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Dear Thomas,

Licence drafting – Initial Consultation for GD1

Scotia Gas Networks welcomes the opportunity to respond to the initial informal licence drafting consultation for RIIO-GD1. We have highlighted below the key areas that remain a concern for us, the majority of which have been raised before. Our detailed comments on each of the draft licence conditions are attached at Appendix I. Also attached are our comments on the Financial Handbook in Appendix II.

Licence Modifications that are outwith the scope of the RIIO-GD1 Price Control Review

We note from the consultation paper that Ofgem is intending to use this opportunity to modify or insert a number of conditions that are not directly related to the price control review. Whilst we are not uncomfortable with this approach and can understand the logic of consulting on all changes at one time, we suggest that a distinction should be made in subsequent licence consultations between modifications being made to give effect to the price control review, and modifications that are being made for other reasons. We think this distinction is essential given the potential differences in the treatment if an appeal is made to the Competition Commission in respect of a licence modification.



For the avoidance of doubt, the conditions listed in the consultation paper that we consider do not form part of the price control review, and therefore should be separated from the licence modification to give effect to the licence modification, are as follows:

- GDC 112 Application of Section C
- GDC 95 Termination of Shipping Arrangements
- GDC 71 Regulatory Accounts
- GDC 76 Data Assurance requirements
- GDC 32 Restriction of charges for Tariff-Capped Metering Activities
- GDC 29 Disapplication

Definitions and Associated Documents

We note that some of the detail of the draft licence conditions is missing, including terms that are essential to the interpretation of the condition such as definitions and formulae. It is important that all of this detail is included in the second informal licence drafting consultation to allow us to comment fully on the drafting prior to statutory consultation.

We remain concerned at the amount information that it is proposed be included in the RIGs and other associated guidance documents that are supplementary to the licence. We would very much prefer, particularly in the case of reporting timescales and other obligations, that as much of this be included in the licence itself as possible. Notwithstanding this, it is difficult to give comprehensive comments on the licence drafting when we have yet to see the detail of these supplementary documents. Sight of these at the earliest opportunity, along with timescales for working groups to progress these, is essential. This will allow us to provide more complete comments at the next consultation.

Given that it is intended that many of the supplementary documents mentioned above hold the same power as the licence, modifications to these documents should be treated, as far as is reasonably practicable, as a licence change would be. We are concerned that the current drafting in several of the conditions allows the Authority to make modifications very readily and without necessarily the agreement of the licensees.

Smart Metering Costs

We have already incurred some costs related to smart metering. During the period of 2014-2019 when full scale smart metering is rolled out, these costs will ramp up significantly and we expect to incur very significant associated costs. Our forecast expenditure is around £■■■■m over the price control period. As we understand it, Ofgem intends us to recover these costs through the uncertainty mechanism set out in GDC 28 (Recovery of Uncertain Costs). The first re-opener window in GDC 28 is in May 2015, with the additional revenue being provided from 1 April 2016. Our forecast shows that by May 2015 we expect to have already



incurred costs of around £■■■m. By 1 April 2016 this will have increased to around £■■■m. Given these figures it is clear that we require additional funding for smart metering prior to April 2016. We have recommended in our response to the GD1 Initial Proposals that a more flexible re-opener mechanism be adopted, and we understand that Ofgem is amenable to this approach. Notwithstanding this, the intent of the Initial Proposals is that such uncertainty mechanisms are triggered by the efficient costs either already incurred or likely to be incurred over the remaining years of the price control (paragraph 6.33, page 56, IP Supporting Document, Finance and Uncertainty); the current licence drafting does not reflect this.

Recovering costs incurred in the current price control period

A mechanism is required under which we can recover the legitimate, efficient costs incurred in this price control period that were not allowed for at the last price control review. For example, in past discussions with Ofgem it has been agreed that we are to submit further evidence of the materiality of the costs we have incurred in Scotland in relation to the Traffic (Scotland) Act 2005 once this becomes available. As discussed previously, we intend to provide this evidence next year and trust that we will then be able to recover these costs. We are concerned that there is nothing in the current licence drafting to allow for the recovery of these costs, unless it was done under the first re-opener window under GDC 28. As these costs are significant and have already been incurred, it is important that we are able to recover them at the earliest opportunity; April 2016 would not be appropriate.

Standard Condition 7 - Theft of gas

Whilst not directly related to the price control review, it is clear that in the next price control period GDNs are going to be carrying out a significant amount of work in relation to theft of gas and unregistered sites. As we understand it, Ofgem's interpretation of the current drafting of SLC 7 is that GDNs are only able to recover the costs of investigating a case of potential theft (e.g. an unregistered site), where theft is subsequently found to have occurred and the GDN has attempted to recover the value of gas used from the customer. In the majority of cases of unregistered sites however, theft will either not have occurred, i.e. the unregistered site is not using gas, or, following action by the GDN, the customer registers with a supplier who then invoices the customer for the gas used back to the meter fit date. Under Ofgem's interpretation of SLC 7, the GDN will not be able to recover any investigation and site visit costs in either of these cases.

Whilst we are currently looking at measures to prevent the creation of unregistered sites going forward, there is a backlog of unregistered sites that needs to be addressed. The costs of the investigation work associated with these sites could be significant given the number of site visits that will be required. Under Ofgem's interpretation, we are currently unable to recover these costs. As was discussed at the licence drafting review group on 24 August, we suggest that SLC 7 be amended to allow us to recover the costs associated



with investigating potential theft and the value of any gas that is subsequently found to have been stolen. We attach proposed drafting in Annex III.

Finally, given the early stage of the licence drafting and, in particular the lack of detail in the supporting documents, our comments are preliminary, and may well be added to or changed significantly at the second informal licence drafting consultation.

If you wish to discuss any of our response please be in touch as we would be happy to do so. We look forward to continuing to work with Ofgem on progressing with the licence drafting for RIIO-GD1 at the licence drafting working group.

Please do not hesitate to call if you wish to discuss any of this further.

Yours sincerely,

Malcolm Burns

Senior Regulation Manager