

To: Energy Assets Pipelines Limited

**Gas Act 1986
Section 23(1)(b)**

**MODIFICATION OF THE CONDITIONS OF THE GAS TRANSPORTER LICENCE HELD
BY ENERGY ASSETS PIPELINES LIMITED**

Whereas –

1. Energy Assets Pipelines Limited (the Licensee) is the holder of a gas transporter licence (the Licence) granted or treated as granted under section 7 of the Gas Act 1986 (the Act).
2. In accordance with section 23(2) of the Act the Gas and Electricity Markets Authority (the Authority) gave notice on 1 May 2015 (the Notice) that it proposed to modify Standard Licence Condition 4A (Obligations as Regards Charging Methodology) of the Licence (SLC 4A) and required any representations to the modification to be made on or before 12 June 2015.
3. In accordance with section 23(4)(b) of the Act, the Authority gave notice to the Secretary of State on 1 May 2015 that it proposed to make the modification and has not received a direction not to make the modification.
4. Prior to the close of the consultation period in respect of the Notice, the Authority received no responses.
5. The reason why the Authority is making the licence modification is to ensure that the charging methodology adopted by the Licensee serves to exclude revenue derived from charges controlled by Special Condition C1 from the reasonable profit objective.
6. The effect of the modification will be to align the provisions of SLC 4A for the Licensee with those that apply to other holders of gas transporter licences in which SLC 4A has effect.
7. Where an application for permission to appeal the Authority's decision is made to the Competition and Markets Authority under section 23B of the Act, Rule 5.7 of the CMA's Energy Licence Modification Appeals Rules¹ requires that the appellant must send to any relevant licence holders who are not parties to the appeal a non-confidential notice setting out the matters required in Rule 5.2. The attached Schedule 2 provides a list of the relevant licence holders in relation to this modification notice. The meaning of 'relevant licence holder' is set out in section 23(10) of the Act.

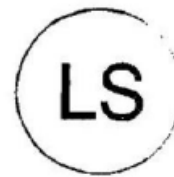
¹ The rules were published by the Competition Commission in September 2012. On 1 April 2014, the Competition Commission was abolished and its functions transferred to the Competition and Markets Authority (CMA).

Now therefore

In accordance with the powers contained in section 23(1)(b) of the Act, the Authority hereby modifies the conditions of the gas transporter licence of Energy Assets Pipelines Limited in the manner specified in attached Schedule 1, by deleting the text shown as struck-through and inserting the text shown as double-underlined. This decision will take effect on and from 30 September 2015.

This document constitutes notice of the reasons for the decision to modify the conditions of the gas transporter licence held by Energy Assets Pipelines Limited as required by section 38A of the Act.

**The Official Seal of the Gas and Electricity Markets Authority
here affixed is authenticated by the signature of**



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**Ian Rowson, Associate Partner Regulatory Finance
Duly authorised on behalf of the
Gas and Electricity Markets Authority**

27 July 2015

Schedule 1 to Notice dated 27 July 2015

Condition 4A: Obligations as Regards Charging Methodology

1. Except in so far as the Authority consents to the licensee not doing so, the licensee shall, subject to paragraphs 2 and 3, from time to time make such modifications of the methodology established in pursuance of paragraph 5 of standard condition 4 (Charging of Gas Shippers – General) (“the charging methodology”) as may be requisite for the purpose of achieving the relevant methodology objectives.

2. Except in so far as the Authority otherwise approves, the licensee shall not make a modification of the charging methodology unless it has -
 - (a) consulted the relevant shippers on the proposed modification and allowed them a period of not less than 28 days within which to make written representations; and
 - (b) furnished the Authority with a report setting out -
 - (i) the terms originally proposed for the modification;
 - (ii) the representations (if any) made by relevant shippers; and
 - (iii) any change in the terms of the modification intended in consequence of such representations,

and unless 28 days have elapsed since the said report was furnished without the Authority having given the licensee a direction requiring that the modification be not made.

3. Subject to paragraph 4, the licensee shall in each calendar year furnish the Authority with a report on the application of the charging methodology during the 12 months preceding 1st October in that year including a statement as to -
 - (a) the extent to which, in the licensee’s opinion, the relevant methodology objectives have been achieved during the period to which it relates;
 - (b) whether those objectives could more closely be achieved by modification of the charging methodology; and
 - (c) if so, the modifications which should be made for that purpose.

4. As respects the calendar year in which this licence came into force:
 - (a) if it came into force on or after 1st October in that year, paragraph 3 shall not apply; or
 - (b) if it came into force before that date, paragraph 3 shall have effect as if for the reference to the 12 months preceding that date there were substituted a reference to the period preceding that date beginning with the date on which the licence came into force.

5. In paragraphs 1 and 3 “the relevant methodology objectives” means, subject to paragraph 6, the following objectives -

- (a) that compliance with the charging methodology results in charges which reflect the costs incurred by the licensee in its transportation business;
- (b) that, so far as is consistent with sub-paragraph (a), the charging methodology properly takes account of developments in the transportation business;
- (c) that, so far as is so consistent, compliance with the charging methodology facilitates effective competition between gas shippers and between gas suppliers; and
- (d) compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.

6. Where -

- (a) the charging methodology results in charges which, or the revenue derived from which, are, in the main, not controlled or limited in pursuance of any standard condition of this licence other than standard condition 4 (Charging of Gas Shippers – General) ; and
- (b) the Authority has not accepted that, for a specified period, this paragraph should not apply or has so accepted subject to standard conditions which are not satisfied,

“the relevant methodology objectives” shall include the following objective, namely, that the charging methodology results in charges which, taking one charge with another and one year with another, permit the licensee to make a reasonable profit, and no more, from its transportation business so, however, that, for the purposes of this paragraph, there shall be disregarded -

- (i) costs incurred for the purposes of that business in connection with the construction of pipe-lines for the benefit of an area for the time being designated for the purposes of standard condition 4C (Charging of Gas Shippers – Supplemental Connection Charges);
- (ii) revenue derived from that business by way of charges (within the meaning of standard condition 4B (Connection Charges etc)) to which any provisions of that standard condition have effect and which are in respect of premises within an area for the time being so designated;
- (iii) revenue derived from that business by way of supplemental charges (within the meaning of standard condition 4C (Charging of Gas Shippers – Supplemental Connection Charges));
~~and~~
- (iv) revenue derived from that business by way of charges established under paragraph 2 of special condition 1 (Charging of Gas Shippers – Relative Price Control); and
- (v) any payments made by the licensee in connection with the proposed development of an area for the time being not so designated to a person who has an interest in land in that area, other than by way of reasonable consideration for an interest in land or for goods or services with which the licensee is provided,

and, for the purposes of this paragraph, “costs” and “revenue” mean costs and revenue determined on an accrual basis.

7. The licensee shall comply with any direction given from time to time by the Authority requiring the licensee -
 - (a) subject to paragraphs 8 and 9 to publish such information as may be specified or described in the direction-
 - (i) as to any of the costs incurred by the licensee in its transportation business, or
 - (ii) relating to the charging methodology as modified from time to time in accordance with paragraph 1; and
 - (b) to do so in such form and manner and with such frequency as may be so specified.

8. The licensee shall not be required by paragraph 7 to publish any information or any document -
 - (a) which it could not be compelled to give in evidence or produce in civil proceedings before the court; or
 - (b) so far as it comprises information relating to costs incurred in connection with the construction of pipe-lines for the benefit of an area for the time being designated for the purposes of standard condition 4C (Charging of Gas Shippers – Supplemental Connection Charges) or so incurred in preparation for the area becoming so designated.

9. In publishing any information in pursuance of paragraph 7 the licensee shall have regard to the need for excluding, so far as is practicable, any matter which relates to the affairs of any person where the publication of that matter would or might seriously and prejudicially affect his interests.

10. Any question arising under paragraph 9, as to whether the publication of some matter which relate to the affairs of a person would or might seriously and prejudicially affect his interests, shall be determined by the Authority.

11. In this condition “transportation business” includes activities connected with the storage of gas in pursuance of storage arrangements which relate to the utilisation of -
 - (a) an offshore gas storage installation;
 - (b) storage cavities in natural strata; or
 - (c) containers for the storage of gas in a liquid state.

12. If the Authority, having regard, in particular, to any representations made to it by the licensee and other persons as to the extent to which there is competition in relation to the storage of gas in particular categories of the facilities mentioned in paragraph 11(a), (b) or (c) and its view on that question, considers it appropriate that paragraph 11 should be modified by the omission of sub-paragraph (a), (b) or (c), then the sub-paragraph in question shall be omitted with effect from a date specified in a notice relating thereto published by the Authority for the purposes of this condition generally; and, if all three sub-paragraphs come to be omitted, paragraph 11 and the reference thereto in the definition of “transportation business” in standard condition 1 (Definitions and Interpretation) shall cease to have effect.

Schedule 2 – Relevant Licence Holders¹

Condition subject to modification	Relevant licence holders
Amended Standard Condition 4A. Obligations as Regards Charging Methodology	Energy Assets Pipelines Limited Brookfield Utilities UK Energetics Gas Limited Indigo Pipelines Limited Fulcrum Pipelines Limited ES Pipelines Limited ESP Connections Limited ESP Networks Limited ESP Pipelines Limited