

Independent Gas Transporters
and other interested parties



Making a positive difference
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Statutory Consultation on changes to Special Condition 1 of the Independent Gas Transporters' (IGTs) licence

This statutory consultation follows our initial consultation on 29 May 2013. We now seek views on a modification to the IGTs' licence to address a number of minor drafting points, to remove ambiguity, improve overall clarity and ensure that the Relative Price Control (RPC) operates as originally intended.

On 29 May 2013, we¹ published a consultation² which sought stakeholder views on whether we should make changes to Special Condition 1 of the IGT licence. Special Condition 1 sets out the IGTs' Relative Price Control arrangements, which governs their charges. The consultation sought views on potential changes to address specific policy issues with the current drafting. The majority of respondents³ were in favour of the proposed changes. Following the consultation we issued our decision to proceed with a statutory consultation to make the proposed changes.⁴

The modification notice is attached to this letter. It is open for comment for a 28 day period which will close on 28 February 2014. Following the end of the consultation period, we will consider any responses received. Should we decide to go ahead with the changes, we will issue a modification direction to the relevant licence holders whose licences are to be modified (all IGTs). This modification would take effect no less than 56 days following the publication of the modification direction.

In our initial consultation we also proposed to remove paragraphs 12 and 13 of Special Condition 1. These paragraphs make reference to revoked sections 24 and 25 of the Gas Act 1986, which outline the process of the Authority referring a modification of the licence to the Competition Commission⁵. These sections have now been removed as part of amendments to the Act by the Electricity and Gas Markets (Internal Markets) Regulations 2011, specifically, regulations 41[1] (1) and (9). These amendments have changed the modification process so we can now effect modifications to the licence by giving notice of its intention to modify a particular licence condition. If the licensee disagrees, then it can appeal the decision to make the modification directly to the

¹ The terms "the Authority", "Ofgem" and "we" are used interchangeably in this document.

² [Independent Gas Transporters' Relative Price Control – Consultation on revising the guidance document and potential changes to Special Condition 1 of the IGT licence](#)

³ The responses are published alongside the 29 May consultation (see footnote 2).

⁴ [Independent Gas Transporters' Relative Price Control – decision on next steps](#)

⁵ The Competition Commission will become the Competition and Markets Authority from 1 April 2014.

^[1] [Electricity and Gas Markets \(internal markets\) regulations 41](#)

Competition Commission. Previously section 23 of the Act allowed for the modification of licence by agreement and in the event that agreement could not be reached it was for the Authority to make the reference to the Competition Commission. Paragraphs 12 and 13 of Special Condition 1 provide a remedy to the licensee in instances where the Authority has not made that reference and allows the licensee to dis-apply the charging arrangements in paragraph 2 and paragraph 5 of Special Condition 1.

Respondents to our consultation queried the removal of these paragraphs suggesting that they may need to be amended rather than removed completely. In light of these responses we have decided that there is a need to consult further on potential changes. Therefore this Statutory Consultation does not propose any changes to these paragraphs. We will consider addressing the need for further changes in a future consultation. Given that there are similar paragraphs within the licences held by electricity Independent Distribution Network Operators (IDNOs), our consultation on this issue will cover both the IGT and IDNO licences.

Yours sincerely,

A handwritten signature in blue ink that reads "Andy Burgess". The signature is written in a cursive, flowing style.

Andy Burgess
Associate Partner, Transmission and Distribution Policy