



Shippers, independent Gas Transporters and interested parties.

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ESP Metering Charges Statement

We have recently received a number of letters in relation to the proposed changes to the ES Pipelines Limited (ESP) gas metering charges statement which ESP has been consulting on with gas shippers. ESP notified Ofgem of its revised metering charges methodology proposals on 22 October 2008 and was planning to implement the proposals on 19 November 2008 unless directed by Ofgem not to do so. Each of the letters from shippers raised concerns with ESP's proposals and a number suggested we should veto the proposals under Standard Licence Condition (SLC) 4A of the Gas Transporter (GT) licence.

It is our view that the definition of "*transportation arrangements*" in the GT licence does not include metering and that the metering charges statement submitted to us by ESP on 22 October 2008 does not fall under SLC4. Further, proposed changes to ESP's metering charges methodology are not subject to veto by the Authority pursuant to SLC 4A(2). As a result, we have not formed any views on the substance of the statement or the underlying methodology. We are considering separately whether steps should be taken to add clarity to the GT licence in this regard and we would appreciate any views about whether such clarification would be helpful.

Notwithstanding this, we note the concerns of shippers and will take them into consideration in any future work on competition in metering. In the meantime, we would encourage parties to seek their own legal advice and pursue any alternative remedies to these concerns. We also note that it is for each party to seek its own legal advice to ensure compliance with wider legislation, in particular the Competition Act 1998 (CA98).

Background

Introduction of competition in metering

Since 2000, Ofgem has taken a number of steps to introduce competition in metering. This included setting price controls for gas and electricity meters in 2002 and 2005 respectively to protect customers in the transition to competition, and requiring Transco (now National Grid Gas) to formally separate out its metering business from its transportation business from 12 July 2004 as part of the Review of Gas Metering Arrangements (RGMA). Ofgem also made a number of amendments to licence conditions to support the implementation of the RGMA baseline and consulted on whether to make the same amendments to the licences of the independent gas transporters (iGTs).¹ We concluded in our subsequent

¹ See for example *Competition in the Provision of Gas Metering Services: Licence Amendments, Final Proposals, April 2004, 79/04*

decision document² that although there could be merit in applying the licence amendments to iGTs, to do so would be unduly onerous. We did, however, set out our view that the definition of “transportation business” in SLC 1 of the GT licence excludes metering activities unless explicitly described to the contrary³. This is consistent with our earlier definition of transportation arrangements for the purposes of the Relative Price Control (see below).

Relative Price Control

On 21 January 2003 the Authority modified the licences of the iGTs, introducing a new Special Condition 1, which made the iGTs subject to a Relative Price Control (RPC) with effect from 1 January 2004. The RPC caps the transportation charges at a level that is broadly consistent with the equivalent charges which would be levied by National Grid PLC (NG). The RPC specifically excludes certain charges including those related to the provision of meters or reading of meters⁴.

The price control for NG had earlier been unbundled, forming separate transportation, metering services and meter reading controls. As RPC relates only to the equivalent unbundled NG transportation charges, if an iGT wishes to recover its costs of providing additional services such as metering, it would have to levy a separate additional charge.

Whilst as discussed above Ofgem set separate price controls on the gas and electricity metering activities of incumbent network companies, iGT metering charges have never been subject to any price control. From 31 March 2007 we lifted the price control on electricity distributors for new and replacement meters and for meter operation. We retained the price cap on electricity meters installed before 31 March 2007.

Metering competition

Both iGTs and Gas Distribution Network operators (GDNs) remain obligated to provide gas meters to domestic premises upon receiving a reasonable request from a relevant shipper⁵. However, whilst the GDNs are obligated under Standard Special Condition A43: ‘Provision of Metering and Meter Reading Services’, which requires the licensee to produce charging statements and provide services on reasonable terms, there is no equivalent requirement upon the iGTs. In 2004 we consulted on extending this requirement to the iGTs but the view of respondents at that time was that it was not necessary; it therefore did not form part of our final proposals. We did however state that the appropriateness of extending the arrangements to iGTs would be kept under review⁶.

We also note that several of the iGTs are also active in electricity sector as independent Distribution Network Operators (iDNOs) though they have no licence obligations with respect to electricity metering activities. We await the outcome of the appeal of our CA98 decision against National Grid but it may be appropriate for the obligations upon iGTs to become synonymous with those of iDNOs in due course.

SLCs 4 and 4A

SLC 4 ‘Charging of Gas Shippers – General’, paragraph 1, of the GT licence requires the licensee to provide the Authority *“with a statement of – (a) the charges to be made in pursuance of **transportation arrangements** [emphasis added] with specified descriptions of gas shippers in different specified cases or descriptions of cases; and (b) the methods by*

² See *Competition in the provision of gas metering services: Licence Amendments – decision document and Section 23 Notices*, June 2004, Ref: 130/04

³ *Ibid*, paragraph 4.16.

⁴ See ‘Guidance for implementation of the RPC price-cap’ at:

http://www.ofgem.gov.uk/Networks/GasDistr/IGTReg/Documents1/5635-RPC_guidance_coverletter_jan04_.pdf

⁵ See SLC8 and Standard Special Condition A10: ‘Provision and return of meters’ respectively.

⁶ See *Competition in the provision of gas metering services: Licence Amendments – decision document and Section 23 Notices*, June 2004, Ref: 130/04

which, and the principles on which, those charges are determined in accordance with the methodology referred to in paragraph 5 [of that condition]".

Paragraph 5 requires the licensee to "(a) establish a methodology showing the methods by which, and the principles on which (except in a case in which the Authority accepts otherwise) such charges as are mentioned in paragraph 1(a) are to be determined; and (b) conform to the methodology so established as from time to time modified in accordance with standard condition 4A (Obligations as Regards Charging Methodology)".

Pursuant to SLC 4A paragraph 2, there are certain requirements the licensee must meet before it can make a modification to the transportation arrangements charging methodology. In summary, the licensee shall not implement a modification unless it has consulted with the relevant shippers on the proposed modification and submitted a report of that consultation to the Authority. The Authority then has a choice as to whether to issue a direction, within 28 days of the report being furnished, requiring the modification not to be made. This is commonly referred to as the Authority 'veto'.

As noted above, in accordance with the steps take to introduce competition in metering, it is our view that the metering charges statements and metering charging methodologies do not fall within the definition of "transportation arrangements" and as a result SLCs 4 and 4A do not apply in this case.

Conclusion

Whilst we sympathise with many of the issues raised by shippers in their responses to the ESP consultation, we do not consider that the metering charging statement or metering charging methodology fall within the current licensing framework. As noted above, we would appreciate views on whether the GT licence needs to be clarified in this regard. We will also be happy to work with industry parties to assist in resolving any of the issues identified during the course of ESP's consultation.

Given the above, we consider that there may be merit in reviewing the prevailing conditions of the iGT Uniform Network Code, particularly Part D; 'Supply Meter Installation' with a view to formally separating out transportation and metering arrangements. However, we recognise that this would take metering outwith the existing contractual arrangements provided by the Network Code framework agreements and require commercial metering contracts to be developed in their place. Due to our role as decision maker on iGT UNC modification proposals, we consider it would be appropriate for the iGT UNC parties to take this matter forward if they think it appropriate.

Yours sincerely



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