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value for all customers*

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18 September 2009

Dear Colleague,

Notice under Section 23 of the Gas Act 1986 - Special Condition C8D of National Grid Gas Plc's (NGG) National Transmission System (NTS) Gas Transporter licence with respect to the Entry Capacity Substitution obligation

On 1 July 2009 we published an informal consultation on proposed changes to Special Condition C8D Part C of NGG's NTS Gas Transporter licence ("Condition C8D") in relation to entry capacity substitution. We considered the responses to this consultation carefully and published a second informal consultation on 12 August 2009 with some additional proposed changes to the relevant licence conditions.

We received two responses to our second informal consultation and these are published on our website. We have considered those responses and as a result propose further minor changes.

This letter summarises the key points set out in those responses and provides our views. A Section 23 Gas Act 1986 Notice on the proposed licence changes accompanies this letter.

One respondent suggested some alternative drafting for paragraph 10(c)(ii) of Condition C8D. These changes suggested listing the various applicable licence conditions and would have made a minor change to the text. We have considered the changes proposed by this respondent but we have not adopted these because the requirements described by the respondent are already covered by other clauses in the licence.

One respondent argued the proposed change to paragraph 10(c)(ii) of Condition C8D set out in the second informal consultation, which no longer contains the phrase "reasonable and foreseeable future demand", could be interpreted as contradicting NGG's obligation to maintain an efficient and economic pipeline network. We do not agree. The obligation in paragraph 10(c)(ii) states that the licensee should ensure that entry capacity substitution is effected in a manner which seeks to minimise the reasonably expected costs associated with funded incremental obligated entry capacity, taking into account the entry capacity that shippers have indicated they will require in the future through financial commitment to the licensee, *in so far as this is consistent with 10(c)(i)*. Paragraph 10(c)(i) of Condition C8D states that the licensee should ensure that entry capacity substitution is effected in a manner consistent with the licensee's statutory duties and its licence obligations, in particular the duty to develop and maintain an efficient and economical pipeline system.


One respondent suggested that it would be difficult to incorporate any further changes into the licence drafting at this stage because NGG has already presented an entry capacity substitution methodology statement to the Authority. We do not agree. If the proposed licence changes came into force and NGG's proposed methodology was judged by NGG to be inconsistent with the licence, NGG could withdraw its methodology statement and resubmit an amended statement.

Moreover, the proposed changes to Condition C8D do not fundamentally change the policy aims and objectives of substitution, or its intent. We consider that the proposed changes clarify the principles which should be followed when deciding whether to substitute entry capacity or not, and in particular to the need for future capacity requirements to be underpinned by some form of user commitment, with appropriate credit arrangements.

The proposed licence changes are set out in Schedule A to the Section 23 Gas Act 1986 Notice that this letter accompanies.

If you have any comments or questions on this letter, please contact Bogdan Kowalewicz on +44 20 7901 7293 or gas.transmissionresponse@ofgem.gov.uk in the first instance.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Stuart Cook', is written over a horizontal line.

Stuart Cook,
Acting Senior Partner, Transmission & Governance