Gas Distribution Price Control Review Initial Licence Drafting Consultation

A Response by National Grid Gas

22 October 2007

Section 1: Summary

1. This is the response of National Grid Gas's (NGG's) gas distribution business to the Gas Distribution Price Control Review Initial Licence drafting consultation. We understand that NGG's gas Transmission business will be submitting a separate response in relation to the proposed changes that impact on NGG's gas transporter licence in respect of the NTS.

2. Our comments in this paper are limited to the licence drafting proposed within the consultation, but should be read in conjunction with the detailed drafting amendments on the face of the proposed licence conditions (attached). In some cases, Ofgem has proposed drafting while policy discussions are still ongoing about the exact form and objectives of the relevant condition. For example, it is yet to be determined whether the Gas Distribution Network Operators (GDNs) will be subject to a "repex cap" or, indeed, what form of pipeline accuracy measures will be implemented. In these cases, we have commented on the form of the drafting set out in the Initial Proposals document without prejudice to our views on the final policy to be pursued by the condition in question. For our views on the policy decisions, please refer to our responses to the Initial and Updated Proposals documents.

3. We support Ofgem's desire to commence the licence drafting contemporaneously with the price control review. While it does sometimes make the process of licence drafting more difficult, because it is being undertaken while there is still a level of uncertainty about the final form of the price control, we believe the benefits of greater certainty when accepting or rejecting the final proposals make it worthwhile. This process should also assist in ensuring that any proposals accepted by licensees can be implemented in a timely manner.

4. We believe that the licence drafting working groups held to date have been open and co-operative and, as a result, valuable. However, we are disappointed that in a number of cases Ofgem has not reflected the position that we believed was agreed within the meetings.

5. We have split our detailed response in to two parts: in section 2 of this document we set out our responses to the specific questions asked by Ofgem within the consultation paper. In doing so, we have broadly followed the structure of Ofgem's Initial Licence Drafting Consultation. We have also appended a "clean" version of the proposed amended licence

conditions and statutory instrument which we have marked up with detail drafting points and associated comments.

6. We have no objection to this response and associated drafting comments being published.

Section 2: National Grid's detailed response to specific questions raised.

Chapter Two: Proposed Modifications to the Special Conditions in Part E

Question 1: Should Shippers continue to raise Income Adjusting events to the exit incentive?

7. Exit reform and the supporting incentives are, by their very nature, complicated. This complexity brings a risk that the outcome may vary significantly from that intended when the proposals are implemented. To afford both consumers and GDNs protection from such unforeseen outcomes, Ofgem has indicated that the incentive mechanism it intends to implement will be constrained by caps and collars. If set appropriately, these caps and collars should mitigate the possibility of a material windfall gain to GDNs at the expense of the shippers and their customers. However, while we believe that the chance of a shipper wanting to raise an Income Adjusting Event (IAE) may be small, we believe that it is appropriate, in the interests of transparency and equity that the shippers should retain the right to raise an IAE with respect to the exit incentive.

8. In relation to the drafting of this procedure for the submission, review and determination of income adjusting events, it is not clear why Ofgem has moved away from the established process. This was recently aligned across Transmission (electricity and gas) and Distribution, following Ofgem's review and consultation on such provisions in November 2004 and the implementation of licence modifications in January 2005.

Question 2: How should an IAE associated with TMA costs be constrained without limiting costs to permit costs?

9. In conjunction with other utilities, NGG has worked hard to limit the financial impact of NRSWA and TMA. As a result of this work a number of significant concessions have been won. Examples of these concessions are:

a) an amendment to limit the fee levels of any permit scheme to the costs incurred by Highway Authorities for managing utility works;
b) a reduction in the potential fee for fixed penalties from an initial £750 to £120 (or £80 if paid within 29 days);
c) a change to the proposal for blanket application of Section 74 (of New Roads and Street Works Act 1991) to focus its application on those streets deemed the busiest (traffic-sensitive and Category 0, 1 and 2 streets);
d) the introduction of an appeals process for permits; and
e) commitment to consult on resurfacing provisions and indication that these provisions are not now expected to commence until tranche 3 of the Regulations are implemented, commencing 2008/09.

10. While we have achieved these concessions, it is important to recognise that the financial impact of the legislation is likely to crystallise within the next price control period and extend well beyond that of permits. These additional costs are expected to be material. Provided that NGG can continue to demonstrate that it has made reasonable endeavours to mitigate these costs, it is appropriate that they be allowed in full by Ofgem.

11. We do not believe it is appropriate to set any materiality level for the TMA "re-opener". At the time of DPCR4, the Traffic Management Bill was at a very early stage of discussion and a great deal of uncertainty existed about its scope and content. Under those circumstances, it was pragmatic to develop a mechanism that would balance the protection of customers and electricity network operators. The situation, however, for the gas distribution price control is entirely different. The TMA's scope and content are clear and we can estimate that costs in the first year will be significant. One percent of base revenue will equate to around £12m for NGG and we believe that our costs may be close to that figure. However, if we do not reach the cap, NGG will lose millions of pounds of efficiently incurred revenue each year as a consequence of complying with primary legislation. A much more equitable solution would be to provide an ex-ante allowance for the GDNs costs of administering the TMA and allow pass through of efficiently incurred costs each year.

12. Within the TMA, there are provisions for the GDNs to be subjected to a number of significant additional costs above the permit costs identified by Ofgem on the face of the licence. These are as follows:

a) fixed penalty notices: Highway Authorities are now able to issue fixed penalty notices for a variety of infringements in relation to the issue of notices and engineering works. We estimate that if we were able to meet a 90% compliance level, the cost would be around £6m p.a. Ofgem will have to consider whether to fund the costs for NGG to

achieve full compliance or accept that there will be an efficient level of failure and provide an appropriate allowance;

b) directions relating to timing of works: Highway Authorities can direct when and where works can take place. If they require utilities to work unsocial hours or weekends, this will increase costs for those jobs affected;

c) records: Highway Authorities can require utilities to record and maintain details of plant belonging to other utilities;

d) restrictions following substantial road works and street works: The discretion to allow Highway Authorities to restrict work on streets has been extended, and could mean new or replacement works being redirected from the most economic route selected by the utility, or even the position of the apparatus itself within the street being specified;

e) resurfacing and contribution to resurfacing: Highway Authorities will be able to direct utilities to resurface the entire carriageway where works have taken place or contribute towards resurfacing costs, rather than current trench reinstatement that currently occurs. Given the low level of highway maintenance funding, the incentives for Highway Authorities to pursue this are clear;

f) inspection Fees: Highway Authorities can increase the level of inspections of utility works at their discretion, for which a fee is payable by the utility concerned. As inspections will be fully funded by charges to utilities, the number of inspections and hence costs are expected to rise.

13. All except c) and e) will be effective from April 2008 and these additional costs, where shown to be efficiently incurred, should be allowed in full.

Question 3: Are there any other changes to SC Part E that are necessary to make the GDPCR effective?

14. Following the publication of the Updated Proposals, a number of the Special Conditions within section E need to be redrafted. For example, due to the extent of redrafting that is required for Special Condition E8 – (Distribution Network Shrinkage Incentive Revenue), we have not reviewed this condition. Instead we will provide comments once the drafting of the condition has been updated. There are a number of other conditions where redrafting is required for sections of the licence conditions. In the table below we set out the areas that we believe significant work on the drafting is still required and for which we have not provided comments.

Licence Condition	Areas requiring update
E1 Revenue restriction definitions in respect of the Distribution Network	Need to track changes to substantive revenue restriction conditions and take account of removal of certain terms from NTS licence drafting (which defines some of the terms in E1 by reference).
E4 – Distribution Network transportation activity revenue adjustment (K_t)	Revised dead band for the application of interest on the revenue adjustment "K".
E5 – Mains and services replacement expenditure adjustment ($MSRA_t$)	Application of the cap.

15. Due to the extent of the changes to section E that Ofgem has proposed, it has not been practical for Ofgem to maintain a change marked version. As a result it is not easy to identify where changes have been made. Consequently we have decided to include all of our comments about the proposed section E in one place rather than identifying "other necessary", "desirable" and "undesirable" changes separately.

16. We have not included detailed typographical drafting points within this section of the paper. They have been included in the enclosed change marked version of the licence conditions.

E2 – Restriction of revenue in respect of the Distribution Network transportation activity

17. Para 5 – The derivation of RPI_t erroneously includes a division by 100 which would result in the RPI factor and the core allowed revenue being 100 times smaller than it should be. The reference to dividing by 100 should be removed from the definition. This definition should also track the form of words used to define RPI_t in the NTS licence.

E3 – Distribution Network allowed pass-through costs

18. Para 3(a) – The definition of RBE_t includes a reference to "financial year". We believe that "financial year" should be amended to "formula year". Indeed, as a general point, the condition in Section E should refer solely to "formula" years not "relevant" or "financial" years.

19. Para 3(b) – This condition places a requirement on the GDNs to seek approval for the pass-through of new rates levels from 2010. The licence condition states that Ofgem "may" direct the pass-through of the rates costs. We agree that it is appropriate that the GDNs should be required to demonstrate that they have used reasonable endeavours to minimise the level of rates payable. However, the current drafting of the licence places the GDNs at risk from

Ofgem not granting approval in a timely manner. The licence drafting should be amended such that Ofgem has until a set date to direct the GDNs not to pass through the costs of rates. In the absence of Ofgem direction, the GDNs should be able to pass the costs through.

20. Para 6 – We do not agree that GDN's should be exposed to 5% of the costs of compensation in the event that the cap on the third party and water ingress scheme is exceeded. We would like to understand on what basis Ofgem believe it can be justified. It has no incentive properties, as GDNs will be driven by the need to re-establish gas supplies to customers as quickly as possible, not whether some additional liability is due. Furthermore, GDNs will be paying additional compensation levels for failures for which they are not responsible.

E5 – Mains and service replacement expenditure adjustment ($MSRA_t$)

21. Appendix G – The diameter bands as set out in Annex G are different from the diameter bands as set out in the updated proposals. The diameters band should be consistent with the policy proposed as it develops.

E6 – Distribution Network Exit Capacity costs and incentive revenue

22. Para 2 – Within the licence, there are a number of statements along the lines of *"before 1* October *2011…that for the avoidance of doubt, ExC_t shall have the value zero".* We understand the intention behind such statements, which are also in the current licence. However, since ExC_t is a formula year value it cannot have one value before 1 October and another after 1 October. As a result we believe that this statement is ambiguous. Our understanding is that Ofgem intends ExC_t and similar parameters to depend purely on costs or capacity bookings relating to the period after 1 October. We think that the manner of determination of such variables in such years should be clarified within the drafting of the condition.

23. Paras 5, 6, 11, & 12 – It has previously been clarified by Ofgem that it is only the capacity bookings in respect of the period October to April within a formula year that should be considered when determining the deemed costs, since the target volumes set reflect the peak (winter) period for each formula year. Capacity bookings are made, however, at a single level from October to September and it is this level that is used within the current incentive mechanism as the capacity allocated on each day within the formula year even though in practice it is only allocated for October onwards. At present, the charges applied within the Licence to both the target and actual capacity allocations are the daily charges for the formula year period. This creates an inconsistency in that charges for the period April to September relate to capacity allocations for October onwards. If there is a substantial rebalancing of NTS exit charges (as has happened at October 2007) then this could lead a DN to optimise the

pattern of NTS exit capacity allocations for October onwards, in part by reference to the previous April-September NTS exit charges. This is illogical. To avoid this, we suggest that the target and deemed costs should both be calculated by reference to the charges and capacity for the period 1 October to 31 March and then scaled up by 365/182 to provide an annual equivalent.

24. Para 7 – The incentive target (ExIIT) should not be set to zero until 1 October 2011, when DN interruption reform is planned to start operationally, rather than being set to zero from 2008 as stated in the drafting. At the time of determining the 2007/8 price control, Ofgem set the future values of ExIIT to zero on the basis that it lacked time to determine appropriate values. It agreed, however, that it would be appropriate to review this approach for the main price control in the absence of another number. Ofgem has since set this target to zero. We consider that a zero target for interruption > 15 days would not be aligned with the agreed principles for these incentives, in that it provides only downside risk to NGG with no possibility of out-performance. The date, therefore, should be amended to 1 October 2011, and an appropriate target level set.

25. Para 9 – We understand that the purpose of this paragraph, when originally proposed, was to ensure that the GDN put in place a charging methodology for interruptible payments on plus 15 days to meet the requirement within the condition, consistent with the assumptions underlying the target set. All GDNs now have a charging methodology in place which is accepted by Ofgem as meeting this requirement. Since Ofgem has the power to veto any GDN proposal to change its methodology, for example, if the GDNs were to try to cease such payments, we consider that this paragraph is now redundant.

26. It should also be noted that the methodology put in place for interruption payments, which are equal to 1/15 of the capacity charges foregone for each day, does not precisely replicate the requirement stated in Paragraph 9**,** since the requirement relates to the capacity on January 15th within the year, whereas the payments effectively relates to the daily capacity on the day of interruption.

27. Further, GDNs are required to report on the values contained in Paragraph 9 each year. Given that the GDNs have established a consistent methodology for payments, the calculation and reporting of these values (which are not normally calculated otherwise) increases GDN costs without providing any benefit. As a result, this provision should either be removed, or changed to reflect the way the amount payable is calculated.

28. Para 13 – The value ExIIC should have the value zero only from 2011, rather than from 2008 as stated.

E7 – Determination of any adjustment factor to be applied to MR_t (IAE_t)

29. Para 2(a) – As set out above, the current drafting is restricted to part 3 of the Traffic Management Act 2004. This should be widened to include all other relevant aspects of that Act.

30. Para 2(b) – GDNs are required to demonstrate that they have "taken all reasonable steps to maintain the current rate at which such expenditure is deductible". We believe that it is appropriate that the drafting should be revised (to insert a reasonable endeavours obligation) to be consistent with the efficiency test for pass through of business rates, as defined in E3. Indeed, for consistency, the term "take reasonable steps" should not be used in the licence drafting, as it is not a term used elsewhere in the current licence and lacks the judicially-defined clarity of obligations based on a party's endeavours.

Question 4: Are there any changes to SC Part E that are inappropriate?

31. Please refer to our answer to question 3, which includes all of the changes to SC part E that are appropriate.

Question 5: Are there any other changes to SC Part E that are desirable but not necessarily associated with the GDPCR

32. Please refer to our answer to question 3, which includes all of the changes to SC part E that are appropriate.

Chapter Three: Other proposed modifications

Question 1: Are our proposed changes to SSC in Part A and D appropriate?

33. In general, we consider that the proposed changes to the Standard Special Conditions in Parts A and D of the Licence are appropriate. We suggest that Ofgem considers moving Standard Special Conditions A19-22 into Part D of the licence as they concern the activities of GDNs and are not relevant to the NTS.

34. For the purposes of answering this question, we will include Standard Condition 4B and the Statutory Instrument (SI) referred to within the consultation, but not addressed directly by Ofgem's questions. There are a number of detailed drafting comments that we highlight in

the accompanying licence and SI drafting. These additional comments should be read alongside this response. The most substantial issues which require detailed explanation are dealt with as follows:

SSC A15 Agency

35. See Licence mark up.

SSC A19 Provision of Service for specific domestic customer groups

36. Para 3 – The provisions require that the licensee agree a password with a vulnerable customer. The drafting should make it clear that this should be on a job specific basis, as we have no means of directly recording or maintaining password records for vulnerable customers. Nor is there any practical benefit in doing so.

37. Para 4 (c) – There is no mechanism for GDNs to inform customers directly about the statement and therefore it would be difficult to take all reasonable steps to do so. The provisions under Paras 4(b) and 4(d) to publish on the website and provide a copy on request provide a means for customers to access the information and it would therefore be pragmatic, in the circumstances, to remove Para 4(c) entirely, or re-draft it, such that, it specifies the ways in which a GDN can reasonably inform its customers.

SSC A20 Arrangements for access to premises

38. See Licence mark up.

SSC A21 Procedure for dealing with complaints

39. Para 2(c) (indicated as 2(b) on Ofgem draft) – The same comments made in relation to SSC A19 Para 4(c) apply.

SSC A22 Reporting on Performance

40. Para 2(a) - NGG does not have systems or processes to record this information, nor do we believe it would be beneficial to customers for us to do so. The relationship between GDNs and customers is not the same as that of suppliers, in that, our contact with customers is infrequent, normally arising from one off events such as gas escapes or mains replacement. A password may therefore be used for the purposes of a mains replacement project, which is unlikely to occur again within the lifetime of the person for whom the record is kept. The costs

of providing and maintaining accurate information for such a system would therefore be disproportionate in relation to customer benefits.

41. Para 2(b) and 2(c) - GDNs currently report performance and compensation payments under the existing Ofgem Guidance for Reporting document using Ofgem's standards of service templates and we are not aware that this arrangement has given rise to any difficulty. We are, therefore, unclear as to why this obligation is necessary, as alignment with the electricity distribution licence is not of itself a compelling reason to amend the GDN licence.

SSC A30 Regulatory Accounts

42. See Licence mark up.

SSC A34 Appointment of a Compliance Officer

43. We have no objections to the proposal to allow GDNs to apply for dis-application of this condition.

SSC A35 Prohibition of Cross Subsidies

44. Para 5 - We believe that the reference to Article 17 of Directive 2003/55/EC is not required as the Directive is addressed to member states, not licensees. It has been implemented in the UK through this licence condition: as such, there is no need to refer to it directly.

SSC A37 Availability of Resources

45. We have no objections to this amendment.

SSC A38 Credit Rating of the Licensee

46. We have no objections to this amendment.

SSC A40 Price Control

47. See the answer to Question 4 of this section.

SSC A55 Enduring Offtake Arrangements

48. We support removal of this licence condition as it is no longer relevant to the GDNs.

SSC D5 Licensee's procurement and use of system management services

49. See licence mark up and the answer to Question 2 of this section.

SSC D7 Exit Code Statement

50. See licence mark up and the answer to Question 3 of this section.

SSC D8 Reform of Distribution Network interruption arrangements

51. We support removal of this licence obligation as it is no longer relevant to the GDNs.

SSC D9 Distribution Network transportation activity incentive scheme and performance reporting

52. Specified Information (b)(ii) and (b)(iii) – We suggest that these paragraphs are combined so that we only target customers who have reported an emergency and experienced repair work to the pipeline system.

53. Specified Information (e) – We do not support Ofgem's proposals in relation to reporting the accuracy of pipeline records as they will not improve record accuracy, merely the speed at which GDNs digitise their records. The only element that may provide some measure is the number of error correction reports, but even this is of limited value for the reasons set out below.

54. Existing pipeline records by their very nature are prone to inaccuracy, given the age of the majority of the network, urban and highway redevelopment and transposition errors or adjustments through migration from paper to digital records. The provision of the information required by Ofgem will not address any of these historical issues or, more fundamentally, improve the accuracy of pipeline records in future.

55. In October 2005, in response to an Ofgem consultation on pipeline record accuracy, we submitted quantifiable evidence from a number of separate sources including error correction reports from within NGG and Independent Connection Providers that demonstrated that 2 – 3.5% of existing pipeline records were inaccurate.

56. We take our responsibilities seriously with regard to accuracy of records and indeed are required by law under Section 79 of the New Roads and Street Works Act 1991 (NRSWA) to record the position of a main within 500mm of its actual location (legislation is currently being reviewed to improve accuracy to 100mm). We believe that the combination of the legal duties

under NRSWA and the quantifiable evidence of the accuracy of existing mains records brings into question the value or purpose of Ofgem's proposal.

57. We do not understand why paragraph 12 of the existing SSC D9 has been removed and consider that it should be re-inserted. The provisions of this paragraph provide an essential protection to licensees to ensure that major changes to the regulatory instructions and guidance are effected after a robust regulatory process has been conducted: this protection is necessary because, the real core of the obligations under this condition arise not as a result of the condition itself, but through the regulatory instructions and guidance created under them.

SSC D10 Quality of service standards

58. We do not support Ofgem's proposals with respect to transferring emergency standards into this licence condition and we set out our position in more detail within our response to Ofgem's Initial Proposals consultation. Our concerns arise in two particular areas. The first relates to the confusing effect of placing emergency standards of service and accompanying requirements within a licence condition that was specifically created at the time of network sales for connections related standards of service and associated activities. This confusion is amply demonstrated by drafting errors such as, the requirement for an accuracy audit of attendance at gas emergencies. Whilst it may be expedient to utilise an existing licence condition, the confusion and lack of clarity created by attempting to "shoehorn" new text into a condition designed for other purposes will frustrate interpretation for those who consult the licence in future.

59. Ideally therefore, any provisions regarding the emergency standards of service should be placed in a discrete licence condition where the meaning of the standards and associated requirements are clearly set out.

60. Paras 1(c) and 1(g) should be amended to remove the reference to "significant" in respect of carbon monoxide "escapes" as it will not be clear to members of the public what is, or isn't a "significant escape" of carbon monoxide. The text used in SSC A8(1)(iii) is more appropriate, namely, "emissions of carbon monoxide".

61. Para 3 should be amended such that it refers directly to para 1(a)(i).

62. Paras 4 and 7 should be amended such that they refer directly to para 1(a).

63. The second issue relates to Ofgem's stated intent to strengthen its position in relation to failure to meet the standards of service. We believe it is neither in Ofgem's interests nor

those of GDNs and more importantly, will not better protect the interests of consumers, as arguably this function is already performed under the Gas Safety (Management) Regulations (GS(M)R), where failure to meet the standards can lead to the criminal prosecution of a GDN.

64. Under a direction issued by the Authority on 25 May 2005 pursuant to SSC A41 Emergency Services to or on Behalf of Another Gas Transporter, GDNs have entered into agreements to provide emergency services where a major loss of supply has occurred. If a GDN responded to a request from another GDN under this licence condition, it could put at risk its ability to meet its own emergency standards of service and in turn, breach its licence as a direct consequence of meeting its obligations under SSC A41. Such a situation places the GDN in a position where it must choose between obligations, which can't be in the interests of gas customers.

65. The current provisions of section 33BA(3) of the Gas Act provide Ofgem with the opportunity to take pre-emptive action against a GDN even if it is currently meeting the standards of service. It also enables action to be taken and in the event of a failure to meet the standard. Far from strengthening Ofgem's position, the proposals significantly limit its discretion, forcing it into the enforcement process if a failure of the standards occurs, irrespective of the reason. In passing the Gas Act, Parliament decided to include section 33BA(3) and it is therefore of serious concern that Ofgem should seek to change this intent in their proposals.

Metering Obligations

66. As we stated during the 2006 Metering Price Control consultation, we do not agree that the Competition Act investigation has any bearing on either the need to review the requirement for tariff caps or the relevant licence conditions. We believe Ofgem should therefore carry out a review as soon as reasonably practical.

Gas (Standards of Performance) Regulations (G(SP)R)

67. We have suggested a number of drafting amendments within the accompanying G(SP)R document. Of these amendments, there are three issues we wish to highlight in the following paragraphs.

68. Regulation 7 Supply Restoration – We believe the regulation should be amended in a manner that requires the downstream gas transporter affected by an upstream supply interruption to compensate its consumers in the first instance and then recover the costs of such compensation from the upstream gas transporter. This has several major advantages, the first of which is that customers can expect timely compensation from the network operator who is best placed to support them. The second is that it avoids the situation where delays,

errors or disputes between network operators lead to customers not receiving their entitlement to compensation. The network operators can then agree reimbursement between themselves after the event when circumstances are clearer. Similarly, any issues over late payment compensation are equally clear.

69. Regulation 10A Notice of Planned Interruptions – We do not support the provision of a 7 day window during which an interruption would be expected to take place, as this could unduly limit the scheduling of works between the GDN and customer. In the normal course of planned interruptions, our workforce liaises closely with customers to agree interruption times, which will vary considerably depending on the circumstances and complexity of the works. The critical issue is whether the customer is satisfied with information provided (and adhered to) rather than whether the job is completed within a 7 day window. Should customers not be satisfied, this will be reflected in the customer surveys under SSC D9.

70. Regulation 10B Responding to Complaints – As this proposed regulation has been incorporated as a guaranteed rather than an overall standard, with compensation payable for failure, we do not believe it is reasonable to include verbal complaints. It is very often difficult for GDNs to differentiate between complaints and enquiries. In some cases it is obvious, but in many it is not clear what the customer's intentions are, although this task is made easier when correspondence is received. In such cases, the customer believes the issue is of sufficient importance that it merits complaint or comment and the GDN can formally log receipt and manage the correspondence appropriately. The potential for misunderstanding is much greater for verbal complaints, even when directed to a specified telephone number. This is not to suggest that verbal complaints would be ignored, rather to provide some ability for the GDN to administer a scheme efficiently and provide compensation where required while minimising the scope for error.

71. Although we have supported Ofgem's proposal to introduce compensation for customers who do not receive a timely response to a complaint, we do not agree that it is appropriate to require additional payments to be made upto a cap. Together with remedies that customers will have through the Redress schemes required by the Consumers and Estate Agents Redress Act, we believe levels of customer protection will be such that additional payments under this regulation are unnecessary.

SLC 4B Connection Charging methodology

72. As Standard Condition 4B affects all gas transporters, it is not a price control specific issue and should properly be dealt with through dialogue with all transporters in order to develop a fit for purpose licence condition. We believe it would be more appropriate to consult on any changes after the GDPCR is complete. This would ensure that it is reviewed carefully by

those affected, including IGTs, and a more robust consultation process would take place, leading to better policy outcomes. IGTs, in particular, cannot be expected to locate changes within a consultation on GDPCR issues which affect them so directly. Given the extremely heavy workload associated with price controls it is difficult for those involved, including Ofgem to give due regard to every licence condition amendment. If a change is not fundamental to the GDPCR (and this is clearly not), it should be dealt with at a later date.

73. Para 5(b) – We believe the requirements under this paragraph are unnecessary as they are already dealt with by primary legislation in each case. The first obligation for the methodology to facilitate competition in the supply of gas is met through the duty to facilitate competition in the supply of gas in section 9(1A) of the Gas Act. The second, not to restrict, distort, or prevent competition in the transportation of gas is covered by licensees' obligations under Part 1 of the Competition Act 1998.

74. Para 9 – Our current charging statement contains tables of standard charges for each category of work together with a number of examples demonstrating how those charges are applied. We do not provide a detailed breakdown on how the charges are derived for bespoke connections which require an individual estimate, nor do we believe this is either practical or economic. For those GDNs who might wish to compete in the non domestic market, it would also put them at an unfair competitive disadvantage to force them to reveal their pricing strategies. We are therefore concerned by the provisions within para 9(b) which could be construed as an obligation to publish detailed charging information. We believe this is not Ofgem's intention and therefore suggest that para 9(b) is either amended accordingly or removed.

Question 2: Is the information provided by the GDNs under SSC D5 - licensee's procurement and use of system management services, useful? Is there any specific additional information that GDNs can provide to increase transparency in the use oftheir constraint management tools

75. Given the scope of this revised licence condition, we believe the reporting, consultation and audit requirements are disproportionate and unnecessary. If Ofgem are not prepared to remove the condition entirely, then it should be rationalised such that these obligations are reduced to provide the minimum constraint management services information and a facility is provided for Ofgem to issue derogations in respect of those that remain.

Question 3: Is it appropriate to remove D7 - exit code statement? If so why?

76. We are unclear what value the D7 exit code statement (or the equivalent C17 in the NTS licence) continues to provide following the formal separation of Transmission and Distribution

in 2005 and, therefore, believe that it should be removed from the licence (along with C17 of the NTS licence). However if Ofgem do consider this data is useful, we believe that it would be appropriate for the licence condition to be removed and the data to be requested through the regulatory cost reporting pack. This would be consistent with Ofgem's desire to consolidate the current raft of reporting requirements into a small number of consolidated packs.

Question 4: How should the scope of A40 - Price Control information, be defined to capture information from GDN affiliates or related undertakings?

77. Our ability to comment on this condition is limited because of the lack of certainty about the form of the cost reporting pack.

78. As we have set out in our response to the cost reporting consultation we agree that it is appropriate that Ofgem should be able to review the costs incurred by the GDNs, irrespective of whether the costs were initially incurred by an affiliate or related party. However we would urge caution before introducing an absolute licence condition with immediate effect because the GDNs may face being in breach of their licence when they have not had time to co-ordinate the collation of the data from affiliates because the form of the cost reporting pack is not yet known.

79. We also believe that the proposed timescales are onerous, especially in the first year of a new regime. It would be sensible to provide a derogation facility to allow for the inevitable teething problems in the first year and to provide some flexibility for Ofgem in subsequent years. We also believe that it would be appropriate that Ofgem stagger the submission of packs from National Grid Transmission and Distribution. This is particularly important; when it is considered that there are material differences between the two packs. This would enable National Grid to cope better with the different reporting requirements without having to invest in additional resources merely to support Ofgem's reporting timetables.

Question 5: Do respondents believe that the powers of the Authority should be similar to those that exist in respect of connection charges on other categories of gas and electricity network?

80. In general, there is merit in providing consistent regulatory treatment between electricity and gas networks. However, this should be tempered with recognition that the characteristics of gas and electricity networks and markets are different and therefore may require different frameworks. It would not be appropriate for the Authority to seek to increase its powers on

the basis of current electricity licence obligations without first being satisfied that the existing provisions were not working effectively and that additional regulation was therefore necessary.

Question 6: Do respondents believe that the need to consult prior to amending the charging methodology is unduly onerous?

81. We have specific concerns around the inter-relationship between charging methodology and cost recovery. A consultation process would further restrain our discretion to develop charging structures that allow us to recover our costs efficiently, placing us at risk of disallowance at subsequent price controls. This is not an academic argument as we have found during the last price control where there has been considerable pressure on regular occasions to keep prices down and alter charging methodologies to meet consumer expectations. A formal consultation process would greatly magnify this effect and could reduce our ability to manage our business effectively and put at risk the adequate funding of connections services.

82. Returning to the central point outlined in the answer to Question 5, we believe that if the current approach to amending the charging methodology is working adequately (and we are not aware that this has been highlighted as a problem), we would wish to see some evidence that would justify additional licence obligations. Assuming this question relates to the proposed paragraph 6 of Condition 4B, we note that this is not a feature of the equivalent Condition 4B of the electricity network licence or the revised draft being prepared as part of the electricity network operators licence review. In considering changes Ofgem should continue to have regard to the Better Regulation principles and in particular, those of proportionality and targeting, which provide a useful guide in this regard.

Chapter Four: Next Steps

Question 1: Is the timetable set out in this chapter appropriate?

83. We believe that the timetable set out in the consultation process is appropriate provided that a number of the outstanding areas are addressed.

Standard Special Conditions Section A - NGGD Comments

Standard Special Conditions Section A

Standard Special Conditions Section D - NGGD Comments

Standard Special Conditions Section D

Special Conditions Part E - NGGD Comments

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Statutory Instrument - NGGD Comments

Statutory Instrument - NGGD Comments