

Consumers and their representatives, gas transporters (GTs), independent gas transporters (IGTs), gas shippers and suppliers and any other interested parties

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*Promoting choice and value for all gas and electricity customers*

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Dear colleagues,

This letter sets out how we intend to progress with the Gas Distribution Licence Review (GDLR). We confirm our decision following consultation, to revise the structure of the Gas Transporter Licence in order to separate out those elements of the licence that relate to gas distribution. We set out next steps in this project and explain how work on the GDLR will align with licence drafting associated with the forthcoming gas distribution price control (RIIO-GD1) and the implementation of the EU Third package directive.

### **Background**

On 20 May 2010, we published the GDLR open letter<sup>1</sup>, where we outlined the proposed process for reviewing the Gas Transporter licence, as set out in our corporate plan. In the document, we stated our intention to focus the scope of the review on elements of the licence that relate to gas distribution. A working group was formed made up of representatives from the Gas Distribution Networks (GDNs) and Ofgem. We proposed at the time that wider participation would be facilitated through consultations and meetings with interested parties as required.

The working group decided that the GDLR would be split into two phases. Phase I of the review would involve introducing a revised licence structure, while Phase II would focus on improving the clarity and ease of use of the GDN licence conditions. The review would not result in alteration of underlying policy obligations.

We subsequently published a Phase I consultation which ended on 17 September 2010. In the consultation<sup>2</sup>, we outlined a number of different options for restructuring the licence in order to separate out GDN specific elements of the licence.

- **Option 1:** Transfer all NTS conditions into Part B of the Standard Special Conditions and all GDN conditions into Part D of the Standard Special Conditions

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<sup>1</sup><http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?file=Gas%20distribution%20licence%20review%20Open%20Letter.pdf&refer=Networks/GasDistr/otherwork>

<sup>2</sup><http://www.ofgem.gov.uk/Networks/GasDistr/otherwork/Documents1/Gas%20Distribution%20Licence%20Review%20Phase%20I%20final.pdf>

- **Option 2:** Transfer all NTS conditions into new Section B of the Standard Conditions and all GDN conditions into new Section C of the Standard Conditions
- **Option 3:** Transfer all Standard Conditions and relevant Standard Special Conditions in Part A that would clearly benefit from separation into the relevant NTS and GDN Parts (Part B and D respectively) of Part IV of the licence
- **Option 4:** Leave the licence structure as it is

The summary of the consultation responses have now been published on the Ofgem website.<sup>3</sup>

## Issues Arising

We originally intended to issue a statutory notice to modify the structure of the licence in November 2010, with a view to complete Phase I in December 2010. Since the start of the project, however, it became clear that implementation of the Third Package of EU legislation would require the Department of Energy and Climate Change (DECC) making modifications to the licence.

After discussions with DECC we agreed that altering the structure of the Gas Transporter licence during their drafting period would cause confusion. We therefore decided to delay further work on the restructure of the licence until after these modifications had been laid before Parliament. We understand that DECC is looking to lay the package of Regulations before Parliament in the next few months.

## Decision on structure

It remains our intention to have in place a clearer and more coherent licence structure, which achieves functional separation of conditions for NTS, GDNs and IGTs. This will ensure that we have a firm baseline licence to work with during price control reviews of regulated networks, and will allow us to reflect price control settlements in the licence without interfering with IGT or NTS licensees. We consider that **Option 3** best delivers the achievement of these objectives. It also had the support of most respondents to our consultation last year.

We note that the degree of separation that can be achieved under Option 3 is dependent upon what Standard Conditions and Part A Standard Special Conditions are moved to Part B and D. We also recognise that these changes may impact upon the National Transmission System and we will therefore look to extend the Working Group membership to incorporate their input.

## Way Forward

We intend to reconvene the Working Group in April 2011. It will take the restructuring work to the next level of detail, discussing which licence conditions should be transferred to Part B of the licence. It will also develop drafting protocols, as stated in the Group's terms of reference.

We will issue a statutory consultation on the licence restructure after the Third Package has been laid before parliament and associated modifications have been implemented.

<sup>3</sup> <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=1307&refer=Networks/GasDistr/otherwork>

In parallel to the above pieces of work, we will lead a separate process to draft new, or amend existing licence conditions to support the price controls decisions for regulated gas distribution and transmission companies (RIIO-GD1 and T1). The licence conditions for RIIO-GD1 will reflect the revised structure of the licence and follow the protocols for redrafting as developed by the Working Group.

If you have any questions to the points covered in this letter, please contact Bimbola Ayo on 0207 901 7184.

Yours sincerely,

**Rachel Fletcher**  
**Partner, Distribution.**