

Thomas Mackenzie  
Ofgem, RIIO T1  
9 Millbank  
London  
SW1P 3GE

Paul Rogers  
Regulatory Frameworks Manager

[paul.s.rogers@nationalgrid.com](mailto:paul.s.rogers@nationalgrid.com)

Direct tel +44 (0) 7775 821840

Direct fax +44 (0)1926 656520

24 September 2012

[www.nationalgrid.com](http://www.nationalgrid.com)

Dear Thomas,

**Re: RIIO-T1 and GD1: Draft Licence Conditions – First Informal Licence Drafting Consultation (105/12)**

National Grid Gas Distribution (NGGD) is part of National Grid plc (National Grid) which owns and operates the high voltage electricity transmission system in England and Wales and operates the Scottish high voltage transmission system. National Grid also owns and operates the gas transmission system throughout Great Britain and through its gas distribution business transports gas in the heart of England to approximately 11 million customers. In addition National Grid owns and operates substantial electricity and gas assets in the United States.

In response to RIIO-T1 and GD1: Draft Licence Conditions – First Informal Licence Drafting Consultation (105/12), please find below:-

**Attachment 1** - A response to each of the Consultation questions

**Attachment 2** - Ofgem's Consultation template, populated with responses to each Licence Condition

**Attachment 3** – Marked up version of National Grid Gas plc Gas Transporter Licence in respect of the RDNs

In relation to the question posed by Ofgem as to whether licensees support the terminology of “best” or “reasonable” endeavours or “take steps” to satisfy Licence conditions, we note and support the use of drafting based on “reasonable endeavours” as this approach uses clear judicially defined language. However, we are concerned that, in a number of places, the intensity of obligations which are “reasonable endeavours” in existing licence conditions has been made stronger by amending them to “best endeavours” in the proposed licence drafting without any justification being offered. We do not consider that any change to the intensity of obligations equating to those set out in existing conditions should be adopted unless the Authority can demonstrate that the existing intensity of obligation is too weak to ensure effective compliance by licensees.

In addition, outlined below are a number of other matters which have either been noted by Ofgem in its consultation or raised in the course of working-groups for consideration as part of the licence review.

### Standard Special Condition A8 Emergency Services and Enquiry Service Obligations (GTC/GDC82 Emergency Services and the Enquiry Service)

Under SSpC A8 the licensee is required to provide the emergency service line without charge at the point of use. This provision being one that existed before the widespread use of mobile phones and consequently while customers calling the emergency service from a land line are not charged for the call, those that use mobile phones can be charged by their mobile service provider. This creates a potential non-compliance that the licensee cannot control, as charges from mobile operators to their customers are beyond our direct influence.

We notified Ofgem, when this came to our attention at the start of GDPCR1 and since then have explored alternative solutions with mobile operators and Ofcom. Recently Ofcom has consulted on the need for calls from mobile phones to 0800 numbers such as the gas emergency line to be zero-rated. Indications are that it is likely mobile operators will be required to provide 0800 numbers on a free-phone basis, but the consultation process has yet to conclude and may yet take a number of years to implement.

In view of this and the opportunity to resolve the licence anomaly, we propose a minor revision to Paragraph 3 (a) of SSpC A8 with the addition of text denoted by underscoring below:

3. *The services established by the licensee in accordance with paragraph 1(a) shall –*
  - (a) except for any charge applied by a user's telephone operator to 0800 numbers be provided without charge by the licensee to the user at the point of use; and .....

### Standard Special Condition D10 Quality of service standards

We anticipate that from 1 April 2013, each GDN will provide its own general enquiry line service and withdraw from the national enquiry service currently provided by NGGD. In view of this and the migration to customer incentive outputs to improve services, it has been proposed in both the licence and customer (CSIWG) work group meetings that the current provisions in SSpC D10 in respect of the general enquiry line are removed. SSpC D10 will continue to measure licensee performance against the core emergency service line as currently provided, as this will remain unchanged in all respects.

There is a question as to whether the related provisions for the M number helpline are retained or not, but given that this is an automated line, rather than one answered by a telephone operative and the volumes are relatively small in comparison to the emergency line, it may be pragmatic to remove this as well. For the avoidance of doubt, we would have no objection to retaining it, if this was seen as desirable by affected parties.

The proposed modified text for paragraph 2(f) of SSpCD10 is provided below:

(f) 90 per cent of calls to the emergency telephone service that the licensee operates or procures will be answered within 30 seconds and must be answered by persons adequately trained to process such calls.

### Standard Condition 7 Provision of Information Relating to Gas illegally taken

For reasons we support associated with public safety and reducing the burden of theft of gas on the majority of customers who pay for their energy, Ofgem has recently encouraged both shippers and transporters to do more to address potential theft issues through UNC and SPAA modifications proposals.

In responding to the challenge, NGGD has found that the costs of investigating and pursuing potential theft cases are not adequately remunerated, as the current mechanism only provides for recovery of costs where reasonable endeavours have been taken to recover the value of gas taken. In the majority of cases we have dealt with recently, it has not been possible to attempt to recover the value of gas for a range of reasons from bankruptcy, to illegal connections where an attempt to obtain gas has been made but not achieved, to obtaining sufficient evidence to establish customer liability, to supply point administration errors between shippers and suppliers. In addition, we have had to expend significant effort managing the consequences of theft investigations, including supporting Police criminal prosecutions, obtaining warrants and responding to Consumer Focus and an Energy Ombudsman complaint which eventually has found in our favour.

SC7 and SpC E3 (Distribution Network allowed pass-through items) provide for shippers to be reimbursed by gas transporters for pursuing theft under the Reasonable Endeavours scheme, but no such provisions exist for transporters themselves.

NGGD therefore proposes a minor change to SC7 to enable licensees to recover reasonable costs of investigating theft where the outcome does not allow NGGD to attempt to recover the costs of stolen gas.

*3. Where the licensee has as required by paragraph 1 or 2, investigated and where appropriate recovered, or attempted to recover, the value of the gas taken or, as the case may be, the specified amount, then any ~~standard~~ condition of this licence that limits, or has the effect of limiting, the charges made in pursuance of transportation arrangements or the revenue derived therefrom which is specified in a scheme designated by the Authority for the purposes of this condition shall be modified as provided in that scheme to take account of .....a) ..b)..c)..d).*

#### Special Condition E3 Distribution Network allowed pass through items (Ft)

As outlined above in relation to SC7 NGGD has identified there is no term in the current or proposed RIIO licence (GDC21 Part A Distribution network allowed pass through items) to allow GTs to recover the costs/revenues (+/-) associated with theft other than perhaps the  $MP_t$  term. Conversely, there is a term for GDNs to recover the costs associated with shipper theft activity. Set out below, is a proposed addition to E3/GDC21 (the underlined text denotes the changes NGGD propose), which introduces a new term which should be added to the formula to address this problem going forward.

GTTG<sub>t</sub> means an amount equal to the reasonable costs incurred by the licensee in complying with its obligations under standard condition 7 (Provision of Information Relating to Gas Illegally Taken) of this licence.

#### Regulatory Instructions and Guidance

NGGD welcomes the opportunity to review the regulatory reporting framework, ensuring it aligns with RIIO's key deliverables. We note Ofgem's proposals in relation to the content and key elements of the RIGs and use of the Business Plan Data Templates (BPDT) as a basis for reporting. We are currently reviewing the BPDT categories and will respond to Ofgem with more detailed comments over the coming weeks.

Notwithstanding Ofgem's proposals, we believe that unless Ofgem and licensees take the opportunity to agree the principles upon which the review of RIGs will be undertaken, there will be a significant risk that the reporting framework will not operate efficiently or provide

useful outcomes for stakeholders. In other words a top down review should accompany and shape the development of the framework including the templates, rather than working on the templates in isolation.

On 17 September 2012 we proposed a high level approach to Ofgem, which amongst other things outlined a mechanism to filter the data requirements. In addition we feel it would be a major omission, if in focusing on the BPDT, the opportunity was missed to review all other regulatory reports provided during the formula year. This would allow reporting to be seen in the round and where appropriate re-scheduled, rationalised or incorporated in new templates.

At a very high level we could start with defining the categories of data currently or being considered for future reporting and having done so, test whether they are required or not. For example:

- Category A – Highly significant information that is required by legislation and/or licence e.g. guaranteed standards of service
- Category B – Information that relates to key RIIO output measures, incentives and performance
- Category C - Information that may be required, but does not fall into either of the above categories
- Category D – Information that is no longer required or is of marginal value

There would be a presumption that anything in categories A and B would be reported, whereas category C should be critically examined to determine whether it should and category D would not. To work effectively, a comprehensive review of all regulatory reports would need to be completed and tested against agreed criteria, not just those related to the annual 31 July RRP.

The above is merely illustrative, but hopefully explains why there is value in a principles based approach, which is particularly important given the transition from RPI – X to RIIO. Rather than continuing to modify the data we have historically provided, we should be asking ourselves, what is really needed to support the next 8 years and beyond.

#### Licence Consents

NGGD currently holds a number of consents pursuant to National Grid Gas plc Gas Transporter Licence, some of which are due to expire on 31 March 2013.

We have evaluated all of our existing consents to determine whether they need to be retained or relinquished when RIIO and the revised Licence take effect from 1 April 2013. In addition we have examined the need for any new consents and at this stage do not believe any are required. We will be writing to Ofgem separately to understand its views and agree the process for reviewing and providing consents from 1 April 2013.

#### Gas Shrinkage and Environmental Emissions (GDC25 Revenue adjustments for performance in respect of gas shrinkage and environmental emissions)

Ofgem have stated that they will determine the rolling incentive amounts by reference to the Final Proposals document published in December. We consider that this rolling incentive mechanism should be set out in detail, and well in advance of December, so as to have time to consider along with the rest of the draft Licence prior to Final Proposals. In addition, we

consider that the mechanism should be unambiguous and set out in a similar manner to the annual incentive mechanisms so as to provide certainty of treatment, in line with best regulatory practice, and therefore not subject to Ofgem to ex-post determination in 8 years time. This could be done through either the Licence terms or the Financial Model.

Therefore, we consider that Option B in conjunction with a two year lag to provide predictability of revenue adjustments should be applied. We favour Option B because the reward for any outperformance associated with specific investment would be recovered nearer the time of investment, and, in recovering the full enduring performance within RIIO GD1, it eliminates the potentially large price volatility associated with the end of period true-up associated with Option A being recovered in a single year in RIIO GD2.

In addition, we support the application of the rolling incentive mechanism to Shrinkage as well as the Environmental Emissions Incentive.

Should you wish to discuss any matters relating to this response, then please contact Ruth Thomas on 07768 173469 or [ruth.thomas2@nationalgrid.com](mailto:ruth.thomas2@nationalgrid.com) or myself on the number above.

Yours sincerely,

[by email]

Paul Rogers  
Regulatory Frameworks Manager  
National Grid, UK Distribution

Cc  
[Grant.mceachran@ofgem.gov.uk](mailto:Grant.mceachran@ofgem.gov.uk)  
[RIIO.T1@ofgem.gov.uk](mailto:RIIO.T1@ofgem.gov.uk)  
[andrew.macfaul@ofgem.gov.uk](mailto:andrew.macfaul@ofgem.gov.uk)

## **Attachment 1 A response to each of the Consultation questions**

Please find below our comments against each of the Consultation questions.

### **CHAPTER: Two**

**Question 1: We invite stakeholders to comment on the proposed changes to the SLCs SpCs in NGETs licence as outlined in this chapter and the actual licence drafting in Supporting Document 1.**

NGGD have no comments to make against this question.

**Question 2: We invite stakeholder views as to whether SLC C18: Requirement to offer terms for connection or use of the GB transmission system during the transition period [ETC 92] remains relevant or should be removed.**

NGGD have no comments to make against this question.

**Question 3: We invite stakeholders views as to whether SpC D15: Obligations relating to the preparation of TO offers during the transition period [ETC 92] remains relevant or should be removed.**

NGGD have no comments to make against this question.

**Question 4: Relevant Licensees are requested to provide written evidence to support the position that arrangements set out within B14: BETTA run-off arrangements scheme [ETC 93] have come to an end and hence the condition may be removed.**

NGGD have no comments to make against this question.

### **CHAPTER: Three**

**Question 1: We invite stakeholders to comment on the proposed changes to the SpCs in NGGTs licence as outlined in this chapter and the actual licence drafting in Supporting Document 2.**

NGGD have no comments to make against this question.

### **CHAPTER: Four**

**Question 1: We invite stakeholders to comment on the proposed licence changes to the GD sector as outlined in this chapter and the actual licence drafting in Supporting Document 3.**

NGGD have provided comments against each Licence Condition, contained within Chapter 4 and Supporting Document 3 in the supporting Attachment 2.

**Question 2: Should we include all above risk threshold tier 2 mains within the driver? An alternative would be that the revenue driver covers only the above threshold tier 2 mains not identified at the review period, and fund all relevant tier 2 mains identified at review within an ex ante allowance?**

We support the proposal for a revenue driver for Tier 2 repex and the approach to apply the mechanism to all the above risk threshold mains. In addition, the mechanism must reflect mains replacement, service transfer and service replacement within the mechanism.

Our reasons in support of the revenue driver applying to all risk threshold tier 2 mains are set out below:

- It removes the upfront requirement to identify specific mains that are currently above the threshold when it is known that the population of mains above the risk threshold will change through dynamic growth.
- Any improvements in the risk calculation could be implemented without the need to review base allowances.
- It simplifies any potential review of the HSE iron mains replacement programme at the mid period review.

The proposal to include the above risk threshold Tier 2 mains, and associated services, in the revenue driver does not reduce the benefit to customers as networks will be required to remediate the risk from these pipes over the RIIO-GD1 period to meet the requirements of the HSE's new 3 Tier iron mains replacement programme.

The associated services; that will be replaced as part of the above risk threshold Tier 2 mains, must be included in the revenue driver and reflect the actual volume of service transfers and service replacement. This is consistent with how the GDPCR1 replacement mechanism works and ensures there is no volume risk for networks or customers.

Ofgem have expectations that networks will innovate in the removal of risk from our Tier 2 and 3 iron mains assets. In order to deliver upon this challenge and allow innovation it is important that the mechanism, and associated licence drafting, is flexible enough to allow new methods of reducing the risk below the threshold to be funded through the revenue driver. For example, we anticipate that there may be methods to reduce the risk below the threshold; however, these will not remove the risk in its entirety. Where these methods are developed and accepted as part of the innovation challenge we would expect the revenue driver to apply to the risk reduction.

**Question 3: Should we include services connected to the above risk threshold tier 2 mains within the revenue driver?**

Please refer to Question Two above.

**CHAPTER: Five**

**Question 1: We invite stakeholders to comment on the proposed changes to the common SLCs, SSCs and SpCs for GT and GD as outlined in this chapter and the actual licence drafting in Supporting Document 2 (for GT) and 3 (for GD).**

NGGD have provided comments against the common Licence Conditions in Attachment 2. The common Conditions to which we have provided comments against are:

- GTC/GDC30 Allocation of revenues and costs for calculations under the price
- control in respect of the Distribution Network
- GTC/GDC32 Restriction of charges for tariff capped metering activities
- GTC/GDC71 Regulatory Accounts
- GTC/GDC93 Change of Financial Year
- GTC/GDC95 Termination of Shipping Arrangements
- GTC/GDC 112 Application of Section C (Transportation Services Obligation)

NGGD agree with the position taken by Ofgem on the following conditions, in that they will be reviewed within the October consultation:

- GTC/GDC93 Change Co-ordination for the Utilities Act 2000
- GTC/GDC105/106 SLC1 Definitions and Interpretation
- GTC/GDC110 SCA3 Definitions and Interpretation

NGGD agree with the position taken by Ofgem on GTC/GDC94 Definition of permitted purpose, in that it is not required.

As for GTC/GDC34, and SpC C19 (NGGT) and E21 (GDNS): Undertaking from ultimate controller concerning non-discrimination between the [DN/NTS] transportation activity and the [DN/NTS] transportation activity [GTC/GDC 33] we agree that these conditions should be dealt with as part of the Gas Transporter Licence Review (GTLR) project.

Note that GTC/GDC93 is referenced as Change of Financial Year and Change Co-ordination for the Utilities Act 2000 so is a duplicate. GTC/GDC74 is referenced as Price Control Review Information, and Regulatory Instructions and Guidance, which also needs clarifying.

NGGD would also like to advise Ofgem that we have provided comments against GTC/GDC82 Emergency and Enquiry Service, but it has not been included within Appendix 3 of the Consultation.

## **CHAPTER: Seven**

**Question 1: We invite stakeholders to comment on the proposed changes to the common licence conditions or introduction of new common licence condition as outlined in this chapter and the working drafts in the three Supporting Documents.**

NGGD has provided comments against the common Licence Conditions in the supporting document attached to this letter. The common Conditions to which we have provided comments against are:

- [ETC/GTC/GDC09]: Innovation Rollout Mechanism (IRM)
- [ETC/GTC/GDC10]: The Network Innovation Competition (NIC)
- [ETC/GTC/GDC11]: Network Innovation Allowance (NIA)
- [ETC/GTC/GDC21]: Allowed Pass Through Items
- [ETC/GTC/GDC31]: Excluded Services Innovation
- [ETC/GTC/GDC74]: Regulatory Instructions and Guidance
- [ETC/GTC/GDC76] Data Assurance and Guidance

NGGD agree with the position taken by Ofgem on ETC/GTC/GDC81 Payments by the Licensee to the Authority and ETC/GTC/GDC29 Misapplication, in that these two conditions be treated separately from RIIO.

**Question 2: We welcome views on a suggestion from a Licensee that we do not need to set out the list of Excluded Services under Part C in GDC 31 as the excluded service examples are by definition excluded services for gas distribution, and thus superfluous to licence condition.**

NGGD agree with the proposal of this question in that excluded services don't need to be individually listed in the gas licences. However, NGGD believe that listing the principal excluded services may be helpful for illustrative purposes and also provides certainty around



services such as user pays or services for the benefit of a specific shipper. We have provided further comments against GDC31 Services Treated as Excluded Services within Attachment Two.

#### **CHAPTER: Eight**

**Question 1: We invite stakeholders to comment on the associated documents that we propose to create and their content.**

NGGD have provided comments on the Network Innovation Allowance (NIA) Guidance document (on the 31/08/12) and the Network Innovation Competition Guidance Document under separate cover (on the 07/09/12), as well as more detail in our Initial Proposals response. Comments against the Finance Handbook are included within this response in Attachment 2. It would be useful if Ofgem could publish a timetable for when the other Ancillary Documents will be published for comment:

- Regulatory Instructions and Guidance (RIGS)
- Data Assurance Guidance (DAG)
- Stakeholder Engagement Reward Guidance (SERG)
- Gas Discretionary Reward Scheme Guidance document (DRS)

#### **Attachment 2 - Ofgem's Consultation template, populated with responses to each Licence Condition**

Please refer to separate document

#### **Attachment 3 – Marked up version of National Grid Gas plc Gas Transporter Licence in respect of the RDNs**

Please refer to separate document