

Notice under section 23 of the Gas Act 1986

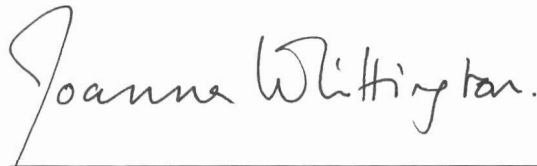
The Gas and Electricity Markets Authority (the "Authority") hereby gives notice pursuant to section 23 of the Gas Act 1986 (the "Act") as follows:

1. The Authority proposes to modify the gas transporter licences granted or treated as granted under section 7 of the Act (the "licences") to all gas transporters by altering standard licence condition 4B (Connection charges etc), the draft amended text of which is in Schedule 1 to this notice).
2. The reasons why the Authority proposes to make the licence modification and its effect are mainly set out in various documents published on behalf of the Authority, which are available free of charge from the Ofgem library (telephone: 020 7901 7003) or on the Ofgem website (www.ofgem.gov.uk) including –
 - a. *'Gas Distribution Price Control Review Initial Proposals Document*, Ofgem, 29 May 2007, ref: 125/07;
 - b. *'GDPCR: Initial Licence Drafting Consultation'*, Ofgem, 10 September 2007, ref: 221/07;
 - c. *'Gas Distribution Price Control Review Updated Proposals Document*, Ofgem, 24 September 2007, ref: 226/07;
 - d. *'Open letter on Ofgem's proposals to implement revised standards of performance arrangements for gas transporters'*, Ofgem, November 2007, ref: 279/07;
 - e. *'Gas Distribution Price Control Review', Final Proposals Decision and Supplementary Appendices Documents*, Ofgem, December 2007, ref: 285 and 285a/07; and
 - f. *'GDCPR: Second Licence Drafting Consultation'*, Ofgem, 11 December 2007, ref: 290/07,

and in summary, the reason for the proposed licence modification is to implement changes to the regulatory framework which have been consulted on as part of, or in conjunction with the Gas Distribution Price Control Review; in particular, changes that facilitate gas transporter network extensions to fuel poor communities and impose an obligation for gas transporters to seek the Authority's approval to their connection charging methodologies, consistent with other charging methodologies.

3. The effect of the licence modification is to protect the interests of consumers, particularly low income consumers and those residing in rural areas, and contribute to the achievement of sustainable development.

4. Relevant licence holders for the purpose of giving notice of objection to the modification proposals are all gas transporters in whose licences Standard condition 4B (Connection charges etc) is in effect on the expiration of this notice.
5. A pro forma that a relevant licence holder may wish to use in order to give notice of objection to the proposal is at Schedule 2 to this notice.
6. Any representations or objections to any of the proposed modifications must be made in writing on or before 20 March 2008 to Ayesha Uvais, Office of Gas and Electricity Markets (Ofgem) 9 Millbank, London SW1P 3GE (0207 901 7307) or via email to Ayesha.Uvais@ofgem.gov.uk and if a respondent does not wish its response to be made public, the response should be clearly marked as not for publication.



Joanna Whittington
Director, Gas Distribution

Duly authorised on behalf of the
Gas and Electricity Markets Authority

21 February 2008

SCHEDULE 1 TO NOTICE UNDER SECTION 23 GAS ACT 1986

[Proposed SLC4B text]

Condition 4B. Connection Charging Methodology

1. Subject to paragraph 2, where any pipe is supplied and laid by the licensee in discharge of the duty imposed by section 10(2)(a) of the Act, for the purpose of connecting premises (“the premises concerned”) to a relevant main, the licensee may charge the person requiring the connection (“the person concerned”) in respect of the cost of supplying and laying the pipe-
provided that in a case in which the supply of gas is to domestic premises, the licensee shall only so charge in respect of the cost of supplying and laying the pipe insofar as it is attributable to the supplying and laying of -
 - (a) so much of the pipe as is laid upon property owned or occupied by the person concerned, not being property dedicated to public use; and
 - (b) so much of the pipe as is laid for a greater distance from a relevant main than 10 metres, although not on such property as is mentioned in sub-paragraph (a).

2. Paragraph 1 shall have effect as if the proviso thereto were omitted where –
 - (a) the person concerned may be required in pursuance of regulations made, or having effect as if made, under section 10(7) of the Act to make a payment in respect of the expenses of the main used for the purpose of making the connection; or
 - (b) the premises concerned are in an area designated for the purposes of standard condition 4C (Charging of Gas Shippers – Supplemental Connection Charges) and the charges to be made of a gas shipper by the licensee in respect of the conveyance of gas to those premises would include a supplemental charge where appropriate.

3. The licensee shall by 1 April 2008 determine and comply with a connection charging methodology approved by the Authority showing the methods by which, and the principles on which, (consistently with its duties under section 9 of the Act) -
- (a) where a connection is required in pursuance of subsection (2) of section 10 of the Act, charges in respect of the cost of connecting, supplying and laying a pipe or the expenses of the laying of a main are normally to be determined in different cases or circumstances;
 - (b) where a connection is required in a case not falling within subsection (1)(a) or (b) of the said section 10 and the premises are not likely to be supplied with gas at a rate exceeding that from time to time mentioned in subsection (8) of the said section 10 (subject to section 8A(1) of the Act, 2,196,000 kilowatt hours in any period of 12 months), the charges to be made for the connection, including charges for supplying and laying a pipe are to be determined;
 - (c) where a connection or disconnection is required in the case of any premises likely to be, or which have been, supplied with gas at a rate exceeding that from time to time mentioned in subsection (8) of the said section 10, the charges to be made for the connection or disconnection including, so far as appropriate, charges for supplying or laying a pipe or main and charges in respect of anything done or provided in connection with the connection or disconnection in different cases or circumstances are to be determined;
 - (d) without prejudice to sub-paragraph (a), in the circumstances mentioned in subsection (10) of the said section 10 (read with any regulations under subsection (11) thereof), charges under the said

subsection (10) are normally to be determined in different cases and circumstances;

- (e) where a connection is required to a pipe comprised in the pipe-line system to which this licence relates to enable gas to be introduced into, or taken out of that system, charges in respect of the connection are normally to be determined in different cases or circumstances; and
 - (f) where a connection is required for works including, in particular, works to increase the capacity of a high pressure pipe-line and by way of the supply and installation of a pipe-line, charges in respect of the connection are normally to be determined in different cases or circumstances.
4. The licensee shall, for the purpose of ensuring that the connection charging methodology continues to achieve the relevant objectives:
- (a) review the connection charging methodology at least once in every year; and
 - (b) subject to paragraph 6, make such modifications (if any) of the connection charging methodology as are necessary for the purpose of better achieving the relevant objectives.
5. In paragraph 4 and below, the relevant objectives are that:
- (a) compliance with the connection charging methodology facilitates the discharge by the licensee of the obligations imposed on it under the Act and by this licence;

- (b) 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;
 - (c) compliance with the connection charging methodology results in charges which reflect, as far as is reasonably practicable (taking account of implementation costs), the costs incurred by the licensee in its transportation business and, where the Act enables, to charge a reasonable profit;
 - (d) so far as is consistent with sub-paragraphs (a), (b) and (c), the connection charging methodology, as far as is reasonably practicable, properly takes account of developments in the licensee's transportation business; and
 - (e) compliance with the connection charging methodology ensures that the licensee shall not show any undue preference towards, or undue discrimination against, any person who operates, or proposes to operate, a pipe-line system in relation to the connection of that system to the pipe-line system to which this licence relates.
6. The licensee shall not make a modification to the connection charging methodology unless it has furnished the Authority with a report setting out:
- (a) the terms proposed for modification;
 - (b) how the proposed modification would better achieve the relevant objectives; and
 - (c) a timetable for implementing the modification and the date with effect from which the modification (if made) is to take effect, being not earlier than the date on which the period referred to in the sub-paragraph below will expire,

provided that where the licensee has complied with the requirements above, it will not make any modification to the connection charging methodology where the Authority has within 28 days (or within three months if the Authority intends to undertake an impact assessment) of the report being furnished to it under sub-paragraph (b) given a direction to the licensee that the modification shall not be made.

7. The licensee shall, before making the modification:
 - (a) revise the connection charging methodology so that it sets out the changed methods and principles and specifies the date from which it is to have effect; and
 - (b) furnish the Authority with a copy of the revised connection charging methodology.

8. The licensee shall -
 - (a) publish the connection charging methodology under paragraph 3 or 7 in such manner as will secure adequate publicity for it and, in the case of a connection charging methodology furnished under paragraph 7, shall so publish it before the effective date thereof;
 - (b) publish with any such connection charging methodology so published a statement that any complaint in respect of a charge to which the connection charging methodology relates, if not resolved between the licensee and the complainant, may be referred to the Authority by letter addressed to the Authority at an address specified in the statement; and
 - (c) send a copy of any such connection charging methodology and statement so published to any person who asks for one.

9. The licensee shall prepare and furnish the Authority with a statement, or revision or amendment of a statement, which:
 - (a) sets out the basis on which charges will be made for the provision of connections to the pipe-line system to which this licence relates;
 - (b) where appropriate and practicable, is in such form and with such details and examples as are necessary to illustrate to any person requiring a connection how charges are applied for different categories of connection; and
 - (c) is in accordance with connection charging methodology.

10. The licensee shall:
 - (a) publish the statement under paragraph 9 in such manner as will secure adequate publicity for it; and
 - (b) send a copy of any statement under paragraph 9 to any person who asks for one.

11. References in this condition to charges exclude references to supplemental charges within the meaning of standard condition 4C (Charging of Gas Shippers – Supplemental Connection Charges).

12. The licensee shall establish, and keep up to date, a register (or separate registers for different areas) of pipes which have vested in it and become its property by virtue of section 10(6) of the Act and fall within section 10(13)(b) but have not been declared relevant mains under section 10(13) thereof; and an entry in the register in respect of a particular pipe-

- (a) shall contain sufficient particulars to enable the pipe to be identified;
 - (b) shall be made within 28 days of the pipe vesting in, and becoming the property of, the licensee; but
 - (c) shall be deleted, as soon as is reasonably practicable, if the pipe in question is subsequently declared a relevant main under the said section 10(13).
13. The licensee shall make arrangements for a copy of the said register (or of the information contained therein) to be available for inspection, electronically, where possible at reasonable times, if it has area offices, at those offices or, if it has not, at its principal office; and, for the purposes hereof, “area office” means one which is fixed for an area for the purposes of section 46(3) of the Act.
14. In this condition, any reference to the making of a charge -
- (a) in relation to the supplying or laying of a pipe in pursuance of section 10(2)(a) of the Act, is a reference to requiring that the person requiring the connection defrays the whole or a part of the cost thereof;
 - (b) in relation to the laying of a main used for the purpose of making a connection and in the circumstances mentioned in section 10(7) of the Act, is a reference to requiring, in pursuance of regulations under that provision, that the person requiring the connection pays an amount in respect of the expenses of the laying of the main; and
 - (c) in the circumstances mentioned in subsection (10) of section 10 of the Act (read with any regulations under subsection (11) thereof), is a reference to requiring the person requiring a connection to be made

or maintained in pursuance of subsection (2) or (3) of the said section 10 to make such payments as are mentioned in the said subsection (10),

and cognate expressions shall be construed accordingly.

SCHEDULE 2 TO NOTICE UNDER SECTION 23 GAS ACT 1986

Pro forma Notice of objection

In response to the statutory notice dated 21 February 2008 proposing to collectively modify standard licence condition 4B (Connection charges etc) of all the licences granted or treated as granted under section 7 of the Gas Act 1986 to gas transporters, this notice constitutes an objection to those proposals¹ on behalf of [*state full name of objecting gas transporter*].

I confirm that I am duly authorised to give this notice of objection on behalf of [].

Signed

Date:

[Address for acknowledgment, preferably including email address]

¹ Please set out details of objection