

Steve Smith  
Ofgem  
9 Millbank  
London  
SW1P 3GE

Paul Whittaker

paul.whittaker@uk.ngrid.com  
Direct tel +44 (0)1926 653190  
Direct fax +44 (0)1926 656520

[www.nationalgrid.com](http://www.nationalgrid.com)

10 May 2007

Dear Steve,

**Supply Licence Review: Consequential modification to special standard condition A11 (Network Code and Uniform Code) of the NTS and DN licences and standard condition 9 (Network Code) of the Gas Transporters Licence (Ref: 103/07) (the "Consultation").**

National Grid welcomes the opportunity to respond to the Consultation and our comments on it are set out below.

As noted by Ofgem in the Consultation, we commented in our response to the Supply Licence Review Further Proposals consultation (Ref: 217/06) that National Grid believes that the proposal to remove paragraphs 3 to 6 of SLC 32A is premature in light of current security of supply industry discussions. If the DTI did consider that obligations on suppliers should be strengthened through the licence conditions, then this condition could be amended. This would be a significantly easier task if the current condition were retained in supply licences.

We now understand that Ofgem have discussed this issue with the DTI and have decided that it is appropriate to proceed "on the assumption that the proposal to remove SLC 32A (3) to (6) of the gas supply licence will not contradict the DTI's conclusions". In light of this comment, we can only presume that the DTI are to propose other measures to address gas security of supply arrangement concerns, when they publish the forthcoming Energy White Paper.

Assuming therefore that Ofgem pursue the changes proposed we have some comments on the mechanics of how Ofgem propose to make the changes to gas transporter licences. We recognise that the consequential modification to SSC A11 is designed to replicate the definition of the "domestic supply security standards" currently contained in gas supply licences in gas transporter licences and, as such, will not change the intent of the current obligations under SSC A11. However, we consider that the manner in which this change is being effected creates a number of difficulties with cross referencing and clarity over the licence obligation. In particular, inserting the material concerning domestic supply security standards as paragraphs 3 to 5 of Standard Special Condition A11 has consequential effects on cross references in other conditions of gas transporter licences. For example, this approach would require consequential cross-referencing changes to the following conditions in NGG's gas transporter licences:

Both RDN and NTS

- Standard Special Condition A3 (Definitions and Interpretation) - change required to the definition of "network code";
- Standard Special Condition A12 (Joint Office Governance Arrangements), -changes required in paragraphs 4 (i) to (vii);

NTS only

- Special Condition C1 (Amendments to Standard Special Conditions relating to LNG), paragraph 5 - changes required to the numbering of amending paragraphs of Standard Special Conditions;
- Special Condition C6 (Independent Market for Balancing), paragraph 1 - changes required to the numbering of amending paragraphs of Standard Special Conditions.

We note that it might be argued that the effect of paragraph 7 of Standard Special Condition A3 (and its equivalent in Standard Condition 1) render such cross-referencing changes unnecessary, we believe that such an approach is inappropriate because:

- (a) it fails to recognise that the purpose of those paragraphs is to acknowledge that the obligations the licensees are under are dynamic over time (i.e. references are to conditions as they are from time to time constituted, rather than being to those obligations in the form that they were when the cross-reference was created) and, more fundamentally,
- (b) if such consequential amendments are not made (especially if this approach of not making consequential amendments thoroughly is followed in the future), gas transporter licences will increasingly become confused and hard to use, except by those who happen to know the history of changes made to the licences and other licences referred to in them.

In this light, we believe that it would be better (assuming Ofgem decides formally to propose these amendments) to place the material concerning domestic supply security standards at the end of Standard Special Condition A11 as paragraphs 25 to 27 and in the equivalent position in Standard Condition 9. This approach obviates the need to make the cross-references identified above and retains the material in a logically sustainable position within the condition (i.e. at the end with the other material concerning defined terms).

On a similar note to the comments made above concerning cross-referencing, we do not consider that the proposed changes to Standard Special Condition A11 and Standard Condition 9 are sufficient to deal with the fundamental review of the gas supply licences that Ofgem has undertaken. Indeed, we urge Ofgem to bring forward proposals to amend all the cross references to gas supply licences throughout gas transporter licences. These changes result from the radical restructuring of the domestic supply licences and the corresponding changes are essential to ensure that the GT licence continues to make sense after the supply licences have been changed. We believe this consequential modification is the appropriate time to make these other minor Supply Licence Review related amendments and is consistent with Ofgem's stated aim of enhancing clarity and useability which has underpinned the supply licence review.

We hope you find these comments helpful and if you need further clarification please do not hesitate to contact Chris Shanley on 01926 656251.

Yours sincerely

*By e-mail*

Paul Whittaker