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Dear Chris

**Open letter on Ofgem's proposals to implement revised standards of performance arrangements for gas transporters**

You have invited responses on the issues raised in the open letter, published 23 November 2007, on Ofgem's proposals to implement revised standards of performance arrangements for gas transporters. We have been pleased to provide input to the process, through the Ofgem working group, on the drafting of the Statutory Instrument (SI) to amend the Gas (Standards of Performance) Regulations 2005. We set out below our remaining issues.

Our main concern continues to be around the mechanics of what happens when an interruption originating on a GDN's network affects customers connected to another GDN or iGT network, and ensuring that customers receive the compensation they are entitled to. In the event of an interruption on an upstream network, we continue to believe that it would be preferable if the downstream transporter made compensation payments to customers in the first instance, and then reclaimed those payments from the upstream transporter. This would be consistent with the arrangements in electricity distribution between DNOs and iDNOs and would make the drafting of Regulation 7 and Regulation 12 much easier. It would also make sure that iGTs are incentivised to do any work on their network to restore supplies in a timely manner, once the upstream GT has restored supplies.

We also have one potentially significant concern in relation to the proposed drafting of Standard Licence Condition 20 – Payments in Relation to Standards of Performance (which was attached with the draft SI), which we have raised before, regarding payments between upstream/downstream GTs. While we agree that contractual arrangements need to be in place between GTs, paragraph 2 as drafted is wider than necessary i.e. by requiring that "... the licensee shall not ... allow to continue any agreement, either for connection to or use of the pipe-line system, with any other gas transporter that does not provide: ...", it could be interpreted that every CSEP NeXA with iGTs would have to be amended. We do not believe that this is necessary. In our view, only one agreement is needed between each GT, for as long as there is at least one connecting pipeline between them. We would therefore suggest alternative wording along the lines of "... the licensee shall not ... allow to continue any agreement, either for connection to or use of the pipe-line system, with any other gas transporter *unless it has in place an agreement that provides: ...*"

Our remaining detailed comments on the drafting of the SI, are set out below:

### Regulation 3 – Interpretation

“gas transporter” – this definition has been deleted but in our view needs to be retained as it is referred to in a number of the regulations, in addition to “relevant gas transporter”.

### Regulation 7 – Supply restoration

Paragraph (2): This part of the regulation states that the relevant gas transporter must make payment to the customer. However, it is evident from Regulation 12 (Payments) that in circumstances where the relevant gas transporter is making payments under Regulation 7 to customers connected to another gas transporter's network, such payments can be made either directly to the customer OR to the other transporter for onward payment to the customer. In addition, Standard Licence Condition 20 as proposed extends this to allow payment to be made to the relevant shipper/supplier for onward transmission to the customer. We therefore believe that the drafting of Regulation 7 should reflect these payment options in these circumstances. We suggest adding at the end of paragraph (4) after “the relevant gas transporter” the words *“and the other gas transporter shall make the payment required by paragraph (2) to the relevant gas transporter for onward transmission to the relevant supplier or to the customer”*.

Paragraph (3)(d): We are concerned that the proposed drafting may be confusing and may not truly reflect Ofgem's intent. We therefore suggest the words *“that the prescribed sum under paragraph (2)(b) shall not be payable in respect of any period for which the making of that payment would cause the aggregate of the prescribed payments under paragraph (2)(a) and (2)(b) to the customer in respect of the relevant event to exceed £1,000”*.

Paragraph (3)(e): If, as is stated under Regulation 7, the relevant gas transporter is to pay customers directly in circumstances where such payments are being made to customers connected to the other gas transporter's network, the information that is being provided under this paragraph is insufficient. The transporter that is making the payment will also need to know the customer address, the MPRN number and the shipper code.

Paragraph (3)(f): At the very end of this paragraph the “; and” should be “; or” otherwise it could be interpreted that all of the exceptions listed under paragraph (3) would have to apply concurrently for there to be an exception. This is clearly incorrect.

### Regulation 8 – Reinstatement of customer's premises

Paragraph (3)(b): At the very end of this paragraph the “; and” should be “; or” otherwise it could be interpreted that all of the exceptions listed under paragraph (3) would have to apply concurrently for there to be an exception. This is clearly incorrect.

### Regulation 9 – Priority domestic customers

Paragraph (3)(d): At the very end of this paragraph the “; and” should be “; or” otherwise it could be interpreted that all of the exceptions listed under paragraph (3) would have to apply concurrently for there to be an exception. This is clearly incorrect.

### Regulation 10A – Notice of planned interruption

Paragraph (3)(a): At the very end of this paragraph the “; and” should be “; or” otherwise it could be interpreted that all of the exceptions listed under paragraph (3) would have to apply concurrently for there to be an exception. This is clearly incorrect.

### Regulation 10B – Responding to complaints

Paragraph (2)(a): For clarity, we suggest that the end of this paragraph be amended so that it reads “under paragraph (1), and stating *that a substantive response shall be provided within the prescribed period under paragraph (2)(b)(i); or*”.

Paragraph (4)(d): At the very end of this paragraph the “; and” should be “; or” otherwise it could be interpreted that all of the exceptions listed under paragraph (4) would have to apply concurrently for there to be an exception. This is clearly incorrect.

I hope the comments above are helpful, if you would like to discuss any of these issues further please call.

Yours sincerely

Rob McDonald  
**Director of Regulation**