007

<sup>2</sup> We received eight responses to the informal consultation on the draft licence condition. These can be found on our website.

measuring the system's capability to one that is based on the flow rate – this measures the quantity of gas (expressed in GW) that can be introduced into the system at any given time. This recognises that the use of flow rate may be a more relevant measure because the instantaneous flow rate is a function of the location of the connection and the demand on the part of the network that is downstream of the entry point. Using an energy flow or power unit (GW) is a transparent and explicit measure to define the required output.

5. In making this change we also recognise that using the term flow rate will create a clearer distinction between the physical and commercial concepts in the licence that may not be the case if we measure the system's capability using capacity. This is because as the GT licence currently stands, use of the word capacity is strictly related to a shipper's rights to flow gas onto the network, while use of the term in the context intended for SSC D12 (i.e. the provision of physical capacity) has no precedent in the licence. To avoid any confusion therefore, the GDN will be required to offer terms that provide up to the maximum flow rate.

#### **Clarification on timetable for implementation**

6. It was clear from some of the respondents' views to the draft licence condition that there was some confusion as to what exactly a GDN will be required to do within six months of receiving an application for an entry point. I would therefore like to take this opportunity to clarify this and the timetable for implementation.
7. As proposed, the licence condition will be implemented on 1st April 2007. From this date, a GDN (subject to receiving an application from a potential new entry point) will have up to six months to offer terms for an agreement, if it has not been able to offer terms sooner (under paragraph 4 terms should be offered as soon as 'reasonably practicable...'). This wording is intended to prevent GDNs from taking a much longer time than is actually needed to offer terms. It must be remembered that such terms when offered represents an initial offer from the GDN only, and thereafter it is expected that there would be a period of negotiations with the entry point. There is no obligation in the licence condition specifying the length of time to undertake negotiations before a firm contract is reached between parties, although paragraph 7 does allow either party to seek a determination from the Authority if there was a dispute, which could potentially arise if one party was adjudged to be dragging its feet with respect to settling an agreement.
8. Please contact Indra Thillainathan on 020 7901 7294 if you have any questions to the points above.

Yours sincerely,



Joanna Whittington  
/ Director – Gas Distribution

**To the Company Secretary:**

National Grid Gas plc  
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Thorpe Park Business Park  
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Leeds  
LS15 8TU

Scotland Gas Networks plc  
SC264065  
Inveralmond House  
200 Dunkeld road  
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Perthshire PH1 3 AQ

Southern Gas Networks plc  
5167021  
2 Leeson's Hill  
St Mary Cray  
Opington  
Kent  
BR5 2TN

Wales & West Utilities Limited  
5046791  
Wales & West House  
Spooner Close  
Coedkernew  
Newport  
South Wales NP10 8FZ

**NOTICE UNDER PARAGRAPH 3 OF STANDARD SPECIAL  
CONDITION D2 OF THE GAS TRANSPORTER LICENCE  
GRANTED OR TREATED AS GRANTED UNDER  
SECTION 7 OF THE GAS ACT 1986**

The Gas and Electricity Markets Authority (the "Authority") hereby gives notice pursuant to paragraph 3 of Standard Special Condition D2 (Private Collective Licence Modification Procedure in respect of Standard Special Conditions applicable to the DN licensees) of the gas transporter licence applicable to DN operators as follows:

1. The Authority proposes to introduce Standard Special Condition D12 (Requirements to offer terms for the provision of gas entry points) (the "Condition") into Part D of the gas transporter licence granted or treated as granted to, National Grid Gas plc, Northern Gas Networks Limited, Scotland Gas Networks plc, Southern Gas Networks plc and Wales & West Utilities Limited (the "DN licensees") in the manner set out in the Schedule attached herewith.
2. The purpose and effect of the Authority's proposal to introduce the Condition is to implement new arrangements, which will take effect on 1 October 2007 governing the entry of gas into the distribution network. The condition will include key principles that a DN licensee must comply with when offering terms (from 1 April 2007) to GDN entry points wanting to connect to the pipe-line system of the DN licensee.
3. The reason why the Authority proposes to make this licence modification is set out fully in the following documents:
  - (a) 1/07: '*Entry arrangements for connecting to the gas distribution network*', Ofgem Decision Document - January 2007; and
  - (b) 116/06: '*New entry arrangements for connecting to the gas distribution network*', Ofgem Consultation Document - July 2006.
4. Copies of the documents are available free of charge from the Ofgem library, 9 Millbank, London SW1P 3GE (020 7901 7003) or the Ofgem website ([www.ofgem.gov.uk](http://www.ofgem.gov.uk)).

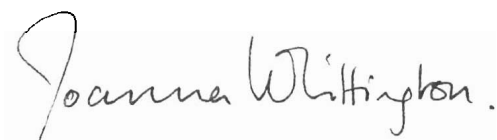
5. Any representations or objections to the proposed licence modification should be made in writing on or before **29 March 2007** and should be sent to [indra.thillainathan@ofgem.gov.uk](mailto:indra.thillainathan@ofgem.gov.uk) or to:

Indra Thillainathan  
Ofgem  
9 Millbank  
London  
SW1P 3GE  
Direct dial: 020 7901 7294

6. A pro forma that relevant licence holders may wish to use in order to register a statutory objection is set out in Schedule 2 hereto.

Duly authorised on behalf of the Authority

1 March 2007

A handwritten signature in black ink, reading "Joanna Whittington." The signature is written in a cursive style with a large initial 'J'.

**/Joanna Whittington**  
**Director of Gas Distribution**



## Schedule 2

Notice under paragraph 3(a) of Standard Special Condition D2 of the gas transporter licence granted or treated as granted under section 7 of the Gas Act 1986

Proposed introduction of Standard Special Licence Condition D12 (Requirements to offer terms for the provision of gas entry points) into the gas transporter licence applicable to the DN licensees.

In response to the statutory notice dated [ ] in respect of the above proposed modification, this notice constitutes a statutory objection to that proposal on behalf of [state full name of (each) relevant licence holder making the objection)].

I confirm that I am duly authorised to give this notice on behalf of [each of the above named companies] [the above named company].

[Signed]

Date: [ ]

[Address for acknowledgement, preferably including email address]





**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 2007 relating to entering into gas entry agreements in respect of gas entry points to the pipe-line system to which this licence relates.

**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) on receiving an application on or after 1 April 2007, made by any person (the “applicant”) containing all such information as the licensee may reasonably require for the purpose of 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 allow gas to be introduced into the pipe-line system to which this licence relates, including:
  - (a) the date (not being earlier than 1 October 2007) when the licensee shall allow gas to be introduced into the pipe-line system to which this licence relates 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);
  - (b) terms that offer the up to the maximum flow rate available from time to time on the pipe-line system to which this licence relates at the time of the offer, unless the applicant requests a lesser flow rate than the maximum available;
  - (c) terms that require the applicant to pay the licensee’s reasonable costs 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 pipe-line system to which this licence relates or carrying out any other activities necessary to enable the gas entry point to be made available;

- (d) terms that allow the licensee and the applicant 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 gas entry 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 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 in:
- (a) breach of its duties under section 9 of the Act;
  - (b) 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) breach of the licensee's network code; and
  - (d) 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 of 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 a particular applicant, the Authority may, on the application of that applicant or the licensee, settle any terms of the agreement in dispute between the licensee and that applicant in such manner as appears to the Authority to be reasonable.
8. If either the licensee or any other party to a gas entry agreement proposes to vary the contractual terms of that gas entry agreement entered into pursuant to this condition, in any manner provided for under that gas entry 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:

<b>“gas entry point”</b>	means a point at which gas may be introduced into the pipe-line system to which this licence relates, but shall not include any point at which such pipe-line system is connected to the pipe-line system of either the NTS operator or a DN operator.
<b>“gas entry agreement”</b>	means an agreement made on or after 1 April 2007 between the licensee and another person for connection to the pipe-line 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 on or after 1 October 2007.
<b>“flow rate”</b>	means the rate at which energy is or may be delivered to the pipe-line system to which this licence relates expressed in GW.
<b>“maximum flow rate”</b>	means the highest rate at which energy is or may be delivered to the pipe-line system to which this licence relates expressed in GW.