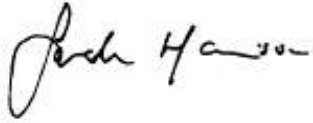


## **Notice under Section 23(3) of the Gas Act 1986**

The Gas and Electricity Markets Authority ("the Authority") hereby gives notice pursuant to section 23(3) of the Gas Act 1986 ("the Act") as follows:

1. Pursuant to section 23(1)(b) of the Act, the Authority proposes to modify standard condition 9 (Network Code) of each of the gas transporters' licences granted or treated as granted under section 7 of the Act.
2. The effect of the proposed modifications to standard condition 9 and the reasons why the Authority proposes to make those modifications are set out in detail in the following documents published by the Authority and those points are incorporated by reference in this notice:
  - a. Initial consultation letter: independent Gas Transporters Network Code governance, 21 July 2006 (Ref No. 128/06);
  - b. Way forward letter: independent Gas Transporters Network Code governance, 24 November 2006;
  - c. Independent Gas Transporters' Network Code Governance, 15 December 2006 (Ref No. 216/06); and
  - d. Independent Gas Transporters' Network Code Governance: Conclusions, 22 March 2007 (Ref No. 47/07).
3. In summary, the effect of the proposed modifications to standard condition 9 is to require the gas transporters for whom that condition of their licence is in effect (relevant gas transporters) to develop and become parties to and thereafter comply with a uniform network code (in addition to short form individual network codes) in the manner set out in Schedule 1 to this notice. This will be similar to the requirements pertaining to the large gas transporters who are subject to standard special condition A11.
4. In summary, the reasons why the Authority proposes to make the said modifications is to reduce the administrative burden and cost of pursuing industry change through the modification process, and facilitate improvements to the transportation arrangements across independent gas transportation networks.
5. A copy of the proposed modifications and other documents referred to in this notice are available (free of charge) from the Ofgem library (telephone 020 7901 7303) or on the Ofgem website ([www.ofgem.gov.uk](http://www.ofgem.gov.uk)).
6. A pro forma that relevant licence holders may wish to use in order to register a notice of objection pursuant to section 23(7) of the Act is provided as Schedule 2 of this notice.
7. Any representations or objections with respect to the proposed modifications may be made on or before 23 April 2007 and should be addressed to Jon Dixon, Office

of Gas and Electricity Markets, 9 Millbank, London, SW1P 3GE or by email to [industrycodes@ofgem.gov.uk](mailto:industrycodes@ofgem.gov.uk)

A handwritten signature in black ink, appearing to read "Sarah Harrison". The signature is written in a cursive, flowing style.

**Sarah Harrison**  
**Managing Director**

**Duly authorised on behalf of the Authority**  
**22 March 2007**

## Schedule 1

### Standard Condition 9. Network Code and Uniform Network Code

#### *Transportation Arrangements*

1. The licensee shall establish transportation arrangements, pursuant to paragraphs 2 and 5 of this condition, in respect of matters other than those to which Standard Conditions 4 (Charging of Gas Shippers - General) and 4A (Obligations as Regards 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 uniform network code referred to in paragraphs 2 and 5 respectively of this condition;

hereinafter referred to as the “**relevant objectives**”.

#### *Network Code*

2. 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) 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.
3. 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.

4. The network code shall incorporate by reference the terms of the 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 uniform network code (as may be varied from time to time) as so incorporated, unless otherwise stated.

#### *Uniform Network Code*

5. The licensee shall, together with the other relevant gas transporters, prepare a document (the "**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 6.

#### *Network Code Modification Procedures*

6. The licensee shall, together with the other relevant gas transporters, establish and operate procedures ("**network code modification procedures**"), for the modification of the 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.
7. The network code modification procedures shall provide for:
  - a. a mechanism by which
    - i. the 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 uniform network code in accordance with paragraph 8; 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 9(a);
  - c. the making of alternative modification proposals in accordance with paragraphs 8(b) and 9(b);
  - 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 12(b);
  - h. establishing and maintaining, in accordance with such procedures for appointment or election as may be specified, a panel (the "**panel**") which is to be responsible, by way of proceedings as may be specified, for the governance and administration of the uniform network code; and
  - i. where the Authority accepts that the 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.
8. In respect of the uniform network code:
- a. a modification proposal may be made by the following:
    - i. the licensee;
    - ii. any 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 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
  - b. where a modification proposal has been made under paragraph 8(a) (an "**original proposal**") alternative modification proposals may be made, in respect of any such original proposal, by any of the parties listed in paragraph 8(a) with the exception of the person who made the original proposal.
9. In respect of each network code (excluding the terms of the 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. a third party participant; and
  - b. where a modification proposal has been made under paragraph 9(a) in respect of any such original proposal, by any of the parties listed in paragraph 9(a) with the exception of the person who made the original proposal.

*Modification of Network Code and the Uniform Network Code*

**10.** The licensee shall not make or permit any modification to the network code or to the uniform network code except:

- a. to comply with paragraph 12(b) or 13; or
- b. with the written consent of the Authority;

and shall furnish the Authority with a copy of any such modification made.

**11.** 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 and/or the 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.

**12.** Where a proposal is made in accordance with the network code modification procedures to modify the network code or the 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 by the Panel as to whether any proposed modification should or should not be made, and the factors which (in the opinion of such 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 and/or the uniform network code in accordance with a proposal described in a notice given to the Authority under paragraph 12(a) which, in the opinion of the Authority, will, as compared to the existing provisions of the network code and/or (as the case may be) the 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.

13. 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 and/or the 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).
14. The licensee shall provide a copy of the network code and the 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 given adequate publicity).

*Determinations by the Authority*

15. Where a provision of the network code and/or the 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.
16. The network code modification procedures shall provide that any question arising under those 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 and/or the 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.
17. Following a direction under paragraph 12(b), the implementation date may be altered with the consent of, or as directed by the Authority.

*Joint Governance Arrangements*

18. 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 of Gas Shippers - General) and 4A (Obligations as Regards 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 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 uniform network code; and
    - v. such other matters as they may decide, subject to their licence and statutory obligations;
  - b. enter into an agreement ("**JGA agreement**") with the other relevant gas transporters, providing for the establishment and operation of the joint governance arrangements;
  - c. provide to the Authority a copy of the JGA agreement and each amendment thereof; and
  - d. publish 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.
- 19.**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.

*Miscellaneous*

- 20.**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.
- 21.**In this condition "**relevant gas transporter**" shall mean the holder of a GT licence, for whom this condition is in effect.

## **Schedule 2**

### **Pro-forma to register a Statutory Objection**

#### **Proposed Modification of Special Licence Conditions in the Gas Transporter licence**

In response to the statutory notice dated 22 March 2007 in respect of the above proposed modifications, this notice constitutes a statutory objection to that proposal on behalf of [state the 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.

[Signed]

[Date]

[Address for acknowledgement, preferably including email address]