



Consumers and their representatives, gas distribution networks (GDNs), the national transmission system (NTS), independent gas transporters (IGTs), gas shippers and suppliers and any other interested parties.

*Promoting choice and
value for all customers*

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Date: 21 February 2008

Dear Colleague

Gas Distribution Price Control Review: statutory consultation on the licence modifications

Ofgem has today published a statutory consultation on the proposed modifications to the gas transporters' licences which are necessary to implement the gas distribution price control proposals which were published on 3 December 2007.

This letter provides an explanation of the notices on which we are consulting as part of the statutory licence consultation and seeks to clarify some outstanding issues in respect of the tax liability re-opener, the direction from the Secretary of State on independent systems, further amendments to the numbers in the Annexes in the Special Conditions (SCs) to Part E and the level of accuracy of the information sought in the annexes in SC Part E.

The statutory consultation consists of nine separate notices as set out below:

1. Section 23 notice for individual amendments to Special Conditions (SC) E1 to E22 which applies to the Independent Distribution Networks (IDNs) and the Retained Distribution Networks (RDNs);
2. Section 23 Notice for individual amendments to SC E23 which applies to some IDNs only;
3. Notice under Standard Special Condition (SSC) A2 for collective amendments to Part A which applies to all the Gas Distribution Networks (GDNs) and NGG NTS;
4. Notice under SSC D2 for collective amendments to Part D which applies to all the GDNs (RDNs and IDNs);
5. Section 23 notice for collective amendments to Standard Licence Condition (SLC) 4B which applies to the GDNs, NGG NTS and the Independent Gas Transporters (IGTs);
6. Section 23 notice for collective amendments to SLCs 1 and 20 which applies to the GDNs, NGG NTS and IGTs;
7. Section 23 notice for collective amendments to SLCs 17,18,19,21,22,44 and 46 which applies to the IGTs;

8. Section 23 notice for individual amendments to SCs C1B, C8B and C26 which applies to NGG NTS; and
9. Section 33BAA notice determining the overall standards.

Consistent with paragraphs 3.29 to 3.32 of the GDPCR second licence drafting consultation document¹ we will only implement the Section 33BAA notice revoking the overall standards of performance if the relevant gas transporters agree to implementation of SSC D10 (Quality of service standards) and SLC 22 (Provision of information during unplanned interruptions).

The GDNs have requested further clarity on the application of the tax reopener (Part D of SC E7). We have endeavoured to make the licence requirements as clear as possible, but are happy to give further clarification. To the extent that prospective payments of tax before any appeal process has been concluded can be demonstrated to be cost-effective (for example, if supported by professional advice) we would consider applications for an adjustment to allowed revenue in the year that such payments will fall to be made. The amounts allowed for each GDN will not be determined by the actual payments made by the GDN, but by our assessment of how the potential change in tax treatment could impact allowed revenue under our financial model, adjusted for the expected timing of tax payments.

Any amounts recovered from customers in this way are still subject to the test of reasonable endeavours, and so may be clawed back, with appropriate present value adjustments once the matter has been settled if the Authority does not consider that the test has been met. We do not propose to make allowances for the costs of appeal, as we consider these to be the type of expenditure implicitly covered by existing allowances.

In November 2007 the Department for Business, Enterprise and Regulatory Reform (BERR) published its 'Proposal to Continue Cross-Subsidy Arrangements for Independent Systems' setting out its final proposals on this issue. BERR has yet to issue a direction to make its proposals effective however we understand that this direction is imminent. Consequently, we have drafted SC E23, Gas Conveyed to Independent Systems, which applies to the IDNs and SC C26, Gas Conveyed to Independent Systems, which applies to National Grid Gas NTS which we will intend to implement if BERR issues its direction within the 28 day statutory consultation period for these licence conditions, provided the licensees consent.

In paragraph 4.31 of our final proposals, we explained that the final allowances for Northern Gas Networks and Wales & West Utilities included funding for two LTS projects on the basis that an ARCA would be signed by the end of February 2008 confirming the requirement for this capital expenditure. We also said we would deduct the costs from the allowances if the requirement was not confirmed. In neither case have we received confirmation that the ARCA has been signed, but note that the deadline has not yet passed. Accordingly we have not yet adjusted the allowances, but we will do so in the final version of the licence if no ARCA has been signed.

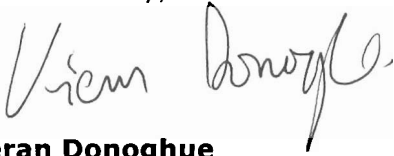
The Annexes of SC Part E applicable to the IDNs and RDNs set out the parameters which are specific to each GDN. Many of these annexes include allowances presented in £m to two decimal places, which is consistent with the level of accuracy we intend to use in the revenue reporting instructions and guidance, which will be published shortly. For the avoidance of doubt amounts presented in £m should be treated as being £. For example, 5.55 presented in £m is £5,550,000 and all revenues in Part E will be construed in this way.

Any representations or objections to the proposed notices must be made in writing by 20 March 2008. They should be sent to Ayesha Uvais, who can be contacted on 020 7901

¹ GDPCR: Second Licence Drafting Consultation Document, 11 December 2007, Ref: 290/07

7307 or by email at Ayesha.Uvais@ofgem.gov.uk. I would be grateful if licensees could, in their response to the consultation, indicate whether they consent to the proposals or not.

Yours sincerely,

A handwritten signature in black ink that reads "Kieran Donoghue". The signature is written in a cursive style with a large initial 'K' and 'D'.

Kieran Donoghue
Head of Gas Distribution Regulation