

MODIFICATION OF SPECIAL CONDITION C8A and C8C 3 (b) OF NATIONAL GRID GAS PLC'S GAS TRANSPORTER LICENCE IN RESPECT OF ITS NATIONAL TRANSMISSION SYSTEM UNDER SECTION 23(1)(a) OF THE GAS ACT 1986

NOTICE OF REASONS FOR THE DECISION TO MODIFY SPECIAL CONDITION C8A AND C8C 3 (b) OF NATIONAL GRID GAS PLC'S GAS TRANSPORTER LICENCE UNDER SECTION 38A OF THE GAS ACT 1986

Whereas –

1. National Grid Gas plc ("the Licence Holder") is the holder of a Gas Transporter Licence in respect of its National Transmission System ("the Licence") granted or treated as granted under section 7 of the Gas Act 1986 ("the Act").

2. In accordance with section 23(3) of the Act the Gas and Electricity Markets Authority ("the Authority"):

- i. gave notice ("the Notice") on 28 October 2010 that it proposed to make a modification to Special Conditions C8A and C8C 3(b) of the Licence setting out its effect;
- ii. stated the reasons for the proposed modification; and
- iii. served a copy of the Notice on the Licensee requiring any objections or representations to the modifications to be made on or before 25 November 2010.

3. In accordance with section 23(4)(b) of the Act, the Authority gave notice to the Secretary of State on 28 October 2010 and has not received a direction not to make the modification before the relevant time period specified in the Notice.

4. Prior to the close of the consultation period in respect of the Notice, the Authority received three written responses. Each respondent indicated that they agreed with the proposed amendment to the licence.

5. The Licence Holder gave written consent to the proposed modification on 25 November 2010¹. However, although consenting to the licence change, it highlighted its concerns in terms of the potential use of the Income Adjusting Event ("IAE") provisions to which the modification relates.

6. The Authority has carefully considered the consent received and the other responses and considers that no further amendment is necessary to the notice.

7. In accordance with section 38A of the Act the Authority gives the following reasons for making the licence modification:

- The term "relevant system operating costs" is currently undefined in C8A.
- The revised licence will rectify the drafting of Special Condition C8C 3(b) and ensure that the IAE mechanism functions in the manner intended at the time of the last price control settlement.

Further details of the reasons were published by the Authority in the covering letter and the Section 23 Notice of Proposed Modification to Special Condition C8A and C8C 3 (b) of the Licence, published on 28 October 2010, reference 132/10.

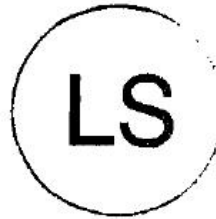
¹ This consent and the three responses received to the consultation are available free of charge from the Ofgem Research and Information Centre, 9 Millbank, London SW19 3GE or from the Ofgem website at www.ofgem.gov.uk

This document is available free of charge from the Ofgem Research and Information Centre, 9 Millbank, London SW1P 3GE or from the Ofgem website at www.ofgem.gov.uk.

THEREFORE

In accordance with section 23(1)(a) of the Act, the Authority hereby modifies the Licence in the manner specified in Schedule A, with effect on and from 10 December 2010.

**This document constitutes notice pursuant to section 38A of the Act.
The Official Seal of the Gas and Electricity Markets Authority here affixed is authenticated by the signature of**



.....

Stuart Cook

Senior Partner, Smarter Grids & Governance

Duly Authorised on behalf of the Authority

10 December 2010

Schedule A

1. Special Licence Condition C8A:

"relevant system operation costs" means those costs associated with the licensee's conduct of the NTS system operation activity and/or NTS transportation owner activity.

2. Special Licence Condition C8C 3 (b):

(b) Determination of any adjustment factor to be applied to maximum NTS system operation revenue ($SORA_t$)

- (i) An income adjusting event may arise from any of the following:
 - (A) an event or circumstance constituting force majeure under the network code;
 - (B) an event or circumstance resulting in the declaration of a network gas supply emergency (having the meaning given to such term in the network code);
 - (C) where the licensee serves a termination notice (having the meaning given to that term in the network code) on a gas shipper and the revenues derived by the licensee from the sale of that obligated entry capacity are less than the revenues that would have been derived from the original sale of that capacity had the original purchaser of the capacity not been served with a termination notice (having the meaning given to that term in the network code); and
 - (D) an event or circumstance other than listed above which is, in the opinion of the Authority, an income adjusting event and is approved by it as such in accordance with paragraph 3(b)(ix) of this condition,

where the event has, for relevant formula year t:

- (aa) increased or decreased the value of "relevant system operation costs" (having the meaning given to that term in Special Condition C8A (Revenue restriction definitions in

respect of the NTS transportation owner activity and NTS system operation activity)) by more than £2,000,000 (the "threshold amount"). This threshold amount does not apply in respect of sub-paragraphs 3(b)(i)(B) or 3(b)(i)(C) above; or

(bb) increased or decreased the value of IOC_t (having the meaning given to that term in paragraph 1(b) of Special Condition C8G (NTS system operator internal incentives, costs and revenues)) or ICE_t (having the meaning given to that term in paragraph 1(c) of Special Condition C8G (NTS system operator internal incentives, costs and revenues)) by more than £1,000,000 (the "internal threshold amount") and is demonstrably not included in $IOIT_t$ or $ICET_t$ respectively (having the meaning given to those terms in paragraphs 1(b) and 1(c) of Special Condition C8G (NTS system operator internal incentives, costs and revenues) respectively) for formula year t. This internal threshold amount does not apply in respect of sub-paragraphs 3(b)(i)(B) or 3(b)(i)(C) above.

- (ii) Where the licensee considers, and can provide supporting evidence that, in respect of relevant formula year t, there have been costs and/or expenses that have been incurred or saved by an income adjusting event, then the licensee shall give notice of this event to the Authority.
- (iii) Where any shipper considers, and can provide supporting evidence that, in respect of formula year t, there have been costs and/or expenses that have been incurred or saved by an income adjusting event, then that shipper may give notice of this event to the Authority.
- (iv) A notice provided to the Authority under paragraphs 3(b)(ii) or 3(b)(iii) shall, in the case of the licensee, and should in so far as is practicable in the case of any shipper, give particulars of:
 - (A) the event to which the notice relates and the reason(s) why the person giving the notice considers this event to be an income adjusting event;

- (B) the amount of any change in costs and/or expenses that can be demonstrated by the person giving the notice to have been caused or saved by the event and how the amount of these costs and/or expenses has been calculated;
 - (C) the amount of any allowed income adjustment proposed as a consequence of that event and how this allowed income adjustment has been calculated; and
 - (D) any other analysis or information which the person submitting the notice considers to be sufficient to enable the Authority and shippers to fully assess the event to which the notice relates.
- (v) If the Authority considers that the analysis or information provided in subparagraphs 3(b)(iv)(A) to 3(b)(iv)(D) above is insufficient to enable both the Authority and shippers to assess whether an income adjusting event has occurred and/or the amount of any allowed income adjustment that should be approved, the Authority can request that the supporting evidence be supplemented with additional material that it considers appropriate.
- (vi) A notice of an income adjusting event shall be given as soon as is reasonably practicable after the occurrence of the income adjusting event, and, in any event, not later than three months after the end of the relevant formula year t in which it occurs.
- (vii) The Authority will make public the notice and supporting evidence and information, excluding any confidential information, which it has received under paragraph 3(b)(ii) or 3(b)(iii) of this condition.
- (viii) Any notice submitted to the Authority under either paragraphs 3(b)(ii) or 3(b)(iii) above shall clearly identify whether any of the information contained in the notice is confidential information. The Authority shall make the final determination as to whether the information is confidential information for the purpose of paragraph 3(b)(vii) having regard to:
- (A) the need to exclude from disclosure, so far as is reasonably practicable, information whose disclosure the Authority considers

would or might seriously prejudicially affect the interests of a person to which it relates; and

(B) the extent to which the disclosure of the information mentioned in sub-paragraph 3(b)(viii)(A) is necessary for the purpose of enabling shippers to fully assess the event to which the notice relates.

(ix) Following consultation with such parties as the Authority considers likely to be affected by its determination, including the licensee and shippers, the Authority shall determine:

(A) whether any or all of the costs and/or expenses referred to in a notice pursuant to paragraphs 3(b)(ii) or 3(b)(iii) of this condition were incurred or saved as a result of an income adjusting event;

(B) whether the event or circumstance has increased or decreased the value of relevant system operation costs (having the meaning given to that term in Special Condition C8A (Revenue restriction definitions in respect of the NTS transportation owner activity and NTS system operation activity)) by more than the threshold amount or has increased or decreased the value of IOC_t or ICE_t (having the meaning given to those terms in paragraphs 1(b) and 1(c) of Special Condition C8G (NTS system operator internal incentives, costs and revenues) respectively) by more than the internal threshold amount, save in the case of sub-paragraphs 3(b)(i)(B) and 3(b)(i)(C) where the threshold amount and internal threshold amount shall not apply; and

(C) if so, whether the amount of the proposed income adjustment ensures that the financial position and performance of the licensee are, insofar as is reasonably practicable, the same as if that income adjusting event had not taken place, and if not, what allowed income adjustment would secure that effect.

(x) In relation to formula year t , the approved allowance in respect of an income adjustment ($SORA_t$) shall be:

- (A) the value determined by the Authority under paragraph 3(b)(ix) of this condition; or
 - (B) if the Authority has not made a determination under paragraph 3(b)(ix) of this condition within three months of the date on which the notice of an income adjusting event was provided to the Authority, the amount of the allowed income adjustment proposed as a consequence of the event in the notice given to the Authority under paragraph 3(b)(iv)(C); or
 - (C) in all other cases zero, including situations where the Authority has not made a determination under paragraph 3(b)(ix) of this condition within three months of the date on which notice under paragraphs 3(b)(ii) or 3(b)(iii) was provided to the Authority and the Authority has, before the end of that three month period, informed the relevant parties that the Authority considers that the analysis or information provided in accordance with paragraphs 3(b)(iv) and/or 3(b)(v) is insufficient to enable the Authority and shippers to assess whether an income adjusting event has occurred and/or the amount of any allowed income adjustment.
-
- (xi) The Authority's decision in relation to any notice given under paragraphs 3(b)(ii) or 3(b)(iii) shall be in writing, shall be copied to the licensee and shall be published.
 - (xii) The Authority may revoke an approval of an income adjusting event and allowed income adjustment with the consent of the licensee, following consultation with the licensee and shippers. Revocation of any income adjusting event and allowed income adjustment shall be in writing, shall be copied to the licensee and shall be in the public domain.