

**To:**  
**Energetics Gas Limited**  
**Energy Assets Pipelines Limited**  
**ES Pipelines Limited**  
**ESP Connections Limited**  
**ESP Networks Limited**  
**ESP Pipelines Limited**  
**Fulcrum Pipelines Limited**  
**GTC Pipelines Limited**  
**Independent Pipelines Limited**  
**Indigo Pipelines Limited**  
**Quadrant Pipelines Limited**

**(‘the Relevant Licence Holders’)**

**Gas Act 1986**  
**Section 23(2)**

**Notice of statutory consultation on a proposal to modify Special Condition 1 of the gas transporters licence held by the Relevant Licence Holders**

1. The Gas and Electricity Markets Authority (‘the Authority’)<sup>1</sup> proposes to modify Special Condition 1 (Charging of Gas Shippers – Relative Price Control) of the Gas Transporters licences held by the Relevant Licence Holders (‘the independent Gas Transporters (IGT) licences’) granted or treated as granted under Section 7 of the Gas Act 1986 (‘the Gas Act’).
2. The reason why we are proposing these modifications is set out in our letter dated 11 December 2015, which accompanies this notice, and in our initial open letter consultations.<sup>2</sup> In summary, the proposed modifications are to make the disapplication procedure consistent with the changes to the Gas Act introduced by the Electricity and Gas (Internal Markets) Regulations 2011.<sup>3</sup>
3. The effect of these proposed modifications is to ensure that the disapplication procedure in the IGT licences is consistent with the disapplication procedure in other Gas Transporters licences, and consistent with the Gas Act.
4. A copy of the proposed modifications and other documents referred to in this Notice have been published alongside this Notice and are available on the Ofgem website ([www.ofgem.gov.uk](http://www.ofgem.gov.uk)). Alternatively they are available from our Research and Information Centre, 9 Millbank, London, SW1P 3GE (020 7901 7003).
5. Any representations with respect to the proposed licence modifications must be made on or before 22 January 2016 to: Deirdre Bell, Office of Gas and Electricity Markets, 9 Millbank, London, SW1P 3GE or by email to [deirdre.bell@ofgem.gov.uk](mailto:deirdre.bell@ofgem.gov.uk).
6. We normally publish all responses on our website. However, if you do not wish your response to be made public then please clearly mark it as not for publication. We prefer to receive responses in an electronic form so they can be placed easily on our website.

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<sup>1</sup> The terms “the Authority”, “we” and “us” are used interchangeably in this document.

<sup>2</sup> [Consultation on amending the disapplication conditions of Independent Gas Transporter and Independent Distribution Network Operator Licences, February 2015, and](#)  
[Secnd consultation on amending the disapplication conditions of Independent Gas Transporters and Independent Distribution Network Operator Licences, July 2015](#)

<sup>3</sup> <http://www.legislation.gov.uk/ukdsi/2011/9780111513965/contents>

7. If we decide to make the proposed modifications they will take effect not less than 56 days after the decision is published.



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**James Veaney**  
**Head of Distribution Policy: SG & G**  
**Duly authorised on behalf of the**  
**Gas and Electricity Markets Authority**

**11 December 2015**

## Appendix 1 – Proposed changes to IGT Licence – Special Condition 1

### Special Condition 1. Charging of Gas Shippers – Relative Price Control

Subject to paragraph 2, where the licensee makes charges in accordance with paragraph 1 (a) of standard condition 4 (Charging of Gas Shippers – General) after the 31 December 2003 and where,

- (a) the licensee provides transportation arrangements to a premises,
- (b) the premises are not defined as legacy sites as defined within paragraph 3 of this condition; and
- (c) charges, or revenues derived from them, are, in the main, not controlled or limited in pursuance of any condition of this licence other than standard condition 4 (Charging of Gas Shippers – General) or standard condition 4C (Charging of Gas Shippers – Supplemental Connection Charges).

then paragraph 5 of standard condition 4 (Charging of Gas Shippers – General) shall cease to have effect in relation to the premises.

2. For premises subject to paragraph 1 above or paragraph 3 (4) of this condition the licensee shall for all such premises, unless the Authority consents otherwise in writing, charge no more than  $TC_t$ :

(1)

- (a) Where  $RC_t$  is less than  $C_t$  and greater than  $F_t$ , then

$$TC_t = RC_t$$

- (b) Where  $RC_t$  is greater than or equal to  $C_t$ , then

$$TC_t = C_t$$

- (c) Where  $RC_t$  is less than or equal to  $F_t$ , then

$$TC_t = F_t$$

Subject to this condition at Entry-point, then  $RC_t$  shall be calculated as follows:

$$RC_t = SSP - CSEP$$

Where  $t$  is greater than 1,  $RC_t$  shall be calculated as follows:

$$RC_t = RC_{t-1} \times \left( 1 + \frac{wSSP_r}{100} \right)$$

(2) The licensee shall adjust charges on 1 January each year in accordance with this condition. Where the Entry-point is in the immediately preceding period of 1 October to 31 December, the licensee shall not adjust charges in accordance with paragraph 2 above but shall modify the charges in accordance with this condition each 1 January thereafter.

- (3) To determine the level of charges the licensee shall apply Annual Quantity in relation to domestic premises in accordance with standard Annual Quantity as accepted by the Authority, and for other premises as reasonably estimated and agreed between the licensee and any relevant shipper, unless the Authority directs otherwise for those other premises. In this paragraph 2 (3) domestic premises excludes any domestic premises where a surcharge is made pursuant to paragraph 5 of this condition.
- (4) At Entry-point,  $C_t$  and  $F_t$  shall be calculated as follows:

$$C_t = TC_t \times (1 + 0.05)$$

$$F_t = TC_t \times (1 - 0.05)$$

Where  $t$  is greater than 1,  $C_t$  and  $F_t$  shall be calculated as follows:

$$C_t = C_{t-1} \times \left(1 - \frac{\Delta_r}{100}\right) \times \left(1 + \frac{RPI}{100}\right)$$

$$F_t = F_{t-1} \times \left(1 - \frac{\Delta_r}{100}\right) \times \left(1 + \frac{RPI}{100}\right)$$

- (5) Charges made or which fall to be made to premises under paragraph 1 of this condition shall be determined in accordance with this condition for a period of no less than 10 years from Entry-point.
- (6) Where the Authority reviews charges made, or which may be made, under this condition and implements any such review after 2014, the Authority shall, in the course of conducting its review, have regard to previous efficiently incurred capital expenditure made by the licensee in the course of carrying on activities required by or permitted under the Gas Act and the licence.

Definitions:

Annual Quantity means the annual quantity of gas off-taken, or which may be reasonably likely to be off-taken, by a single supply point or connected system exit point;

$C_t$  means the charge ceiling as determined in accordance with paragraph 2 (4) of this condition;

CSEP means the relevant licenced gas transporter's connected system exit point charges calculated at the prevailing charge in accordance with the prevailing methodology statement for Network Region  $r$  at Entry-point; excepting charges for metering arrangements, meter reading, CSEP administration charges, NTS entry capacity charges where determined by auction, or other charges determined in writing by the Authority;

Entry-point means the date at which  $t=1$  and, with the exception of premises subject to paragraph 3 (4) of this condition, shall be determined as either the date of connection of a premises to the licensee's pipe-line system, and where gas has entered the premises' service pipe, or the date the licensee is contractually bound to provide a connection to the person requiring that connection. The licensee

shall select the entry-point date within 60 days of the contract to connect, unless the Authority otherwise directs the date of the Entry-point;

- F<sub>t</sub>** means the charge floor as determined in accordance with paragraph 2 (4) of this condition;
- RPI** means the value published in October of each year by the Authority and calculated as the percentage change (whether of a positive or a negative value) in the arithmetic average of the retail price index determined in respect of April to September (both inclusive) of the current calendar year and the arithmetic average of the retail price index determined with respect to April to September of the previous calendar year;
- RC<sub>t</sub>** means the relative charge for each premises in year ‘t’ as determined in paragraph 2 of this condition.
- RC<sub>t-1</sub>** means the relative charge for each premises in the year preceding year ‘t’ as determined in paragraph 2 of this condition.
- SSP** means the relevant licenced gas transporter’s single supply point charges for premises calculated at the prevailing charge in accordance with the prevailing methodology statement for Network Region r at the Entry-point; excepting charges for metering arrangements, meter reading, CSEP administration charges, NTS entry capacity charges where determined by auction, or other charges determined in writing by the Authority;
- TC<sub>t</sub>** means the maximum charge the licensee may charge for each premises subject to paragraph 2 of this condition in year ‘t’;
- wSSP<sub>r</sub>** means the change in the average of the relevant licenced gas transporter’s single supply point charge from year t-1 to year t for each Network Region r. Networks Regions r comprise: r<sub>1</sub> Scotland, comprising LDZ exit zones SC; r<sub>2</sub> North and Yorkshire, comprising LDZ exit zones NO, NE; r<sub>3</sub> North West, comprising LDZ exit zones NW; r<sub>4</sub> East England, comprising LDZ exit zones EM, EA; r<sub>5</sub> West Midlands, comprising LDZ exist zones WM; r<sub>6</sub> Wales and South West, comprising LDZ exit zones WA, SW; r<sub>7</sub> North London, comprising LDZ exit zones NT; and r<sub>8</sub> South and South East, comprising LDZ exit zones SO, SE. The values for wSSP<sub>r</sub> in respect of each region shall be determined and published in October of each year by the Authority; and
- Δ<sub>r</sub>** means the annual percentage change in respect of the Network Region r in which the premises are located, and has a value according to the schedule below:

<b>Region</b>	<b>Annual percentage change</b>
r <sub>1</sub> Scotland	0.42
r <sub>2</sub> North and Yorkshire	1.13
r <sub>3</sub> North West	1.40
r <sub>4</sub> East England	1.64
r <sub>5</sub> West Midlands	1.57
r <sub>6</sub> Wales and South West	0.36
r <sub>7</sub> North London	1.23

r <sub>8</sub> South and South East	1.51
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3. In respect of legacy sites the licensee shall, within 60 days of 1 January 2004, calculate and notify to the Authority a date by which all such premises shall be charged according to paragraph 2 above, and the Authority shall then direct a date (the “migration date”) as soon as reasonably practicable within six months of the notification.
- (1) In calculating the above date the licensee shall use its best endeavours to take into account the following factors:
    - (a) the migration date shall be calculated on a revenue neutral basis and the notification by the licensee shall include, or the licensee shall otherwise provide as required by the Authority, all necessary information for the Authority to determine the reasonableness of such calculation; and
    - (b) from the migration date, charges determined pursuant to paragraph 5 of standard condition 4 (Charging of Gas Shippers - General) or paragraph 4 of standard condition 4C (Charging of Gas Shippers – Supplemental Connection Charges) shall cease to have effect for legacy sites.
  - (2) Where the Authority directs a migration date or conducts a review pursuant to paragraph 2 (6) of this condition, the Authority shall, in each case and where necessary, direct a migration date so as to achieve the objective of revenue neutrality.
  - (3) From the beginning of the calendar year immediately following the migration date, charges determined pursuant to paragraph 5 of standard condition 4 (Charging of Gas Shippers - General) or paragraph 4 of standard condition 4C (Charging of Gas Shippers – Supplemental Connection Charges) shall cease to have effect for legacy sites.
  - (4) From the beginning of the calendar year immediately following the migration date, the charges to shippers in respect of legacy sites shall thereafter be made in conformity with paragraph 2 of this condition subject to charges calculated on the basis of an Entry-point of 1 January 2004, and inclusive of all relevant adjustments to charges specified in this condition since 1 January 2004 up to the migration date.

Definitions:

Legacy site(s) means existing or future premises in respect of which

- a) the licensee has had a methodology accepted by the Authority pursuant to paragraph 4 of standard condition 4C (Charging of Gas Shippers – Supplemental Connection Charges); or
- b) the licensee makes, or shall make, charges to shippers under standard condition 4 (Charging of Gas Shippers – General) and

at least one premises that forms part of the same clearly identifiable site or project was connected to the licensee's pipeline system and gas had entered the premises' service pipe before 1 January 2004.

4. The Authority may, on written application by the licensee within 60 days of this condition being implemented, consent to charging arrangements other than those required by paragraphs 1, 2 and 3 of this condition. The Authority's written consent may contain such terms and conditions as the Authority determines necessary.
5. Where charges are made in accordance with paragraph 2, they may include a surcharge subject to the following conditions,
  - (a) a maximum surcharge of 0.3412 pence per kWh of gas transported adjusted on 1 January of each year by a factor of  $\left(1 + \frac{RPI}{100}\right)$  starting from 1 January 2004. RPI has the same meaning as given in paragraph 2 of this condition;
  - (b) the surcharge has a maximum duration of 20 years from the entry point (when the surcharge to the relevant shipper first falls due). For the avoidance of doubt, the surcharge period is not restarted in the event that another shipper takes control of the supply of gas to that premises.
  - (c) the surcharge may only apply to existing domestic premises which were in existence for not less than 6 months prior to the provision of the gas main extended specifically for connection of those premises, and which have not previously received a supply of natural gas;
  - (d) the licensee has, on request to provide a connection by the owner or occupier of the premises, extended a gas main to specifically connect the premises;
  - (e) the licensee must notify the Authority of the specified amount and specified duration as soon as reasonably practicable but in any event no later than 28 days prior to any such charge falling due; and
  - (f) the Authority may direct the licensee not to make the surcharge within 28 days of the notification in (e) above.
6. The licensee shall furnish the Authority with a statement of charges determined in respect of paragraph 2 in a form approved by the Authority. The licensee shall
  - (a) publish a statement, or revision or amendment of a statement, furnished, or notice given, under paragraph 2 in such manner as will, in its reasonable opinion, secure adequate publicity for it;
  - (b) send a copy of any such statement, revision, amendment or notice so published to any person who asks for one; and
  - (c) the licensee shall furnish the Authority with specified information in respect of its charges in a specified form as requested from time to time.

7. References in paragraphs 2 of special condition 1 (Charging of Gas Shippers - Relative Price Control) to charges do not include references to -
- (a) charges related to the acquisition or disposal of gas for purposes connected with the balancing of the licensee's pipe-line system;
  - (b) to the extent (if any) to which the Authority has accepted that they should, as respects certain matters, be so determined, to charges determined by reference to provisions in that behalf set out in the Network Code; or
  - (c) charges related to the provision of meters or reading of meters.

~~8. The charging arrangements in paragraph 2 and paragraph 5 shall apply so long as this licence continues in force but shall cease to have effect in such circumstances and at such times as are described in paragraph 9.~~

~~9. Pursuant to paragraph 8, a licensee, in whose licence this condition has effect, may make a disapplication request in writing to the Authority. The disapplication request shall specify the paragraphs of this condition (or any part or parts thereof) to which the request relates and shall state the date (the "disapplication date") from which the licensee wishes the Authority to consent that the specified paragraphs (or the specified parts or parts thereof) shall cease to have effect. The disapplication date is a date which is either:~~

~~(a) not less than 18 months after the date of delivery of the request or more than three years from 1 January 2004; or~~

~~(b) not less than 10 years after 1 January 2004.~~

~~10. The disapplication request may be withdrawn by the licensee at any time prior to the disapplication date.~~

~~11. The condition (or any part or parts thereof) to which the disapplication request relates shall cease to have effect from the date specified in the disapplication request or such later date as may be agreed, if the Authority agrees in writing to the disapplication request.~~



~~12. If the Authority has not made a reference to the Competition Commission under section 24 of the Act relating to the modification of this licence by the removal of the paragraphs (or any part or parts thereof) specified in the disapplication request before the beginning of 12 months which will end with the disapplication date and the licensee has not withdrawn the disapplication request, the licensee may deliver a termination notice to the Authority. Following the service of a termination notice, with effect from the disapplication date or such later date as may be specified in the termination notice such of the paragraphs (or any part or parts thereof) as are specified in the disapplication request shall cease to have effect in this licence.~~

~~13. If the Competition Commission makes a report on a reference in respect of this licence made by the Authority relating to the modifications of this licence by the removal of the paragraphs (or any part or parts thereof) specified in the disapplication request and such report does not include a conclusion that the removal of such paragraphs (or any part or parts thereof) operates or may be expected to operate against the public interest, the licensee may within 30 days after the publication of the report by the Authority in accordance with section 25 of the Act deliver to the Authority a termination notice. With effect from the disapplication date or such later date as may be specified in the termination notice such paragraphs (or any part or parts thereof) as are specified in the disapplication request and in respect of which the Competition Commission report does not include the aforementioned conclusion shall cease to have effect in this licence.~~

#### **Conditions are to continue subject to disapplication**

8. The charging arrangements in paragraph 2 and in paragraph 5 of this condition apply so long as this licence continues in force but shall cease to have effect (in whole or in part) if the licensee makes a Disapplication Request to the Authority in accordance with paragraphs 9 to 20 of this condition and:

- (a) the Authority agrees in Writing to the Disapplication Request; or
- (b) the provisions that are the subject of the Disapplication Request are disappplied by a Disapplication Notice given by the licensee in accordance with the provisions of this condition.

#### **Date from which a disapplication may take effect**

9. Except where the Authority otherwise consents, a disapplication following the service of a Disapplication Request may not have effect until a date that is no earlier than 18 months after service on the Authority of the Disapplication Request.

### **Procedure for making a Disapplication Request**

10. The licensee may ask the Authority to consent to the disapplication of paragraphs 2 and 5 of this condition (in whole or in part) by serving a Disapplication Request on the Authority.

11. A Disapplication Request must:

- (a) be in Writing and addressed to the Authority;
- (b) specify the paragraphs of this condition (or any part or parts thereof) to which the request relates;
- (c) provide a full statement of the licensee's reasons for making the Disapplication Request;
- (d) contain such other information or analysis as the licensee considers necessary to enable the Authority to fully assess the Disapplication Request; and
- (e) state the date that is proposed by the licensee (which must not be earlier than the appropriate date that is mentioned in paragraph 9) on and after which the specified paragraphs (or any part or parts thereof) would cease to have effect (the "Disapplication Date").

12. A Disapplication Request may be served in respect of a specified geographic area.

13. If, within 28 working days of receipt of a Disapplication Request, the Authority gives notice to the licensee:

- (a) specifying further information or analysis that it reasonably considers is required in order to fully assess the Disapplication Request, and
- (b) requesting the licensee to provide that information or analysis,

the Disapplication Request shall be treated for the purposes of this condition as not delivered to the Authority until that further information or analysis is provided. If in consequence the Disapplication Date set out in the Disapplication Request no longer complies with paragraph 9, the Disapplication Date shall be treated as being the earliest date that would comply with that paragraph.

14. The giving of notice under paragraph 13 shall not preclude the Authority from making such further requests for information or analysis, or for the reformatting of information or analysis already provided, as it may consider it requires to assess the Disapplication Request.

15. The licensee may withdraw a Disapplication Request at any time.

### **Licensee's right to disapply under a Disapplication Request**

16. If the licensee has made a Disapplication Request that complies with the requirements of paragraphs 9 and 11 of this condition, and the circumstances described in paragraphs 17 or 19 of this condition apply, it may subsequently serve a Disapplication Notice on the Authority disapplying some or all the provisions that are subject to the Disapplication Request.

### **Disapplication without involvement of the Competition and Markets Authority**

17. The licensee may serve a Disapplication Notice on the Authority if, by the Disapplication Date specified in the relevant Disapplication Request, the Authority has not responded to the request by publishing a decision under section 23 of the Act to modify this condition in either of the ways described in paragraph 18.

18. The ways referred to in paragraph 17 are:

- (a) modify any of the provisions referred to in the Disapplication Request; or
- (b) modify this condition so as to remove the licensee's right to serve a Disapplication Notice on the Authority in respect of the relevant Disapplication Request.

### **Disapplication after involvement of the Competition and Markets Authority**

19. The licensee may also serve a Disapplication Notice on the Authority if the Authority has published a decision described in paragraph 18 of this condition but:

- (a) the licensee has exercised its right to appeal to the Competition and Markets Authority against that decision of the Authority as provided for by section 23B of the Act;
- (b) the Competition and Markets Authority has quashed the Authority's decision, and has included in its direction to the Authority a provision relating to the right for the licensee to serve a Disapplication Notice on the Authority; and
- (c) no more than 20 working days have elapsed since the date from which the licensee may serve a Disapplication Notice on the Authority under the Competition and Markets Authority's direction.

20. A Disapplication Notice under paragraph 17 and 19 must also comply with any terms and conditions specified in the Competition and Markets Authority's direction.

### **Interpretation**

21. For the purposes of this condition:

- (a) **Disapplication Notice** means a notice served on the Authority in accordance with paragraphs 17 or 19 of this condition disapplying some or all of the provisions the subject of a Disapplication Request.
- (b) **Disapplication Request** means a request made to the Authority in accordance with paragraph 10 of this condition to disapply some or all of the provisions of paragraphs 2 and 5 of this condition.
- (c) **Writing** includes writing that is sent or received by Electronic Communication.

## Appendix 2: List of Relevant Licence Holders

<p>Energetics Gas Limited International House Stanley Boulevard Hamilton International Technology Park Glasgow South Lanarkshire G72 0BN</p> <p>Company no: SC303150</p>	<p>Energy Assets Pipelines Limited Ship Canal House 98 King Street Manchester M2 4WU</p> <p>Company no: 08743360</p>
<p>ES Pipelines Limited Hazeldean Station Road Leatherhead Surrey KT22 7AA</p> <p>Company no: 03822878</p>	<p>ESP Connections Limited Hazeldean Station Road Leatherhead Surrey KT22 7AA</p> <p>Company no: 03234745</p>
<p>ESP Networks Limited Hazeldean Station Road Leatherhead Surrey KT22 7AA</p> <p>Company no: 02865198</p>	<p>ESP Pipelines Limited Hazeldean Station Road Leatherhead Surrey KT22 7AA</p> <p>Company no: 03405272</p>
<p>Fulcrum Pipelines Limited 5th Floor 6 St. Andrew Street London EC4A 3AE</p> <p>Company no: 06006362</p>	<p>GTC Pipelines Limited Energy House Woolpit Business Park Woolpit Bury St Edmunds Suffolk IP30 9UP</p> <p>Company no: 03104203</p>
<p>Independent Pipelines Limited Energy House Woolpit Business Park Windmill Avenue Woolpit Bury St Edmunds Suffolk IP30 9UP</p> <p>Company no: 02828692</p>	<p>Indigo Pipelines Limited 1 London Wall London EC2Y 5AB</p> <p>Company no: 02742721</p>
<p>Quadrant Pipelines Limited Energy House Woolpit Business Park Windmill Avenue Woolpit Bury St Edmunds Suffolk IP30 9UP</p> <p>Company no: 02528816</p>	