

Robert Hull
Director of Transmission
Office of Gas and Electricity Markets
9 Millbank
London
SW1P 3GE

Chris Bennett
Regulatory Frameworks Manager

chris.bennett@uk.ngrid.com
Direct tel +44 (0)1926 655949
Direct fax +44 (0)1926 656576

www.nationalgrid.com

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Dear Bob,

Response to the Section 23 Notice to modify the gas transporter licence granted to National Grid Gas in respect of the National Transmission System.

Please find attached a response to the Section 23 notice published on 25th June relating to the implementation of the Gas Transmission Price Control. The response is written on behalf of National Grid Transmission.

The attached appendix covers our detailed comments on amendments that we believe are necessary to implement the Gas Transmission Price Control. We have categorised our comments in an attempt to be helpful to Ofgem in considering the materiality of the changes.

I would also draw your attention to the final table in the Appendix (Table 4). We believe that the proposed wording in the licence will require certain directions from the Authority to avoid National Grid being placed in breach of the licence when consenting to the new licence conditions. In this regard, we would welcome further discussion with Ofgem on the timescales associated with producing methodologies for transfer, trades and substitution and the time available (if any) for industry consultation.

We remain committed to introducing the licence conditions to implement the gas transmission price control as soon as is practically possible and are happy to discuss any of the comments further with you. We would also find it beneficial to understand the likely process and timescales associated with National Grid being asked to consent to the licence modifications following your consideration of all the comments to the consultation.

Yours sincerely

Chris Bennett

Appendix - Comments on Ofgem's Section 23 licence modifications published 25 June 2007

Table 1 – Material problems which need to be addressed

Number	Licence Condition	Paragraph	Page Number	Comments
1	Sp C C8B	3(b)	27	The "TOF(t)" term needs "HISC(t)" term adding back in to ensure funding for SIU costs incurred in 2005/6, 2006/7 and 2007/8 prior to new term IS(t) becoming live.
2	"	3(c)(iv)	33	CxIncRA for MH is not working correctly. Ofgem's policy is to fund the foregone depreciation and return. Equation needs to be edited to add in the "CIR(n)" term in from of the "PVF(n) x MH(n)" term.
3	"	3(d)	55	SOROC(t) needs to also capture the new revenue term "RADD(t)" – also add in reference to Sp C C8D where it is defined.
4	Sp C C8D	2(b)	62	Believe equation for FIOEnC is incorrect – the "W" subscript needs to start at 0 not "h". Also, believe definition is not quite correct – as the term is mentioning subscript (m-p), believe last line should read "... advance of the first day of month (m-p) to which such capacity relates".
5	"	2(c)	64	Revenue driver table has the wrong names for the entry points. Replace "Point of Ayr" with "Burton Point", "Humbly Grove" with "Barton Stacey", "Aldbrough" with "Garton" and "Caythorpe" with "Burton Agnes (Caythorpe)"
6	Sp C C8B	3(b)	27	The "TOF(t)" term needs "HISC(t)" term adding back in to ensure funding for SIU costs incurred in 2005/6, 2006/7 and 2007/8 prior to new term IS(t) becoming live.
7	"	3(c)(iv)	33	CxIncRA for MH is not working correctly. Ofgem's policy is to fund the foregone depreciation and return. Equation needs to be edited to add in the "CIR(n)" term in from of the "PVF(n) x MH(n)" term.
8	"	3(a)(bb)	66	Within the paragraph referring to MH costs, need to replace "obligation to offer such entry capacity first commenced" with "incremental obligated entry capacity was first contractually delivered". The phrase "offered for sale" refers to when the auction was held – i.e. as at w days in advance of the day d – not the day d for which the contractual delivery relates

Number	Licence Condition	Paragraph	Page Number	Comments
9	“	3(f)(i), (ii) and(iii)	70	Within the three paragraphs need to replace “obligation to offer such entry capacity first commenced” with “incremental obligated entry capacity was first contractually delivered” – as per above
10	“	4(a)	74	Within the definitions for “EnCBBMHBB(t)” and “EnCBBMHBB(p)” need to replace “obligation to offer such entry capacity first commenced” with “incremental obligated entry capacity was first contractually delivered” – as per above
11	“	5(d)	77	This paragraph was added in to allow the licensee to write to the Authority if it considered it had met its obligations. The wording of “... the Authority may direct in writing” gives little comfort. Believe that if the Authority believes the licensee has met its obligations it should write to confirm, hence, believe that the wording should be “... the Authority shall direct in writing”.
12	“	Part C 9(b)(ii)	87	Believe this paragraph will lead to traded capacity being double counted within the TO price control as the capacity will have been sold once in the primary auction and the drafting is deeming it to be sold again as part of an entry capacity trade. Believe it is better to remove the paragraph, allow primary sale to stand and then to have traded capacity treated as non-obligated entry capacity to be netted off against constraint management costs
13	Sp C C8E	1(d)(i)	174	Believe that the use of “t” and “t+1” etc in definition of CDEL is misleading and incorrect. Suggest replace with “in respect of the formula year t in which the project was contractually delivered and the 4 formula years following that formula year”
14	“	1(d)(ii)	175	Do not agree that setting ExCIIR(t) to zero when the demand is greater than or equal to 15 GWh/d is consistent with Ofgem’s Final Proposals. Paragraph 1.76 in Appendix 9 to Final Proposals states “It therefore remains our final proposal to implement a zonal revenue driver for all capacity increments in the constrained, south west quadrant of the transmission network that are less than 15 GWh/day in size and nodal, project specific revenue drivers, for all projects above this threshold regardless of their location”.
15	“	1(d)(ii)	178	Believe that the use of “t” and “t+1” etc in definition of RDEL is misleading and incorrect. Suggest replace with “in respect of the formula year t in which the project was contractually delivered and the 4 formula years following that formula year”

Table 2 – Minor problems which need to be addressed

Number	Licence Condition	Paragraph	Page Number	Comments
1	Sp C 1B		3	Need guidance from Ofgem re which licence NGG reports under either the NTS or the RDN licence as they will have different obligations after the section 23 notice is directed
2	Sp C C8A		5	Need definition for “baseline obligated entry capacity”
3	“		6	Believe that we need do not need the “delivered” definition. Suggest that all references to “delivered” are replaced with either “contractual delivery” or “physical delivery” where appropriate – throughout Sp C C8D and Sp C C8E. This would ensure that the licence was clear which type of delivery was being referred to at the different points within the licence. Physical delivery is only needed in order to determine when the delivery incentives around investment (i.e. in EnCBBIIIR, EnCBBMHSI and ExCBBIIIR cease to apply. All other references should be to contractual delivery?
4	“		10	Need a definition for “interested parties” as is used throughout Sp C C8D and C8E. Suggest the definition from Sp C C11 is put into Sp C C8A and reference is changed. If that definition is used, then throughout Sp C C8D and Sp C C8E the references to “relevant shippers or/and interested parties” then needs to be changed to just “interested parties” as that would be wider than just “relevant shippers”
5	"		12	Believe that the definitions of "NTS baseline exit flat capacity" and "NTS baseline exit shipper capacity" need to be modified. As the NTS baseline exit flat capacity product exists in both the interim/transitional (as the product DNs are booking via the OCS process) and in the enduring (as what all would book under 116), the definition should point to "table 1 of Annex A" for the Interim/Transitional period and "table 2 of Annex A" for the Enduring. In addition, "NTS baseline exit shipper capacity" is as per the table and will not be modified within the NTS exit capacity baseline statement, as that only applies to enduring capacity (when this product ceases to exist).
6	“		16	Need definition for “revenue restriction conditions” as it is referred to in Sp C 14B as being “as defined in Sp C C8A” but the definition is absent. Suggest this refers to Sp C C8B through to Sp C C8G.

Number	Licence Condition	Paragraph	Page Number	Comments
7	"	3(c)(v)	36	Within the definition of "SOCx(n)", believe it should refer to "incremental obligated entry capacity" not "incremental entry capacity"
8	"	4(a)	39	Reference incorrect, should be "... paragraphs 4(b) to 4(f)" not "... paragraphs 4(b) to 4(g)"
9	"	4(b)	39	Reference incorrect, should be "... paragraph 4(e) or paragraph 4(f)" not "... paragraph 4(f) or paragraph 4(g)"
10	"	4(c)(iii)	40	Reference incorrect, should be "... in paragraphs 4(d)" not "... in paragraph 4(e)"
11	Sp C C8C	3(b)(i)(D)(b) b)	50	Needs titles after the two references to "Special Condition C8G". In addition, references for IOIT and ICET such as "(having the meaning given to those terms in paragraphs 1(b) and 1(c) of Special Condition C8G (NTS System Operator internal incentives, costs and revenues)"
12	"	3(b)(ix)(B)	52	Needs references for IOC and ICE such as "(having the meaning given to those terms in paragraphs 1(b) and 1(c) of Special Condition C8G (NTS System Operator internal incentives, costs and revenues)"
13	"	4(a)	56	Reference incorrect, should be "... paragraphs 4(b) to 4(f)" not "... paragraphs 4(b) to 4(g)"
14	"	4(b)	56	Reference incorrect, should be "... paragraph 4(e) or paragraph 4(f)" not "... paragraph 4(f) or paragraph 4(g)"
15	"	4(c)(iii)	56	Reference incorrect, should be "... in paragraphs 4(d)" not "... in paragraph 4(e)"
16	Sp C C8D	3(g)	71	Within LTDVEn(n) equation, the form of the summation used is not defined in Sp C C8A. Believe it needs adding into Sp C C8A with the definition that it is the sum over all variations v up to the end of day n-1.
17	"	5(a)	76	Within definition of "EnCIBBC(t)", add on after "March 2007", "until such time as that entry capacity has been physically delivered to relevant shippers" to clarify that this incentive doesn't apply once the capacity has been physically delivered.
18	"	7(a)(i) and (ii)	80 and 81	The equations for the non-incremental obligated entry capacity sold (NIOEnCS) and the cumulative funded incremental obligated entry capacity sold (CFIOEnCS) need to be initialised such that as at the start of 1 April 2002 they both take the value of zero. This is needed to ensure that the equations are completely defined as they roll forward from one day to the next.
19	"	7(a)(iv)	83	Believe that reference should be for CFIOEnCS(i,d,m,w) not FIOEnCS(i,d,m,w)

Number	Licence Condition	Paragraph	Page Number	Comments
20	"	9(c)(ii)(aa) onwards	90	Believe that the use of three subscripts (i,m,h) for IBEnC is not appropriate – only need the "i" subscript as baselines are set for the five year period at one number per entry point.
21	"	9(k)(i)	100	Believe the paragraph should refer to "incremental entry capacity release methodology (established pursuant to Special Condition C15 (Licensee's methodology for determining incremental entry capacity volumes)) and the licensee's entry capacity substitution methodology (established pursuant to paragraph 10 of this condition)"
22	"	10(c)(iii), (d)(i),(e) and f(ii)	103	Do we need a definition of "material increases"? Believe that within 10(d)(i) should specify that the notice is received by the licensee, such that "the date of receipt of a notice by the licensee from ...". Within paragraphs 10(e) and 10(f)(ii), believe should refer to "relevant shippers and interested parties" or replace just with "interested parties" as per item 4.
23	"	11(d)(iii), (e)(i),(f) and (g)(ii)	107	Do we need a definition of "material increases"? Believe that within 11(e)(i) should specify that the notice is received by the licensee, such that "the date of receipt of a notice by the licensee from ...". Within paragraphs 11(f) and 11(g)(ii), believe should refer to "relevant shippers and interested parties" or replace just with "interested parties" as per item 4.
24	"	12(d)(iii), (e)(i),(f) and (g)(ii)	111	Do we need a definition of "material increases"? Believe that within 12(e)(i) should specify that the notice is received by the licensee, such that "the date of receipt of a notice by the licensee from ...". Within paragraphs 12(f) and 12(g)(ii), believe should refer to "relevant shippers and interested parties" or replace just with "interested parties" as per item 4.
25	" – Annex A	Part A 1(ii)	116	Incorrect reference, should be to "14(5)(f)(ii)(a)" not "14(5)(f)(ii)(b)"
26	"	Part C	126	Formatting issue with sub-bullets
27	"	Part C 2	127	Incorrect reference, should be to "14(5)" rather than "14".
28	"	14(5)(b)	132	Paragraph numbering (i) through to (x) missing. Given that this is a straight copy from the current C8B licence it needs to be as per the current licence.
29	Sp C C8E	4(b)	195	Do we need a definition of "material increases"?
30	"	4(c)	198	Do we need a definition of "material increases"?

Number	Licence Condition	Paragraph	Page Number	Comments
31	"	5	205	Within LTDVEn(n) equation, the form of the summation used is not defined in Sp C C8A. Believe it needs adding into Sp C C8A with the definition that it is the sum over all variations v up to the end of day n-1.
32	Sp C C8F	2(a)	217	Believe reference should be to paragraph 1(a) not 1
33	Sp C C8G	1(b)	248	Need to add references to other conditions for "ExCC", "IECCC", "CNIC", "SBIC" and "RBIC"
34	"	1(c)	250	Need to replace "relevant year" with "formula year" in definition of "NTS SO regulatory asset value"
35	"	1(c)	251	Believe reference should be to "1(b)" rather than "b" in definition of "IRPI(t)"
36	"	1(d)	252	Believe reference should be to "1(b)" rather than "b" in definition of "IRPI(t)".
37	Sp C C13	After 16	268	Need a definition of "interested parties" – suggest as per item 4 definition is put in Sp C C8A and refer to that in this condition.
38	Sp C C14	n/a	n/a	Remember that this condition needs to be updated for new terms in Sp C C8B through to Sp C C8G
39	Sp C C14B	2(e) and 3(a)	270	Replace "relevant year" with "formula year" in each paragraph
40	Sp C C15	6(c)	277	Incorrect reference – should be to paragraph 5(b) not 5(ii)
41	Sp C C16	3	280	Within the definition of "NTS transportation owner revenue restriction" reference should be to "Special Condition C8A" not "Special Condition 8A"

Table 3 - Minor problems / typos

Number	Licence Condition	Paragraph	Page Number	Comments
1	Sp C C8A		7	Believe definition of "DN operator" is not needed as it is in St. Sp. C. A3
2	"		11	Definition of "interruptible entry capacity" needs to be written for the avoidance of doubt to exclude firm entry capacity which has been bought back. Otherwise it could be confusing.
3	"		15	Believe that the definition of "obligated entry capacity" should refer to non-incremental obligated entry capacity plus cumulative funded incremental obligated entry capacity to make it clear what that capacity is.
4	"		16	Believe definition of "retail prices index" is not needed as it is in St. Sp. C. A3
5	"		20	Typo in definition of "PIT(t)" – need "in" adding after "set out"
6	Sp C C8B	3(c)	31	Within the definition of "LC(t)" replace "standard special condition A40" with "Standard Special Condition A40"
7	"	3(c)(v)	35	Within the definition of "Cx(n)" replace "standard special condition A40" with "Standard Special Condition A40"
8	"	3(c)(v)	36	Within the definition of "SOCx(n)", replace "standard special condition A40" with "Standard Special Condition A40"
9	"	5(d)	41	Believe should be "and" at end of first line, such that sentence reads "... subsequent formula year up to and including the formula year ..."
10	Sp C C8C	4(d)(ii)	57	Suggest that the phrase ", the earlier of not less than 18 months after the date of that disapplication request and" is superfluous given the timing of the direction.
11	Sp C C8D	3(b)	68	Subscripts do not need the underlining within EnCNOIR(t) and RADD(t)
12	"	4(a)	74	The form of the brackets in the equation for EnCBBMHSI do not match the definition of "MIN" – should be "MIN[a,b]"
13	"	5	76	In title "t" needs to be subscript.
14	"	7(a)(i) and (ii)	80 and 81	The equations for NIOEnCS and CFIOEnCS still have the "W=w+1" range on the summations. We had agreed to replace with a different subscript in order to make the equations clearer. This has been done in some places but not here.

Number	Licence Condition	Paragraph	Page Number	Comments
15	"	7(a)(ii)	81	Missing subscript from CFIOEnCS – needs “i,d,m,w”
16	"	9(f) onwards	98	Within the proposal drafting, believe that use of the subscripts on the various terms is confusing without the explanation as to what the subscripts mean. Believe the drafting would be clearer if the subscripts were removed.
17	"	9(h)(vii)	99	Typo – space needed between “condition” and “would”
18	" – Annex A	Part B 1	117	Typo – comment left in drafting
19	"	Part B	122, 124, 125	Formatting issue with sub-bullets
20	"	Part C 2	127	Font wrong on title
21	Sp C C8E	1(d)(ii)	176	Typo – “,” not needed after subscript “t”
22	" - Annex A	Table 1	206	Believe that the title of the table is not correct. Should be "NTS baseline exit shipper capacity and NTS baseline exit flat capacity"
23	" - Annex A	Table 2	211	Believe that the title of the table is not correct. Should be "NTS baseline exit flat capacity"
24	Sp C C8F	1(a)	216	Need to insert title after “Special Condition C8C”
25	"	4(b)	240	Should be “network code” not “Network Code”
26	"	4(c)	243	Should be “network code” not “Network Code”
27	Sp C C8G	1(a)	246	Need to insert title after “Special Condition C8C” and remove “condition” after it
28	"	1(d)	252	Spurious “.” at end of condition. Also, should only be IX(t) not IX(tt).
29	Sp C C10	5	259	Spurious “..” at end of condition.
30	Sp C C11	4	261	Typo – missing “)” after “paragraph 2”
31	Sp C C14B	15	273	Replace “standard special condition A26” with “Standard Special Condition A26”
32	Sp C C15	2 and 3	275	Replace “duty” with “duties”
33	Sp C C18	1 and 2	288	Replace “duty” with “duties”
34	"	7	290	Replace “take all reasonable steps” with “use reasonable endeavours”
35	"	10	291	Numbering missing from paragraph 10

Number	Licence Condition	Paragraph	Page Number	Comments
36	Sp C C25	5	295	Suggest removing the date of "as at 16 March 2007" as this is not needed.

Table 4 – Directions needed upon Section 23 being directed

Number	Direction
1	Revenue driver funding for Wormington – Sapperton and Sapperton – Eastern Grey (as per Ofgem’s Final Proposals (para 1.18 in Appendix 9))
2	Not to consult with Shippers under paragraph 10(h)(ii) of Special Condition C8D (Substitution)
3	Not to consult with Shippers under paragraph 11(g)(ii) of Special Condition C8D (Transfer)
4	Not to consult with Shippers under paragraph 12(g)(ii) of Special Condition C8D (Trade)