



Making a positive difference
for energy consumers

Gas transporter licensees, gas
shipper licensees, gas
interconnector licensees and
other interested parties

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Date: 28 July 2014

Dear Colleague,

Consultation on the modification of relevant United Kingdom ("UK") legislation and licence conditions to ensure Great Britain's ("GB's") compliance with the European legislative definition of gas day

As a result of new European Union ("EU") laws, GB is required to change its gas day. We¹ give a brief background to this requirement and the difference between GB's current gas day and the new EU definition below. This open letter consults on consequential changes to relevant UK law and licence conditions to comply with EU requirements. We set out below a summary of the proposed changes and provide a set of questions for respondents to consider. Illustrative drafting is attached in the annexes to this letter. We welcome stakeholder views on the drafting and questions outlined in this letter. Please email your responses to gasday@ofgem.gov.uk by 29 September 2014.

Background

One of the most important pieces of recent EU legislation on European gas and electricity markets is referred to as the Third Package². The Third Package of European energy reforms created a new legal framework to promote cross-border trade, in response to the European Commission's inquiry into competition in gas and electricity markets published in January 2007³. The inquiry found that there was insufficient integration between Member States' markets and highlighted a number of issues. These included the fact that insufficient or unavailable cross-border transmission capacity and different market designs were hampering integration.

In order to rectify this, a number of legally binding network codes are being established. These network codes are designed to promote the creation of liquid markets, the efficient use of cross-border transmission capacity and the integration between Member States' gas

¹ The terms 'the Authority', 'Ofgem' and 'we' are used interchangeably in this document. Ofgem is the Office of the Gas and Electricity Markets Authority.

² The term "Third Package" refers to Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC ('Electricity Directive'); Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003 ('Electricity Regulation'); Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC ('Gas Directive'); Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005 ('Gas Regulation'); and Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators.

³ <http://ec.europa.eu/competition/sectors/energy/inquiry/index.html>

and electricity markets. On the gas side, one part of facilitating these objectives is to define a common start time and end time for the gas day across Member States. The relevant EU legislation is contained in the following two European network codes:

1. Capacity Allocation Mechanisms in Gas Transmission Systems (CAM)⁴ was published in the Official Journal of the European Union (OJEU) on 15 October 2013 and applies from 1 November 2015. This EU legislation applies to interconnection points⁵ and defines the 'gas day' as "*the period from 5:00 to 5:00 UTC⁶ the following day for winter time and from 4:00 to 4:00 UTC the following day when daylight saving is applied*"⁷.
2. The Gas Balancing of Transmission Networks Network Code⁸ (BAL) was published in the OJEU on 27 March 2014 and applies from 1 October 2015. BAL also defines the gas day as from 5:00 to 5:00 UTC in winter and 4:00 to 4:00 UTC during daylight saving time by applying the definitions contained in Article 3 of CAM. BAL applies to balancing zones, which includes the downstream sector⁹.

These EU legislative requirements take priority over existing GB domestic legislation and associated regulations and codes. Therefore, in order to comply with CAM and BAL, GB's gas day at interconnection points and downstream must change to that defined in CAM. Implementing this change requires GB's legal and regulatory framework and industry processes to be modified.

Ofgem's powers and duties

Section 4C of the Gas Act 1986 requires the Authority to carry out our functions in the manner that we consider is best calculated to implement, or to ensure compliance with, any binding decision of Agency for the Co-operation of Energy Regulators ("ACER") or the European Commission made under the Gas Directive, the Gas Regulation or the ACER Regulation in relation to gas. CAM and BAL are European Regulations that supplement the Gas Regulation and we are therefore required to ensure compliance with them.

We therefore consider that modifications (which will be outlined in greater detail below) to the following documents are necessary to implement the change to the time of the GB gas day:

- Uniform Network Code ("UNC"):
 - On 28 March 2014, the Authority issued a direction to implement UNC Modification 0461 "*Changing the UNC Gas Day to Align with the Gas Day in EU Network Codes*" ("UNC0461")¹⁰
- Gas (Calculation of Thermal Energy) Regulations 1996 (the "GB Regulations")¹¹
- Letters of Direction issued under the GB Regulations
- Gas shipper licence Standard Licence Conditions ("SLCs")
- Gas transporter licence SLCs, Standard Special Conditions ("SSCs") and Special Conditions

⁴ Commission Regulation (EU) No 984/2013 establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems and supplementing Regulation (EC) No 715/2009 of the European Parliament and of the Council: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:273:0005:0017:EN:PDF>.

⁵ A physical or virtual point connecting adjacent entry-exit systems or connecting an entry-exit system with an interconnector, in so far as these points are subject to booking procedures by network users.

⁶ Coordinated Universal Time.

⁷ CAM Article 3(7).

⁸ Commission Regulation (EU) No 312/2014 of 26 March 2014 establishing a Network Code on Gas Balancing of Transmission Networks: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2014:091:R_0015_01&from=EN.

⁹ In other words, across the onshore gas industry.

¹⁰ <http://www.gasgovernance.co.uk/0461>.

¹¹ Regulation 2(1) of SI No. 439/1996 (<http://www.legislation.gov.uk/uksi/1996/439/contents/made>) (as amended).

- The identified changes to the SSCs and Special Conditions apply to National Grid Gas National Transmission System ("NGG NTS") and the Gas Distribution Networks ("GDNs")

Approach to the changes

Our approach when identifying modifications necessary for compliance with the CAM/BAL definition of gas day has been one of minimum change, ie only proposing modifications we consider necessary for GB to comply with EU legislative requirements. These include direct references to "gas day" or to "day" when this appears to be based on a 6:00 start time. With the exception of the "formula year" (and associated time periods, eg "formula month") changes described below, we have not proposed modifications to any timings not based on the gas day. For example, we consider that references to "working day" or "business day" should not need to change as a result of the change to the gas day.

For the avoidance of doubt, we consider times expressed in the legislation and licences to be expressed in GB local time, ie British Summer Time ("BST") when daylight saving time is applied (currently between the last Sunday in March and the last Sunday in October) and Greenwich Mean Time ("GMT") otherwise. This means that the proposed changes identified in this letter will align with the reference to daylight saving time in the CAM/BAL definition of gas day expressed as UTC.

Legislative modifications

GB Regulations

GB's gas day is defined in the GB Regulations as "*a period beginning at 6am on one day and ending immediately before 6am on the following day*".

In light of the above, we consider that the GB Regulations' definition of gas day must be modified to comply with EU law. The GB Regulations are made by the Authority under section 12 of the Gas Act 1986 (as amended) (the "GA")¹² with consent from the Secretary of State. We therefore consider we should take steps to amend the GB Regulations to comply with the CAM/BAL definition of gas day. Full details of the proposed changes to the GB Regulations are set out in Annex 1 of this letter.

Letters of Direction

The Authority issues Letters of Direction ("Directions") pursuant to Regulation 6(a), (b) and (c) of the GB Regulations. The Directions direct gas transporters on the time, manner and place in which determinations of calorific value ("CV")¹³ must be made. CV determinations are used to calculate charges for local distribution zones¹⁴. Directions are issued for all gas input points onto the gas network and contain references to "6am". These references relate to the current definition of gas day in the GB Regulations.

We consider that we need to change these references from "6am" to "5am" so they align with the change to the definition of gas day in the revised GB Regulations. Further, we have now learned that the list of recipients of some of the Directions is out of date, so we also intend to undertake some 'housekeeping' and update the Directions' recipient(s), where required. We will also update the Ofgem logo that appears on the Directions. Gas transporters may need to update their systems to reflect change from 6am to 5am.

¹² Gas Act 1986 (as amended): <http://www.legislation.gov.uk/ukpga/1986/44>.

¹³ Calorific value (CV) is used to calculate the energy that may be released when a known volume of gas is combusted under specified conditions.

¹⁴ Local distribution zones are thirteen independent geographically defined gas network supply areas. These zones exist for gas accounting purposes only.

All Directions follow a standard format. In Annex 2 we have included a redacted copy of the standard format relevant sections that will need to change to reflect the change in definition of the gas day.

We welcome your views on the changes we propose to make to the Letters of Direction.

Licence Modifications

We have identified two necessary modifications to Standard Licence Condition ("SLC") 1(a) (Definitions and Interpretation) of the gas shipper licence, which would amend the definition of "day" to align with the EU definition. Full details of the changes to the gas shipper licence are set out in Annex 3 of this letter.

We have identified several necessary changes to the SLCs, the SSCs and the Special Conditions of the gas transporter licence. These are set out in full in Annexes 4-6 of this letter.

The gas transporter licence includes the term "Formula Year"/"formula year", which currently commences on 1 April of each calendar year at 06:00, and terms for associated time periods, eg "Formula Month"¹⁵. These terms are used in costs and outputs calculations for NGG NTS and the GDNs and are analogous to the financial year. The formula year is not defined in relation to the gas day or gas year and as such a change is not directly required to comply with CAM and BAL. However, we consider that it is pragmatic to avoid any potential confusion that could result from these times not aligning with the CAM/BAL gas day definition and we have not identified any negative consequences or significant costs of modifying these terms. We therefore propose changing these definitions so the formula year and subsidiary time periods commence at 05:00 from 1 October 2015. We note that where the relevant definitions refer to a 1 April start date, the first affected time period would commence on 1 April 2016. We welcome your views on this approach.

We wish to highlight two incentives in the gas transporter licence Special Conditions relating to System Operation that we considered changing because of the change to the Gas Day. Special Condition 3D.35¹⁶ and Special Condition 3D.36¹⁷ define forecasts that currently take place at 14:00 and 16:00, and we considered whether they should move forward to 13:00 and 15:00 respectively. We do not believe that the forecasts need to change as they are not directly linked to the start time of the gas day, so not amending the forecast times is consistent with the minimum change approach. Moreover, these forecast times were chosen to allow the System Operator ("SO") to provide more accurate forecasts based on the information provided by industry. As such, we also do not believe there would be a benefit to consumers of changing the forecasts to account for the change in the gas day. We invite industry views on if there is a reason that these forecast times would need to change.

We have not identified any necessary modifications to the gas interconnector or gas supplier licences.

We welcome your views on the proposed licence modifications.

Indicative timelines

Following consideration of stakeholder views received in response to this open letter, we intend to proceed to statutory consultation. We currently hope to issue a statutory consultation in autumn 2014, with the intention that directions to modify relevant licences can be issued in late 2014/early 2015. Our current intention is for the revised GB

¹⁵ Gas transporter licence Standard Special Condition A3(1); Special Condition 1A.4.

¹⁶ Quality of Day Ahead Demand Forecasting Incentive Revenue (QDAIR_t)

¹⁷ Quality of Two to Five Days Ahead Demand Forecasting Incentive Revenue (QTFIR_t)

Regulations and licence modifications to take effect from 1 October 2015, as this is both the deadline for GB to implement BAL and the start of the new gas year.

Responding to this consultation

Ofgem would like to hear the views of interested parties in relation to the intended changes set out in this letter. In particular, we would appreciate views on:

Question 1: Do you agree that the identified legislative amendment to the definition of gas day in the GB Regulations is sufficient to align GB legislation with the EU legislative definition of gas day?

Question 2: Do you agree that amending the Directions is necessary following any change to the definition of gas day in the GB Regulations?

Question 3: Do you consider that any other GB legislative amendments are necessary to comply with the EU definition of gas day?

Question 4: Do you agree that the identified modification to the gas shipper licence is sufficient to comply with the EU legislative definition of gas day?

Question 5: Do you agree that the identified modifications to the gas transporter licence are sufficient to comply with the EU legislative definition of gas day?

Question 5(a): With regard to the identified changes to the definition of "Formula Year"/"formula year" and associated time periods in SSC A3(1) and Special Condition 1A.4 of the gas transporter licence, do you agree with the changes proposed to remain consistent with the CAM/BAL gas day definition?

Question 5(b): With regard to Special Conditions 3D.35 and 3D.36 of the gas transporter licence, do you agree with our reasons for not proposing any changes?

Question 6: Do you agree that no modifications to the gas interconnector licence are necessary to comply with the EU legislative definition of gas day?

Question 7: Do you agree that no modifications to the gas supplier licence are necessary to comply with the EU legislative definition of gas day?

Question 8: Do you consider that any additional licence modifications are appropriate to comply with the EU legislative definition of gas day, eg any references to "working day" or "business day"? Please include any additional changes you have identified in your response.

Responses should be received by 29 September 2014 and should be sent to gasday@ofgem.gov.uk, or alternatively to:

Vanessa Sturman
Wholesale Markets Policy
Ofgem
9 Millbank
London
SW1P 3GE

Unless marked confidential, all responses will be published by placing them on our website at www.ofgem.gov.uk. Respondents may request that their response is kept confidential. Ofgem shall respect this request, subject to any obligations to disclose information, for example, under the Freedom of Information Act 2000 or the Environmental Information

Regulations 2004. Ofgem prefers to receive responses in an electronic form so they can be placed easily on the Ofgem website.

Respondents who wish to have their responses remain confidential should clearly mark the document(s) to that effect and include the reasons for confidentiality. It would be helpful if responses could be submitted both electronically and in writing. Respondents are asked to put any confidential material in the appendices to their responses.

Any questions about this letter should, in the first instance, be directed to Vanessa Sturman (vanessa.sturman@ofgem.gov.uk or 020 7901 7077). Any questions regarding changes to the Directions should be directed to Duncan Carter (duncan.carter@ofgem.gov.uk or 020 7901 3942).

Yours sincerely,

Rachel Fletcher
Senior Partner, Markets

Annex 1: Proposed changes to the Gas (Calculation of Thermal Energy) Regulations 1996 (as amended)

Please note: in this and subsequent annexes, amendments to the text have been red-lined, with deletions indicated in strike-through text.

Regulation 2(1) of SI No. 439/1996 (as amended)¹⁸

“gas day” means a period beginning at ~~6~~5am on one day and ending immediately before ~~6~~5am on the following day.

¹⁸ <http://www.legislation.gov.uk/ukSI/1996/439/contents/made>

Annex 2: Proposed changes to the Letters of Direction

2. Direction as to the place or premises and times at which, and manner in which, determinations of calorific values are to be made (regulation 6(b))

2.2. Times

██████████ shall make determinations of calorific values at or immediately after 56 am each day in respect of the gas conveyed on the preceding gas day.

2.3.1. Where there is continuous measurement of the calorific value of the gas conveyed, by means of suitable mathematical integration of the calorific values of the gas continuously recorded by the measurement apparatus during the gas day, the average calorific value shall be determined as follows:-

- a) where ██████████ provide an approved type of calorific value determining device ("Approved CVDD"), the average calorific value for a gas day shall be the average calorific value reported immediately before, at, or immediately after 56 am; or
- b) where the average calorific value is not reported immediately before, at, or immediately after 56 am, then the record for the gas day shall be inspected for values and if any are found, the average calorific value shall be calculated by aggregating the values found and dividing the sum by the number of values used,

Annex 3: Proposed changes to the gas shipper licence

Standard Licence Condition 1(1) (Definitions and Interpretation)

“day” means a period beginning at 65 am on one day and ending immediately before 65 am on the following day, and “daily” shall be construed accordingly;

Annex 4: Proposed changes to the Standard Licence Conditions of the gas transporter licence

Standard Licence Condition 9(1B) (Network Code and Uniform Network Code)

This change applies to Independent Gas Transporter licensees.

For the purposes of paragraph 1A, “daily” means over a period beginning at 56am on one day and ending immediately before 56am on the following day and “year” means a period of 12 months beginning with 1 October;

Annex 5: Proposed changes to the Standard Special Conditions of the gas transporter licence

Standard Special Condition A3(1) (Definitions and Interpretation)

This change applies to both NTS and GDN licensees.

“formula year” means a period of twelve months commencing on 1 April at 056:00 hours;

Standard Special Condition A11(1B) (Network Code and Uniform Network Code)

This change applies to both NTS and GDN licensees.

For the purposes of paragraph 1A, “daily” means over a period beginning at 56am on one day and ending immediately before 56am on the following day and “year” means a period of 12 months beginning with 1 October;

Annex 6: Proposed changes to the Special Conditions of the gas transporter licence

Special Conditions 1A.4 (Restriction of revenue in respect of the Distribution Network Transportation Activity: definitions)

This change applies to the following licensees:

- National Grid Gas plc (RDN)
- Northern Gas Networks
- Scotland Gas Networks
- Southern Gas Networks
- Wales & West Utilities

Formula Year means a period of twelve months commencing on 1 April. ~~at 06:00 hours;~~ The first such Formula Year (t=1) commencing ~~on 1 April 2013 at 06:00 hours;~~ from 1 April 2016, Formula Years will commence at 05:00 hours;

Special Condition 1A.4 (Definitions)

These changes apply to the following licensee:

- National Grid Gas plc (NTS)

Formula Month means a period commencing at ~~05~~6:00 in the first day of a calendar month and ending at ~~05~~6:00 on the first day of the subsequent calendar month.

Formula Year means a period of twelve months commencing on 1 April at 05:00 hours. ~~The first such formula year (t=1) commencing on 1 April 2002 at 06:00 hours;~~ from 1 April 2016, formula years will commence at 05:00 hours.

Gas Year means a period of twelve months commencing on 1 October at ~~05~~6:00 hours.

Subscript d means the relevant Day. d=1 refers to the Day commencing at 06:00 on 1 April 2013; ~~from 1 October 2015 Days will commence at 05:00.~~

Subscript m means the relevant Formula Month. m=1 refers to the Formula Month commencing at 06:00 on 1 April 2013; ~~from 1 October 2015 Formula Months will commence at 05:00.~~

Subscript n means the day relevant for the purposes of determining the Licensee's Permit Arrangements. n=1 refers to the day commencing at 06:00 on 1st April 2013; ~~from 1 October 2015 days will commence at 05:00.~~

Subscript t subject to the definition for "Formula Year t" above, means the relevant Formula Year. t=1 refers to the Formula Year commencing at 06:00 on 1st April 2013; ~~from 1 October 2015 Formula Years will commence at 05:00.~~

Special Condition 3D.32 (The daily linepack performance measure)

This change applies to the following licensee:

- National Grid Gas plc (NTS)

$OLP_{t,d}$ means the total NTS linepack in respect of Day d of Formula Year t as at 056:00 hours on Day d.

$CLP_{t,d}$ means the total NTS linepack in respect of Day d of Formula Year t as at 056:00 hours on Day d+1.

Special Condition 3D.35 (Quality of Day Ahead Demand Forecasting Incentive Revenue (QDAIR_t))

Please note that we do not propose amending this condition, however we have included the existing version for ease of reference.

This condition applies to the following licensee:

- National Grid Gas plc (NTS)

$DADF_d$ means the Day ahead forecast NTS throughput value (mcm) for all Days in Formula Year t published by the Licensee (in accordance with the network code) on its website not later than 14:00 hours at Day ahead (d-1) in respect of each Day of Formula Year t. Where the day ahead 14:00 forecast NTS throughput value is not published by 14:00 hours at Day ahead (d-1), the next forecast published on the Licensee's website for the Day concerned shall be used.

Special Condition 3D.36 (Quality of Two to Five Days Ahead Demand Forecasting Incentive Revenue (QTFIR_t))

Please note that we do not propose amending this condition, however we have included the existing version for ease of reference.

This condition applies to the following licensee:

- National Grid Gas plc (NTS)

DF_{d-i} means the demand forecast NTS throughput value (mcm) for all Days in Formula Year t published by the Licensee on its website not later than 16:00 hours at two, three, four and five Days ahead (d-2, d-3, d-4, d-5) in respect of each Day of Formula Year t. Where the two, three, four or five Days ahead 16:00 forecast NTS throughput values are not published by 16:00 hours at two, three, four or five Days ahead (d-2, d-3, d-4, d-5), the next forecast published on the Licensee's website for the gas Day concerned shall be used.