

23 July 2013

Mr. Jacob Kane
Ofgem
Distribution Policy
9 Millbank
London
SW1P 3GE

Sent by email to: Jacob.Kane@Ofgem.gov.uk

Dear Jacob,

Re: Independent Gas Transporter's Relative Price Control – Consultation on revising the guidance document and potential changes to Special Condition 1 of the IGT licence

This response is provided by Brookfield Utilities (UK), the parent company of gas transporter licensees GTC Pipelines Limited, Independent Pipelines Limited and Quadrant Pipelines Limited.

We note that on occasion IGT charges are misreported as being higher than those of GDNs. We believe the RPC framework for IGTs continues to serve customers well. As Ofgem notes in paragraph 33 of its consultation, increases in GDN charges have generally outstripped those permitted by IGTs under the RPC ceiling. The consequence of this is that on average the gas transportation charges levied to shippers by BUUK is lower than the equivalent charge levied by GDNs. This average includes sites where legacy charges are levied. Although charges in respect of legacy sites (those sites which predate the introduction of RPC) may be higher than those for GDNs, the effect of the RPC arrangement more than compensate for this.

In respect of Ofgem's consultation our responses are provided in the Annex to this letter.

Whilst we acknowledge that there may be minor drafting errors, we also note that both Ofgem and IGT parties have worked since 2004 with Special Condition 1 without any significant issues. As such we do not believe licence changes to modify these minor issues are either necessary or urgent.

We also note that paragraph 2 of Special Condition 1 gives Ofgem the scope to agree arrangements other than those specified and if minded, Ofgem could use this route to achieve any desired changes.

Yours sincerely

Mike Harding
Head of Regulation

Annex

Question 1: Do you agree that it is no longer necessary for us to carry out our current monitoring role of IGT charges under the RPC?

We support Ofgem's proposal.

Our understanding is that, following the implementation of the IGT UNC modification, shippers are also supportive. If circumstances arise where shippers are concerned that we are not implementing RPC arrangements appropriately we would encourage them to come to us at the earliest opportunity so that we can consider their concerns.

Question 2: Does this change to the guidance make this issue clear?

We are happy with the proposed drafting.

Question 3: Does the revised guidance provide sufficient clarity or do we need to amend the licence?

We are happy with the proposed drafting to the RPC guidance.

If the RPC guidance was in contradiction of the licence then we believe that a licence modification would be necessary. However, we do not think this is the case. We think the proposed drafting is consistent with Special Condition 1 paragraph 2, and paragraph 5 of. Further Ofgem's consultation provides further guidance in paragraph 23 where Ofgem state "*...the 20 year period starts on the date that gas first enters the pipe connecting the period*".

Given these two points, whilst we acknowledge that there may be some ambiguity permitting different interpretations, we think the guidance and the consultation clearly sets out the intent.

Question 4: Should we proceed with licence changes (and a full statutory consultation) to address this issue?

In short, no.

We understand the issue and the potential impact, but do not see it as significant enough for a full licence change process.

However, as Ofgem notes in paragraph 33, since 2004 the GDN charge has generally risen, breaching the RPC ceiling. Paragraph 2 of Special Condition 1 states requires the formulas in Paragraph to be used unless the Authority consents otherwise. The key phrase "*...unless the authority consents otherwise...*" already gives the Authority the scope to agree alternative arrangements (without the need for a licence change).

Therefore, we suggest that this approach be used in the event that the scenarios discussed in Ofgem's consultation arise. We are concerned that a licence change at this juncture could bring about unintended consequences and (as yet unknown) other problems.

Question 5: Is our intention on this issue clear. If not, what steps should be taken to make this clearer?

To date (we believe) all IGTs have in practice followed the intent as set out in Ofgem's 2003 document. That in itself suggests that RPC guidance is sufficiently clear. Therefore, we are not

convinced a licence change is necessary. Whilst we acknowledge that licence conditions take precedence over RPC guidance, we do not think the guidance is contrary to the licence condition, but assists in the interpretation. Whilst we acknowledge that in theory Ofgem could provide wholly different guidance at a future date we feel that this is unlikely and should such an event occur, that it would be open to legal challenge itself.

Question 6: Are there any other drafting issues that you feel may need addressing by amending Special Condition 1 of the IGT licence?

Whilst we acknowledge that there may be minor drafting errors, we also note that both Ofgem and IGT parties have worked with Special Condition 1 since 2004 without significant issues. As such we are not convinced of the urgency to bring about a licence change at this time.

We also note that paragraph 2 of Special Condition 1 gives Ofgem the scope to agree arrangements other than those specified. This could be achieved without the need for licence changes.