

## **NOTICE UNDER SECTION 23(3) OF THE GAS ACT 1986**

The Gas and Electricity Markets Authority ("the Authority") hereby gives notice pursuant to section 23(3) of the Gas Act 1986 ("the Act") as follows:

- 1.** The Authority proposes to modify the gas transporter licence held by Severn Gas Transportation Limited ("SGTL") granted or treated as granted under section 7 of the Act by amending standard licence conditions 4 (Charging of Gas Shippers – General), 4A (Obligations as Regards Charging Methodology), 4E (Requirement to enter into Transportation Arrangements in Conformity with Network Code) and 9 (Network Code and Uniform Network Code) in the manner set out in Appendix 1 to this notice.
- 2.** The purpose and effect of the proposed modifications are that for each of the standard conditions modified:
  - a. the standard condition shall not have effect in the licence until the Authority has issued a direction;
  - b. the Authority may issue a direction where the circumstances of the licensee (set out in paragraph 3 below) change; and
  - c. where the Authority issues a direction, the standard conditions shall have effect to the extent and subject to the terms specified in the direction.
- 3.** SGTL wrote to the Authority requesting that the modifications be made. The request is based on the construction of a pipeline owned by SGTL, which will be approximately 6Km long and:
  - a. will only be operated at pressures above 17 barg;
  - b. will consist of a point-to-point pipeline from the point of off-take from the Wales & West Utilities Limited (WWUL) distribution system at Marshfield to Severn Power Station, which is owned and operated by SGTL's parent company, Severn Power Limited and for the sole connection and use by Severn Power Station;
  - c. will be sized to meet the needs of the project;
  - d. will flow one way (from the WWUL distribution system to the power station);
  - e. will run through open countryside/farmland and under the river Usk;
  - f. will be predominantly situated in a Site of Special Scientific Interest ("SSSI"), where excavation and connection would be impracticable due to the process of gaining consents and costs related to the ecology; and
  - g. over 80% of the pipeline will be at a depth in excess of 20m, via Horizontal Directional Drilling, due to SSSI wetlands and the need to run the pipe under the river Usk. This means that there are only 4 feasible points along the route at which a connection could be made and surrounding premises in the area are sparse and could not be connected cost effectively due to the potential level of demand.
- 4.** For all of these particular circumstances SGTL consider that there is no reasonable prospect of another supply point being created on SGTL's pipeline.
- 5.** SGTL do not consider that the charging arrangements established in the standard licence conditions mentioned in paragraph 1 above should apply, given that their only customer is Severn Power Station which is an affiliate

company. They have suggested that contractual arrangements between the two parties are more appropriate than complying with SLC4.

- 6.** In addition they argue that complying with this condition will result in a general increase in costs, which in turn would result in increasing the cost of electricity produced by Severn Power Station.
- 7.** Further to this, they have made assurances that in the event that Severn Power Limited was sold then the sale would not proceed until contractual arrangements for the provision of service for the pipeline was agreed. This would be needed in the event there were no obligations to comply with the relevant charging licence conditions.
- 8.** SGTL also argue that the conditions 4 and 4A would place an unnecessary administrative burden on SGTL without any benefit to shippers, supplier and end users.
- 9.** With regard to SLC 4E, SGTL believe that the compliance with the Network Code is in this case unnecessary – i.e. it is unnecessary for a point-to-point transportation service provided to just one shipper. As SGTL and the Severn Power Limited (who hold a gas shipper licence) are members of the same group, neither party requires the protection afforded by a Network Code modification procedure in which Ofgem determines whether proposed changes should be made.
- 10.** SGTL also argue that SLC 9 should be modified in their licence as the Network Code is a multi-lateral arrangement for a multiplicity of shippers, supply points and entry points, and is therefore far more complex than required for the SGTL system with its single shipper, supply point and entry point. As the cost of the SGTL system adds to the cost of electricity production by Severn Power Limited, which operates in a fully competitive environment, the objectives which under SLC 9 the Network Code is required to facilitate are, to the extent they are relevant to SGTL's system, fully incentivised by the commercial pressures on SPL.
- 11.** In addition, SGTL argue that paragraph 5 of SLC 9 requires the transporter to prepare a Uniform Network Code (UNC) and Network Code modification procedures in conjunction with other gas transporters, and paragraph 18 requires the transporter to enter into an agreement with other gas transporters providing for the establishment and operation of joint governance arrangements. As the majority of provisions of the UNC are irrelevant to SGTL, SGTL would, if required to participate in the joint governance arrangements, be inappropriately subsidising other gas transporters in a manner which is inconsistent with the objectives of the gas governance arrangements themselves as specified in paragraph 19c.
- 12.** If the use of the SGTL transportation system was subject to the terms of the UNC, both SGTL and the Severn Power Limited (as shipper) would have to use resources monitoring and implementing changes to the UNC which ultimately will have no commercial impact and, in the context of SGTL, will decrease rather than increase their efficiency.
- 13.** We have considered SGTL's request and their circumstances and we believe that the proposed modifications to SLC 4 would be appropriate, as SGTL would have no incentive to levy excessive charges to its affiliate company Severn Power Limited. Doing so would only serve to increase costs to Severn Power Limited and therefore the cost of the electricity produced. Also, given

that Severn Power Limited are the only customer of SGTL, we see little benefit of SGTL developing a charging methodology and furnishing this to the Authority.

- 14.** We also consider that the proposed modifications to SLC 4A would be appropriate, as we do not see any benefit in SGTL having to comply with the methodology whereby they are required to submit any changes to the methodology to the Authority for approval under SLC 4A. We note that we would still have powers under SLC 24 to request information on how SGTL charges Severn Power Station should we consider it necessary.
- 15.** With regard to the proposed modifications applying to SLC 4E, we believe that these modifications would be appropriate because SGTL would only be in a contract with one shipper (Severn Power Limited) who is a part of the same company group as SGTL. Therefore we agree that SGTL or Severn Power Limited would not require the protections granted by Network Codes unless the circumstances set out in paragraph 3 above change.
- 16.** We agree that considering SGTL's current circumstances, SLC 9 should also have the proposed modifications as we agree there is little value in SGTL entering into Network Codes or the UNC with other gas transporters and gas shippers when they would not need to contract with them.
- 17.** Also, the proposed modifications to the conditions would reserve the right for Ofgem to issue a direction to SGTL bringing the conditions back into effect should any of the circumstances set out in paragraph 3 above change.
- 18.** A copy of the proposed modification(s) and other documents referred to in this notice are available (free of charge) from the Ofgem library (telephone 020 7901 1600) or on the Ofgem website ([www.ofgem.gov.uk](http://www.ofgem.gov.uk)).
- 19.** Any representations or objections to the proposed licence modifications may be made on or before 18 December 2009 to: Catherine Wheeler, Office of Gas and Electricity Markets, 9 Millbank, London, SW1P 3GE or by email to [catherine.wheeler@ofgem.gov.uk](mailto:catherine.wheeler@ofgem.gov.uk).
- 20.** All responses will normally be published on Ofgem's website and held in the Research and Information Centre. However, if respondents do not wish their response to be made public then they should clearly mark their response as not for publication. Ofgem prefers to receive responses in an electronic form so they can be placed easily on the Ofgem website.



**Mark Cox**

**Duly authorised on behalf of the  
Gas and Electricity Markets Authority**

**20 November 2009**

## Appendix 1

### Proposed amended standard conditions

Each of the standard conditions to be modified (listed below) shall have two paragraphs (set out below) inserted before what is currently the first paragraph. The numbering of the current paragraphs will change accordingly, with paragraph 1 becoming paragraph 3 and so on. The reference number referred to in paragraph 2 will be the publication reference number of the modification notice should the modifications be granted.

Paragraphs to be inserted (Note that "x" will be replaced with the number of the final paragraph in each of the modified standard conditions):

- 1 Until the Authority has issued to the licensee a direction pursuant to paragraph 2, paragraphs 3 – x of this condition shall not have effect within this licence; and the licensee shall not be obliged to comply with any of the requirements in paragraphs 3 – x of this condition.
- 2 Where any of the circumstances of the licensee that justify paragraph 3 – x not being in effect (see Modification Notice under Section 11 (Reference Number XXX/XX for a list of these circumstances) in this licence change, the Authority may issue the direction indicated in paragraph 1. When the Authority has issued a direction, paragraphs 3 – x of this condition shall have effect within this licence from the date specified in the direction; and the licensee shall be obliged to comply with the requirements of paragraphs 3 – x to the extent and subject to the terms specified in the direction.

Standard conditions to be modified:

- 4 – Charging of Gas Shippers - General
- 4A – Obligations as Regards Charging Methodology
- 4E – Requirement to enter into Transportation Arrangements in Conformity with Network Code
- 9 – Network Code and Uniform Network Code