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Our Ref: AHT/CB/GDPCR 221_07 226_07 response

Dear Ayesha

National Grid Gas plc Transmission response to GDPCR: Initial Licence Drafting Consultation (221/07) and Updated Proposals Document (226/07)

This is the response of National Grid Gas's transmission business (referred to in this letter as "National Grid Gas Transmission") to the above consultations.

For ease of reference, we have structured our response in line with the questions raised in the consultation documents.

With regard to the consultation process, we have some concerns over the number of changes proposed which are not associated with the GDPCR, namely those to Standard Condition 4B. Our concern is that such changes will also affect IGTs. Given that these changes are being proposed within a consultation on the GDPCR, it is likely that not all parties who will be affected by the proposed changes will have given them due consideration, or necessarily have picked up that the changes are being proposed. As a result, we consider that the changes to Standard Condition 4B should be removed from the GDPCR process and consulted on separately, in order to ensure that a robust pre-statutory consultation process can be conducted to capture the views of all affected parties.

Initial Licence Drafting Consultation: Chapter Three

Question 1: Are our proposed changes to Standard Special Conditions ("SSCs") in Part A and D appropriate?

We have set out our comments on individual SSCs below. We attach a draft of SSC A15 and A30 marked-up against Ofgem's draft. We note that the consultation draft did not show any marked changes as being proposed to the following SSCs in Part A: A33, A36 and A39. We therefore seek confirmation that no changes to these conditions are planned.

We consider that the proposed changes for SSCs A34, A35, A37 and A38 are appropriate.

SSC A15 Agency Services

We note that the drafting for SSC A15 is not yet complete and future drafting will take into account the governance arrangements being developed by the industry group established for that purpose. National Grid Gas Transmission is actively participating in the industry group.

We also note that the recent Transmission Price Control Review established an interim price control arrangement for the costs we incur in funding xoserve activities for the 2007/08 financial year and we are in discussions with Ofgem for funding for future years.

The majority of the service lines initially identified by the industry group as those to be covered by the “user pays” arrangements from 1 April 2008 do not currently impact on National Grid Gas Transmission. It is not yet clear to us what proportion of the £2.83m per annum identified in the Updated Proposals Document (226/07 para 3.31) as user pays service costs is proposed to be removed from National Grid Gas Transmission’s allowance. Paragraph 3.31 states that the annual figure will be apportioned across the gas transporters in the same ratio as their share of xoserve’s opex. Therefore, we would assume that Ofgem proposes to remove 11% of the £2.83m per annum from National Grid Gas Transmission’s allowance, but request clarification on our assumptions.

We recognise that if the “user pays” arrangements were implemented, it is possible that they would develop over time and additional services might be added that could have an impact on National Grid Gas Transmission. Were such a situation to arise, we believe that the funding arrangements would need to be revisited. This would prove simpler were the “agency user pays services” defined other than in the licence. As a result, we consider that the scope of “user pays services” should not be set out in full in the licence, but should be defined by reference to another document (such as the statement proposed in accordance with paragraph 7 of the revised condition) in order to avoid the need to amend SSC A15 in the event of a change to the scope of user pays services. Please see our comments on the precise changes to the drafting of SSC A15 in the attached mark-up (which has been change-marked against Ofgem’s proposed drafting).

SSCs A19 to A22

On reflection, we consider that the provisions of SSC A19 to A22 were placed in Section A in error at the time of network sales. For physical reasons, it is not possible for the NTS to have any domestic properties connected to it. As such, these provisions are of no relevance to the NTS licensee and should not bind it. We therefore suggest that these provisions are removed from Section A and placed in Section D in order to target only the DN operators for whom these conditions are relevant. Any proposed amendment to these conditions whilst they reside (inappropriately) in Section A will, of course, be dependent on the relevant proportion of all licence holders subject to the Section A conditions (by both number and market share) not objecting to the proposed modifications.

SSC A30 Regulatory Accounts

We suggest that references to the Companies Acts 1985 and 1989 be updated throughout this condition in light of the coming into force of the Companies Act 2006. Please see our comments on the precise changes to the drafting of SSC A30 in the attached mark-up (which has been change marked against Ofgem’s proposed drafting).

SSC A40 Price Control Review Information

Paragraph 3.47 of the consultation document includes a proposal to insert a corporate governance requirement into condition SSC A40. In the absence of drafting, we have assumed that the form of this would be identical to that inserted into SSC A40 by Special Condition C1B (Amendments to Standard Special Conditions A37 (Availability of Resources) and A40 (Price Control Review Information) of National Grid Gas’s gas transporter licence in respect of the NTS, effective from 1 April 2007, and, if that assumption is correct, consider that this would be appropriate.

A55 Enduring Offtake Arrangements

We support the removal of the obligations set out in SSC A55 from all NTS and DN operator licences as proposed in the consultation.

Question 2: Is the information provided by the GDNs under SSC D5 – licensee’s procurement and use of system management services, useful?

We note, in paragraph 3.56, the intention to remove the requirement to report on the procurement of shrinkage gas in the licence obligation. While we understand the argument used for the removal, that the GDNs do not have a system balancing role and as such would not face the perceived perverse incentive, we do not consider it appropriate. The GDNs continue to be incentivised on shrinkage costs

and therefore we consider that the reporting requirement should remain, in the interests of transparency and to allow interested parties to satisfy themselves of the efficiency of the GDNs' procurement actions.

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

In paragraph 3.66 of the Initial Licence Drafting consultation, it states that "Our proposed changes to SLC 4B are not associated with GDPCR". We therefore have some concerns (outlined above) over the visibility of the consultation process to all parties affected by SLC 4B, particularly given the nature of the proposed changes. Notwithstanding these concerns, we have a number of comments on the proposed drafting as set out below.

Paragraph 5(b) amends the relevant objective pertaining to the facilitation of competition in the supply of gas by adding the following requirement: "*compliance with the connection charging methodology facilitates competition in the supply of gas and does not restrict, distort, or prevent competition in the transportation of gas conveyed through pipes*". We do not believe the additional drafting is necessary as gas transporters are already obliged to comply with Part I of the Competition Act 1998 which prohibits such anti-competitive activity.

Paragraph 9(b) requires a statement which "*is in such form and with such detail as are necessary to enable any person requiring a connection to make a reasonable estimate of the charge to which they would become liable*". We recognise that customers might benefit from the certainty that might be gained from licensees being able to set out in a charging statement how much it would cost them to obtain a connection. However, we are concerned that this is not practicable from an NTS perspective (even if it is practicable for other licensees). This is because we make a small number of high-value, non-standard connections to the NTS for connectees such as power stations, DNs, entry terminals and storage facilities each of which requires bespoke and highly detailed design work. The costs for this design work (and the associated construction) are dependent, amongst other things, on the capability of the NTS in the vicinity of the point of connection, the proximity of the NTS to the connectee, local site conditions and whether the connection is for entry, exit or storage purposes. As a result, we consider it will not be possible for National Grid Gas Transmission to produce a statement which meets this proposed requirement.

Given these concerns and the fact that the proposed changes are not directly associated with the GDPCR process, we consider that it would be beneficial to remove the SLC 4B proposals from the GDPCR process to allow a more in-depth consideration of the issues by the affected parties. It may also be worth considering developing separate conditions: one for the NTS and a second for the GDNs and iGTs (or potentially a third for the iGTs), depending on the issues which come to light during such consultation.

Gas (Standards of Performance) Regulations ("GSOP Regulations")

We note that you have proposed revisions to the GSOP Regulations in both the Initial Licence Drafting Consultation and the Updated Proposals Document.

In paragraph 3.22 of the Initial Licence Drafting consultation, you state your intention to amend the GSOP Regulations to allow a GT who is required to compensate a consumer connected to its network to claim an exemption if the interruption which prompts the compensation claim originated on another GT's network. We consider this to be a change to the existing policy for loss of supply caused by third party damage and water ingress interruptions, set out in the Letter of Understanding dated 1 May 2005 which states:

"As such, the existing caps and annual aggregate caps on liabilities for Transco as a whole will no longer apply. Instead they will be replaced by separate incident caps and annual aggregate caps for each DN."

The existing Letter of Understanding for 2007-08 continues these arrangements and expires on 31 March 2008.

The proposed amendments to the GSOP Regulations to remove the exemption for third party and water ingress interruptions mean that National Grid Gas Transmission could be impacted by the terms of the supply restoration standard (Regulation 7). We recognise that the exemption to incidents where more than 30,000 customers are affected makes this unlikely, however such a fundamental change in policy deserves due consideration and we therefore believe that these changes should be consulted on outwith the GDPCR process. Our initial view is that we do not agree with these proposals, but we would be happy to work with Ofgem to consider the issues in more depth and find a solution.

Furthermore, in paragraph 5.21 of the Updated Proposals Document, you signal an intention to introduce a new standard licence condition for GTs which appears to mirror the amendments to the GSOP regulations. We are unclear why both changes would be required as they appear to have the same goal and therefore do not believe a new standard licence condition is required.

Initial Licence Drafting Consultation: Chapter Four

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

We consider that the proposed timetable is appropriate. We note that the statutory licence and statutory instrument consultation is scheduled for 15 February 2008 and anticipate that this will incorporate the private collective licence modification procedure as detailed in SSC A2 as required for the Part A SSCs.

Updated Proposals Document: Chapter Four

In paragraph 4.18 it states:

"PB Power considers that some additional capacity has been released back to the NTS following work in the South East LDZ and this could now support South LDZ via an NTS transfer. We will need to undertake further discussions with the NTS and SGN to discuss the capacity transfer and may need to amend our allowances in final proposals in light of this."

We are unsure what is meant by an "NTS transfer" and would welcome the opportunity to discuss this with Ofgem, as proposed in paragraph 4.18.

Updated Proposals Document: Chapter Six

Question 4: Do you agree with our approach to the capacity outputs incentive? What are the issues raised by incentivising or not NTS flex capacity?

We do not consider the following statement in paragraph 6.31 to be accurate:

"Because NTS flex capacity is produced as a by-product of investing for flat capacity, and the NTS incurs no incremental cost in providing it, the NTS does not charge anything for its use. This means that under the transitional arrangements the NTS exit capacity charges faced by shippers are driven solely by the GDNs' flat capacity bookings."

NTS exit capacity charges for the interim and transitional arrangements are based on forecast 1-in-20 peak flows. NTS exit flat capacity bookings by GDNs are made under the OCS process and therefore do not directly influence NTS exit capacity charges.

GDNs book NTS exit flat and flex capacity under the OCS process. Once NTS has agreed to a GDN request to increase its flat or flex capacity booking, that booking will prevail until the GDN chooses to reduce its booking and NTS cannot unilaterally reduce a GDN booking of NTS exit flat or flex capacity once it is made. Historically, NTS exit flex capacity bookings would have been minimised and primarily used to support the GDNs where no other viable alternative was available, for example, where investment could not be made on the GDNs' systems within the timeframe required. Going

forward, unless GDN flex bookings are controlled via an incentives mechanism, there is a risk that GDNs preferentially book NTS exit flex capacity rather than invest in their own networks. This could lead to constraints on the NTS which could disadvantage other NTS users or other GDNs, therefore we would support incentivising GDNs' flex bookings.

Should you wish to discuss any of the issues raised in our response, please do not hesitate to contact me or Alex Thomason on 01926 656379.

Yours sincerely

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Cc: Mark Cox, Ofgem

Enc: National Grid Gas Transmission comments on proposed Part A SSCs licence drafting