

## **Annex D –Modifications to GNI (UK) Licence**

This Annex sets out the modifications to the GNI (UK) conveyance licence.

- Deletions are indicated by red text which has been struck through.
  - Additions are indicated by red text which is underlined.
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## 2.2.22 Disapplication

(a) This Condition 2.2.22 applies in the event that the Authority:

- (i) amends, pursuant to Condition 2.2.4(g) or 2.2.4(h), the Allowed Operating Expenditure for any Gas Year  $t$ ;
- (ii) determines, pursuant to paragraph 5(a) of Annex A, nominal post tax rate of return of equity, the level of financial gearing, and the cost of debt (which in each case is to apply at and with effect from the relevant Review Date for the purposes of the terms  $re_t$ ,  $g_t$ , and  $d_t$  in that paragraph 5(a) of Annex A) or
- (iii) serves a notice under Condition 2.2.5(d).

(b) For the purposes of this Condition 2.2.22:

- (i) any amendment or determination referred to in Condition 2.2.22(a)(i) and 2.2.22(a)(ii), and any amendment, addition deletion and recalculation (as the case may be) set out in the notice referred to Condition 2.2.22(a)(iii), is a "Formula Amendment"; and
- (ii) each Formula Amendment shall, for the purposes of this Condition 2.2.22 constitute and be treated as a separate Formula Amendment (including where it may be made at or around the same time, or within the same notice given to the Licensee, as any other Formula Amendment).

(c) Where the Authority makes a Formula Amendment:

- (i) subject to the remaining provisions of this Condition 2.2.22, the Formula Amendment, and where a notice is served under Condition 2.2.5(d) the recalculation referred to in that notice (the "associated recalculation"), shall have effect for the relevant Gas Year  $t$  or on the relevant Review Date (as the case may be);
- (ii) the Licensee may within 28 days of the date of the Authority's notification to it of the Formula Amendment serve a written notice on the Authority (a "Disapplication Notice") which shall identify the part(s) of the Formula Amendment the Licensee wishes to be disapplied, in which case:

- (A) those part(s) of the Formula Amendment identified in the Disapplication Notice shall not take effect; and
- (B) where the part(s) of the Formula Amendment identified in the Disapplication Notice relate to a determination made under paragraph 5(a) of Annex A, the Rate of Return that applied on the date immediately prior to the relevant Review Date shall continue to apply on and from the relevant Review Date; and
- (C) where the part(s) of the Formula Amendment identified in the Disapplication Notice relate to an amendment to the Allowed Operating Expenditure, the Allowed Operating Expenditure which shall apply for each relevant Gas Year  $t$  shall be;

$$AOE_t = \left( \sum_{t=-5}^{t=-1} AOE_t \right) \times 0.2$$

- (iii) with regard to the Review Date, 1 October 2017, the may within 120 days serve Disapplication Notice:
- (iv) the Disapplication Notice may be withdrawn by the Licensee at any time within six months of the date of the Disapplication Notice;
- (v)if within six months after the date of the Disapplication Notice (provided such Disapplication Notice has not been withdrawn), the Authority publishes a decision under Article 14(8) of the Order to:
  - (A) where the Disapplication Notice relates to a Formula Amendment in respect of the CRR Formula, CRR Actuals and CRR Variables, modify this Condition 2.2 in respect of the CRR Formula, CRR Actuals and CRR Variables (or any aspect of part of them);
  - (B) where the Disapplication Notice relates to a Formula Amendment in respect of the Allowed Operating Expenditure, modify this Condition 2.2. in respect of the Allowed Operating Expenditure (or any aspect or part relating to it);
  - (C) where the Disapplication Notice relates to a Formula Amendment in respect of the calculation of the Rate of Return modify this Condition 2.2

or Annex A in respect of the calculation of the Rate of Return (or any aspect or part relating to it),

in each case “the Modification Decision”, then Condition 2.2.22(d) shall apply.

(d) Where this Condition 2.2.22(d) applies and;

(i) the Licensee either:

(A) does not exercise its right to appeal to the CMA against the Modification Decision in accordance with Article 14B of the Order; or

(B) does exercise that right, but the CMA refuses permission for or otherwise does not allow the appeal;

then:

(C) the Formula Amendment, including where applicable any associated recalculation, shall apply in the period from the relevant Review Date to the date of modification pursuant to Article 14(9) of the Order; and

(D) such adjustment as the Authority may direct shall be made, including where applicable to  $CRR^{fp}_m$ , in respect of any future months in the Revenue Recovery Period to reflect the retrospective application of the Formula Amendment and, where applicable, any associated recalculation;

(ii) the Licensee exercises its right to appeal to the CMA against the Modification Decision in accordance with Article 14B of the Order, and:

(A) the CMA quashes the Modification Decision of the Authority under Article 14E(2)(a) of the Order; and

(B) the CMA neither remits the matter back to the Authority under Article 14E(2)(b) of the Order nor substitutes its own decision for that of the Authority under Article 14E(2)(c) of the Order,

then the Formula Amendment, and where applicable the associated recalculation, referred to in the Disapplication Notice shall not apply; or

- (iii) the Licensee exercises its right to appeal to the CMA against the Modification Decision in accordance with Article 14B of the Order, and the CMA reaches a conclusion other than one of those described in Conditions 2.2.22(d)(i) and (ii), then the Formula Amendment, and where applicable the associated recalculation, shall have effect in accordance with that conclusion or any decisions of the CMA or the Authority made pursuant to it.

## ANNEX A: ACTUAL REQUIRED REVENUE FORMULA

This Annex forms part of Condition 2.2.

### 1. Formula

The Total Allowed Conveyance Revenue for each Gas Year t shall be calculated in accordance with the following formula:

$$\mathbf{ARR}_t = \mathbf{CRR}^p_t + \mathbf{O}_t - \mathbf{SI}_t + \mathbf{PA}_t$$

where:

**ARR<sub>t</sub>** is the Total Allowed Conveyance Revenue or Actual Required Revenue in Gas Year t;

**CRR<sup>p</sup><sub>t</sub>** is the capital revenue requirement for the pipeline, p in Gas Year t, as calculated in paragraph 2 of this Annex;

**O<sub>t</sub>** is the inflation adjusted allowed operating expenditure for Gas Year t, as calculated in paragraph 3 of this Annex;

**SI<sub>t</sub>** is the supplemental income for Gas Year t, as calculated in paragraph 4 of this Annex;  
and

**PA<sub>t</sub>** is the Postalisation Adjustment for Gas Year t, as determined in accordance with Condition 2.2.1.1(g);

**p** is the North-West Pipeline, the South-North Pipeline or any Spur (where “Spur” shall, in relation to Capital Expenditure only, include any associated Postalised Distribution Pipelines) as appropriate.

### 2. Calculation of CRR<sup>p</sup><sub>t</sub>

**CRR<sup>p</sup><sub>t</sub>** is the Capital Revenue Requirement for the pipeline, p in Gas Year t calculated as:

$$CRR^p_t = \sum_{m=q}^s CRR^p_m$$

Where

q is the 1st month in Gas Year t;

s is the 12th month in Gas Year t;

and

$$CRR^p_m = \frac{(OAV^p_m + PVT^p_m) \cdot rr_m \cdot (1 + i_m) - k^p_m}{1 - (1 + rr_m)^{-(N-m)}}$$

where

$CRR^p_m$  is the pre-tax revenue required for pipeline p to recover invested capital at the allowed rate of return in month m calculated to be a constant real amount for  $m = 1 \dots 300$ ;

$rr_m$  is the regulatory allowed real weighted average rate of return calculated in accordance with paragraph 5 of this Annex;

$OAV^p_m$  is the opening asset value for pipeline p in month m calculated in accordance with paragraph 2(a) of this Annex;

$PVT^p_m$  is the present value of estimated grossed up tax payments net of post 2029 capital allowances for pipeline p in month m and shall be calculated in accordance with paragraph 2(d) of this Annex;

$k^p_m$  is an error correction mechanism to take account of variances in outturn and forecast variables including revenue, inflation, corporate tax rates and capital allowances for pipeline p in month m and shall be calculated in accordance with paragraph 7 of this Annex;

$m = 1$  is the month in which the First Operational Commencement Date for pipeline p occurs;

$m = N = 300$  is the 300<sup>th</sup> month after the month in which the First Operational Commencement Date for pipeline p occurs;

$i_m$  is the inflation rate in month m and:

- (i) with respect to forecast figures is the forecast long term CPI inflation rate and with respect to the period until the first Review Date, shall be 2%;
- (ii) with respect to actual figures is the inflation rate indicated by the Consumer Prices Index(CPI) and is calculated as follows:

$$i_t = \frac{CPI^{oct}_{t+1}}{CPI^{oct}_t} - 1$$

$$i_m = (1 + i_t)^{1/12} - 1$$

where:

$CPI^{Oct}_t$  is the relevant CPI figure for October of Gas Year t;

$i_t$  is the inflation rate in Gas Year t.

**(a) Opening Asset Value**

$$OAV^p_m = OAV^p_{m-1} - \left( \frac{(OAV^p_{m-1}) \cdot (rr_{m-1})}{1 - (1 + rr_{m-1})^{-(N-m)}} - (OAV^p_{m-1}) \cdot (rn_{m-1}) \right)$$

and for  $m = 1$ ;

$$OAV^p_{m=1} = AC^p + CI^p - G^p$$

where;

$CI^p$  is an amount calculated as capitalised interest for the pipeline p in accordance with paragraph 2 (b) of this Annex;

$rn_m$  is the regulatory allowed nominal weighted average rate of return in month m calculated in accordance with paragraph 5 of this Annex;



$G^P$  is the present value at First Operational Commencement Date of grants received for pipeline p, calculated in accordance with paragraph 2 (c) of this Annex;

$AC^P$  is an amount calculated as allowed capital expenditure for the pipeline p in accordance with the following formula:

$$AC^P = VFCE^P + PG^P + UC^P$$

where:

$VFCE^P$  Verified Controllable Capital Forecast for the pipeline p;

$PG^P$  is an amount calculated as the Pain/Gain Factor in respect of the pipeline p in accordance with paragraph 6 of this Annex;

$UC^P$  is the Actual Uncontrollable Capital Expenditure in respect of the pipeline p in accordance with Condition 2.2.2.

### (b) Capitalised Interest

$CI^P$  is the present value at the start of  $m = 1$  of capitalised interest for pipeline p calculated as;

$$CI^P = \sum_{m=i}^0 \left( CE_m^P \cdot \prod_{m=h}^0 (1 + CIR_m) - CE_m^P \right) + \sum_{m=1}^N \left( CE_m^P \cdot \prod_{m=1}^N (1 + rn_m)^{-1} - CE_m^P \right)$$

$$CI^P = \sum_{m=i}^{-1} \left( CE_m^P \cdot \prod_{r=m}^{-1} (1 + CIR_r) - CE_m^P \right) + \sum_{m=1}^N \left( CE_m^P \cdot \prod_{r=1}^m (1 + rn_r)^{-1} - CE_m^P \right)$$

$CE_m^P$  is the Actual Capital Expenditure for pipeline p in month m;

$Hm=i$  is February 2002, the first month from which Capitalised Interest will be charged;

$m=1$  is the month in which the First Operational Commencement Date occurs;

$N=300$  is the 300<sup>th</sup> month after the First Operational Commencement Date;

$rn_r$  is the regulatory allowed nominal monthly weighted average rate of return in month  $r$ ;

$CIR_m$  is the Capitalised Interest Rate for month  $m$  being a weighted average of the one month LIBOR + 0.5% and the one month EURIBOR +0.5%, weighted according to the percentage of CE financed in each currency, as at the first business day of each month.

### (c) Grants Received

$G^p$  is the present value at the start of  $m=1$  of any financial contribution from any public or private resources, including grants received, in relation to the pipeline  $p$  calculated as follows;

$$G^p = \sum_{m=j}^0 AMGR_m^p \prod_{m=j}^0 (1 + CIR_m) + \sum_{m=1}^N AMGR_m^p \prod_{m=1}^N (1 + rn_m)^{-1}$$

$$G^p = \sum_{m=j}^{-1} \left( AMGR_m^p \prod_{r=m}^{-1} (1 + CIR_r) \right) + AMGR_0^p$$

$$+ \sum_{m=1}^N \left( AMGR_m^p \prod_{r=1}^m (1 + rn_r)^{-1} \right)$$

where:

$m=j$  is the first month that grant is received in which an amount of capital grant is received by the Licensee, where that month is before the month in which the First Operational Commencement Date occurs;

$m=1$  is the month in which the First Operational Commencement Date occurs;

$AMGR_m^p$  is the actual monthly grant receipt amount audited and approved by the Authority as being equal to the amount of capital grant actually received by the Licensee in each

calendar month ending prior to and after the First Operational Commencement Date in respect of the design, development and construction of the pipeline, p;

$N=300$  is the 300<sup>th</sup> month after the First Operational Commencement Date;

$CIR_r$  is the Capitalised Interest Rate for month r being a weighted average of the one month LIBOR + 0.5% and the one month EURIBOR +0.5%, weighted according to the percentage of CE financed in each currency, as at the first business day of each month; and

$rn_r$  is the regulatory allowed nominal monthly weighted average rate of return in month r.

#### (d) Tax Payable

$PVT^p_m$  is the present value of estimated grossed up tax payments net of post 2029 capital allowances in month  $m$  for pipeline p and for  $m = 1$  shall be calculated in accordance with the following formula;

$$PVT_{m=1} = \sum_{m=1}^N \left( \frac{T_m}{\prod_{m=1}^N (1 + rn_m)} \right) - \left( \sum_{m=N+1}^{\infty} \frac{C_m}{\prod_{m=1}^{\infty} (1 + rn_m)} \right) \cdot \left( \frac{1}{\prod_{m=1}^N (1 + rn_m)} \right)$$

$$T_m = \max \left( T_m + \min \left( T_m + \sum_{m=h}^{m-1} T_m, 0 \right), 0 \right)$$

where

$$T_m = (R_m - DI_m - C_m) \cdot \frac{Tr_m}{1 - Tr_m}$$

where:

$$R_m = \frac{(OAV_m) \cdot rr_m}{1 - (1 + rr_m)^{-(N-m)}} \cdot (1 + i_m)$$

where  $rr_m$  and  $rn_m = 0$  for  $m = i \dots 0$

$C_m$  is an amount of tax allowances approved or determined by the Authority as being, in its opinion, a reasonable estimate of the tax allowances that will be [or are] available to the Licensee in month  $m$  for pipeline  $p$  and shall be calculated in accordance with UK treasury/Inland Revenue relevant rules applying at  $m$ ;

$T_m$  is the monthly tax calculation required to determine accumulated tax losses and subsequent tax payments calculated in accordance with the following formula;

$R_m$  is the monthly post-tax revenue required to recover invested capital at the allowed rate of return calculated in accordance with the following formula;

$Tr_m$  is the UK corporate rate of tax applying in month  $m$  ;

$DP_t$  is the amount of debt interest approved or determined by the Authority as being, in its opinion, a reasonable estimate of debt interest payable in month  $m$ , by the Licensee, in respect of the amount of debt required to finance the construction of the pipeline  $p$  calculated in accordance with the following formula;

$$\frac{DI_m = (OAV_m) \cdot (g) \cdot (rdn_m)}{= (OAV_m) \cdot (g_m) \cdot (rdn_m)} \quad DI_m$$

where:

$OAV_m$  is the opening asset value in month  $m$

$g_m$  is the level of financial gearing as determined by the Authority to apply at and with effect from each Review Date; as notified to the Licensee by the Authority

$rdn_m$  is the regulatory allowed nominal cost of debt finance in month  $m$  calculated in accordance with the following formula;

$$rdn_m = \left( (1 + rf_t + rp_t) \cdot (1 + i_t) \right)^{1/12} - 1$$

$rf_t$  is the regulatory allowed real risk free rate on debt in year  $t$  as calculated in accordance with paragraph 5 of this Annex;

$rp_t$  is the regulatory allowed real risk premium on debt in year t as calculated in accordance with paragraph 5 of this Annex.

### 3. Calculation of Allowed Operating Expenditure

**The inflation adjusted allowed operating expenditure will be calculated in accordance with the formula:**

$$O_t = AOE_t * (FRPI^{Mar}_t / FRPI^{Mar}_{t-1}) + IAL$$

Where:

$$IAL = IA * (LIBOR^{Apr}_{t-1} + 2\%)$$

$$IA = AOE_{t-1} * (RPI^{Mar}_{t-1} / RPI^{Mar}_{t-2}) - AOE_{t-1} * (FRPI^{Mar}_{t-1} / FRPI^{Mar}_{t-2})$$

$AOE_t$  is the Allowed Operating Expenditure in Gas Year t.

$FRPI^{Mar}_t$  is the relevant forecast RPI figure for March of Gas Year t as determined by the Authority.

$LIBOR^{Apr}_{t-1}$  is the relevant LIBOR for the first Business Day in April of Gas Year t-1.

### 4. Calculation of $SI_t$

**The supplemental income to apply in the Formula will be calculated in accordance with the following formula.**

$$FSI_t + [(ASI_{t-2} - FSI_{t-2}) * (1 + rn_{t-2}) (1 + rn_{t-1})]$$

where:

$FSI_t$  is the Allowed Supplemental Income which should become due or receivable to the Licensee during Gas Year t;

$ASI_{t-2}$  is the Actual Supplemental Income for Gas Year t-2.

$rn_{t-1}$  is the nominal weighted average rate of return in Gas Year t-1.

## 5. Rate of Return

The applicable Rate of Return is expressed on a vanilla weighted average cost of capital basis and will apply to the North West Pipeline, South North Pipeline, and each of the Spurs and any associated Postalised Distribution Pipelines.

The nominal weighted average rate of return in month  $m$  is calculated according to the following formula:

$$rn_m = [1 + g_t ((1 + d_t). (1 + i_t) - 1) + (1 - g_t).re_t]^{1/12} - 1$$

where:

$rn_m$  is the nominal weighted average rate of return in month  $m$ ;

$re_t$  is the nominal post tax rate of return on equity in Gas Year  $t$  and shall be determined by the Authority to apply at and with effect from each Review Date, as notified to the Licensee by the Authority, taking account of (amongst other relevant considerations) the prevailing market rates at the time of the determination;

$g_t$  is the level of financial gearing as determined by the Authority to apply at and with effect from each Review Date; as notified to the Licensee by the Authority.

$d_t$  is the cost of debt as determined by the Authority to apply at and with effect from each Review Date, as notified to the Licensee by the Authority, taking account of (amongst other relevant considerations) the prevailing market rates at the time of the determination.

(a) The regulatory allowed real weighted average rate of return in month  $m$  is calculated according to the following formula:

$$rr_m = \frac{(1 + rn_m)}{(1 + i_m)} - 1$$

- (b) The regulatory allowed nominal weighted average rate of return in Gas Year t is calculated according to the following formula:

$$rn_t = (1+rn_m)^{12} - 1$$

- (d) Before determining the nominal post tax rate of return on equity, the level of financial gearing and the cost of debt that shall apply under and in accordance with paragraph (a) above at and with effect from the relevant Review Date, the Authority shall provide details of the proposed determinations and the reasons for them and give the Licensee an appropriate period (not being less than 28 days) to comment on them.

## **6. Pain/Gain Factor**

The pain/gain factor shall be calculated in respect of the North West Pipeline and the South North Pipeline as follows:

- (a) If, in respect of the relevant pipeline Actual Controllable Capital Expenditure is greater than Verified Controllable Capital Forecast:
- (i). for any difference that is less than or equal to 10% of Verified Controllable Capital Forecast, the pain/gain factor shall be a positive figure equal to 75% of such difference;
  - (ii). for any difference that is more than 10% but less than or equal to 20% of Verified Controllable Capital Forecast, the pain/gain factor shall be a positive figure equal to the sum of: (aa) 75% of the 10% and (bb) 50% of the remaining element of the difference;
  - (iii). for any difference that is more than 20% but less than or equal to 30% of Verified Controllable Capital Forecast, the pain/gain factor shall be a positive figure equal to the sum of: (aa) 75% of the 10%, (bb) 50% of the 10-20%, and (cc) 25% of the remaining element of the difference; and
  - (iv). for any difference greater than 30% of Verified Controllable Capital Forecast, the pain/gain factor shall be calculated in accordance with (iii) and no additional adjustment in respect of any difference in excess of 30% shall apply.

(b) If, in respect of the relevant pipeline Actual Controllable Capital Expenditure is less than Verified Controllable Capital Forecast:

- (i). for any difference that is less than or equal to 10% of Verified Controllable Capital Forecast, the pain/gain factor shall be a negative figure equal to 75% of such difference;
- (ii). for any difference that is more than 10% but less than or equal to 20% of Verified Controllable Capital Forecast, the pain/gain factor shall be a negative figure equal to the sum of: (aa) 75% of the 10%, and (bb) 50% of the remaining element of the difference; and
- (iii). for any difference that is more than 20% of Verified Controllable Capital Forecast, the pain/gain factor shall be a negative figure equal to the sum of: (aa) 75% of the 10%, (bb) 50% of the 10-20%, and (cc) 25% of the remaining element of the difference.

(c) For the avoidance of doubt the pain/gain factor for the Spurs shall be zero.

## 7. Error Correction Mechanism

$k_m$  is an error correction mechanism to take account of variances in outturn and forecast variables including revenue, inflation, corporate tax rates and capital allowances and shall be calculated in accordance with the following formula:

$$k_m = \frac{(K_m) \cdot rr_m}{1 - (1 + rr_m)^{-(N-m)}} \cdot (1 + i_m)$$

$$K_{m=k+1} = \left( \sum_{m=1}^k \frac{CRR_m^a - CRR_m^f}{\prod_{m=1}^k (1 + rn_m)} \cdot \prod_{m=1}^k (1 + rn_m) \right)$$

where



$CRR_m^a$  and  $CRR_m^f$  are actual and reforecast revenue in month m respectively up to k = month before review month:

such that

$$\sum_{m=k+1}^N \frac{CRR_m}{\prod_{m=k+1}^N (1+rn_m)} \cdot \prod_{m=1}^k \frac{1}{1+rn_m} + \sum_{m=1}^k \frac{CRR_m^a}{\prod_{m=1}^k (1+rn_m)} = OAV_{m=1} + PVT_{m=1}$$

$$K_m = K_{m-1} - \left( \frac{(K_{m-1}) \cdot (rr_{m-1})}{1 - (1+rr_{m-1})^{-(N-m)}} - (K_{m-1}) \cdot (rn_{m-1}) \right)$$

## Condition 2.4: Network Code

### 2.4.1—The relevant objective

~~The Licensee shall no later than six months before the first operational commencement date submit to the Authority a statement of its proposed arrangements for the conveyance of gas, in addition to the matters covered by Conditions 2.2 and 2.3, which will facilitate the achievement of the "relevant objective", that is to say:~~

- ~~(a) — the secure, safe, reliable, efficient and economic development and operation and maintenance of the Network with due regard to the environment; and~~
- ~~(b) — subject thereto:
  - ~~(i) — compliance with the Licensee's other obligations under the Licence; and~~
  - ~~(ii) — subject to Condition 2.4.1(b)(i) the promotion of effective competition between Users;~~~~

~~and put such arrangements in place except as the Authority otherwise consents.~~

### 2.4.2—The Network Code

~~The Licensee shall:~~

- ~~(a) — prepare and provide to the Authority for its approval a "Network Code", that is to say a document setting out the arrangements established under Condition 2.4.1 and the terms on which it will enter into such arrangements with Users for the conveyance of gas no later than three months prior to the first operational commencement date on which it will enter into such arrangements with Users for the conveyance of gas;~~
- ~~(b) — where pursuant to Article 8H of the Order the Licensee is designated as a transmission system operator, ensure that the Network Code contains provisions that establish:
  - ~~(i) — the measures that the Licensee will put in place for the balancing of the Network;~~
  - ~~(ii) — the methodology used by the Licensee to procure the gas required for balancing the Network;~~~~

~~(iii) the methodology by which the charges to be levied on Users for the balancing of the Network are to be determined;~~

~~(iv) the technical safety criteria applicable to the operation of the Network;~~

~~(c) where, pursuant to Condition 2.14.2 the Licensee is designated as a distribution system operator, ensure that the Network Code contains provisions that establish:~~

~~(i) the measures that the Licensee will put in place for the balancing of the Network;~~

~~(ii) the methodology by which the charges to be levied on gas suppliers for the balancing of the Network are to be determined; and~~

~~(iii) the technical safety criteria applicable to the operation of the Network;~~

~~(d) put such Network Code in place except as the Authority otherwise consents and comply with the provisions of the approved Network Code;~~

~~(e) put in place appropriate contractual arrangements, approved by the Authority, which require compliance with the Network Code by the Licensee, the Users, and any third parties who may become parties to the Network Code; and~~

~~(f) except in so far as the Authority consents to the Licensee doing so, not enter into any arrangements for the conveyance of gas except in accordance with the provisions of the Network Code applicable from time to time to the circumstances of the case.~~

~~2.4.3 Where a term of the Network Code or of the modification rules referred to in Condition 2.4.5 is framed so that its proper implementation is to be determined with regard to whether it facilitates the achievement of the relevant objective, either the Licensee or any other party to the Network Code who has entered into the arrangements to which that term applies, may, to the extent that the term so provides, refer to the Authority for determination any question as to whether a manner in which the Licensee proposes to implement the term would secure that objective.~~

#### ~~2.4.4 Modification of the Network Code~~

~~Subject to Standard Condition 2A, the following shall apply. The Licensee shall establish and implement procedures for the modification of the Network Code by the Licensee, subject~~

~~to the provisions of this Condition, so as to better facilitate the achievement of the relevant objective and which will enable:~~

- ~~(a) the Network Code to be reviewed;~~
- ~~(b) modifications to be proposed by the Authority, the Licensee or by any other party to the Network Code;~~
- ~~(c) adequate publicity to be given to any proposal by:
  - ~~(i) drawing it to the attention of other parties to the Network Code;~~
  - ~~(ii) sending a copy of it to anyone who asks for one; and~~
  - ~~(iii) making it otherwise available in an appropriate manner where it is necessary for establishing whether the proposal would better facilitate the achievement of the relevant objective;~~~~
- ~~(d) the preliminary views of the Authority to be sought in relation to any matter arising on a proposal to modify the Network Code; and~~
- ~~(e) the representations or objections, with respect to any proposal to modify the Network Code, made (and not withdrawn) by any other party to the Network Code and by other persons who are likely to be materially affected by the proposal to be properly considered.~~

#### 2.4.5 Modification Rules

~~Subject to Standard Condition 2A, the following shall apply. The Licensee shall:~~

- ~~(a) prepare "the modification rules", that is to say a document setting out the terms of the procedures established under Condition 2.4.4, and shall furnish the Authority with a copy of the modification rules;~~
- ~~(b) not make any modification to the modification rules except:
  - ~~(i) after consulting the other parties to the Network Code;~~
  - ~~(ii) after furnishing the Authority with a report on such consultation and consideration; and~~~~

~~(iii) — with the consent of the Authority; and~~

~~(c) — furnish the Authority with a copy of any modification so made.~~

#### ~~2.4.6 — Prohibition on irregular modification~~

~~Subject to Standard Condition 2A, the following shall apply. The Licensee shall not make any modification to the Network Code except:~~

~~(a) — to comply with Condition 2.4.7(c); or~~

~~(b) — with the consent of the Authority;~~

~~and shall furnish the Authority with a copy of any modification made.~~

#### ~~2.4.7 — Role of Authority in modifications~~

~~Subject to Standard Condition 2A, the following shall apply. Where a proposal is made pursuant to the modification rules to modify the Network Code, the Licensee shall:~~

~~(a) — refer for determination by the Authority any question as to whether the representations or objections by any other party to the Network Code or by any other person, in respect of the proposal have been properly considered in accordance with those rules;~~

~~(b) — as soon as reasonably practicable, give notice to the Authority:~~

~~(i) — giving particulars of the proposal;~~

~~(ii) — where the proposal is made by any other party to the Network Code, giving particulars of any alternative proposal by the Licensee to modify the Network Code in respect of the same matter;~~

~~(iii) — giving particulars of any representations or objections made by a party to the Network Code or by any other person in respect of those proposals;~~

~~(iv) — stating whether, in its opinion, any proposed modification should or should not be made;~~

~~(v) — stating the factors which, in its opinion, justify making or not making the proposed modification; and~~

~~(vi) giving such further information as may be prescribed by the modification rules; and~~

~~(c) comply with any direction given by the Authority to make a modification to the Network Code in accordance with a proposal described in a notice given to the Authority under sub-paragraph (b) which, in the opinion of the Authority will, as compared to the existing provisions of the Network Code or any alternative proposal, better facilitate the achievement of the relevant objective.~~

#### 2.4.8 Publication of Network Code

~~The Licensee shall:~~

~~(a) publish the Network Code and the modification rules as modified from time to time in such form and manner as the Authority may from time to time direct; and~~

~~(b) send a copy of the Network Code and modification rules as modified from time to time to any person who asks for one on payment of a charge in respect of the cost incurred by the Licensee in complying with this requirement which does not exceed such amount as the Authority may from time to time direct.~~

#### 2.4.9 Authority to determine material affect on persons of transportation arrangements

~~Except in so far as the Authority otherwise consents, the Licensee shall refer for determination by the Authority any question as to whether a person is likely to be materially affected by transportation arrangements or by a proposal to modify the Network Code.~~

#### 2.4.10 Reasons for refusal of access

~~The Network Code prepared in accordance with this Condition shall require the Licensee to give duly substantiated reasons for any refusal of access to the Network.~~

#### 2.4.11 Prohibition on undue discrimination

~~The Licensee shall not show an undue preference for or undue discrimination against any person or class or classes of person:~~

~~(a) in assessing a person's application to become a party to the Network Code; and/or~~

~~(b) in its interpretation of the Network Code and the application of procedures contained in the Network Code.~~

#### ~~2.4.12 Definitions~~

~~In this Condition 2.4, "User" means, as the context requires, any gas supplier or any person acting on behalf of a gas supplier who has made, or seeks to make, arrangements with the Licensee in pursuance of which gas is, or is to be, conveyed through the Network.~~

2A.4.3 The PSA's functions

2A.4.3.1 The PSA Agreement shall, in accordance with Condition 2A.4.1.1, impose on the PSA the following functions (referred to as the "PSA Functions"):

- (a) the receipt from each of the Designated Pipe-line Operators of the information to be submitted to the PSA pursuant to Condition 2A.2.3 of each Designated Pipe-line Operator's Respective Licence and the receipt from each of the Designated Pipe-line Operators of its Forecast Required Revenue for the coming Gas Year "t" and the following four Gas Years pursuant to its Respective Licence;
- (b) the calculation of the relevant Forecast Postalised Charges for the next Gas Year and the following four Gas Years through application of the Forecast Postalisation Formulae and notification thereof to all Designated Pipe-line Operators in each case within 5 Business Days of receipt of the information specified in (a) above;
- (c) the verification of payments into the PoT Account (to include keeping a record of all Debt Payments paid by each PS Gas Supplier in relation to particular PS Non-Payments) and prompt notification to Designated Pipe-line Operators of any PS Non-Payment and of any Recovery paid into the PoT Account;
- (d) the calculation of any VAT Distributions due in respect of sums received into the PoT Account from PS Gas Suppliers on the date of calculation of the Monthly Distribution in the relevant month (month "m"), ~~provided that where a sum is received from a PS Gas Supplier in respect of PS Transmission Payments and such sum is insufficient to meet both the PS Transmission Payments and VAT due on such PS Transmission Payments in full the PSA shall calculate the VAT element of the amount so received, calculated as;~~

$$\text{VATLm} = \frac{(\text{VILm} - 1 / \text{TILm} - 1)}{\text{TARLGm}}$$



~~VATL = the aggregate amount of VAT Distributions for the relevant Designated Pipe-line Operator "L" for month "m"~~

~~VIL<sub>m-1</sub> = the sum of VAT amounts invoiced by the relevant Designated Pipe-line Operator "L" in the preceding month ("m-1")~~

~~TIL<sub>m-1</sub> = the sum of all amounts including VAT payable for PS Transmission Payments invoiced by the relevant Designated Pipe-line Operator "L" in the preceding month ("m-1")~~

~~TARLG<sub>m</sub> = the sum of all amounts received into the PoT Account from the relevant Designated Pipe-line Operator "L"'s PS Gas Suppliers in month "m" in respect of the amounts referred to in the definition of the term TIL<sub>m-1</sub> above.~~

- (e) notification to the Designated Pipe-line Operators of any part or full settlement of PS Non-Payments by PS Gas Suppliers made on or before the Second Due Date in relation to such PS Non-Payments and the issue of directions to the Trustee to distribute such settlements payments according to Condition 2A.6.
- (f) on the Debt Notice Date each month the calculation of the Net Debt Position and each Designated Pipe-line Operator's Debt Entitlement and, where applicable, any Debt Payment or Debt Repayment to be charged or credited to each PS Gas Supplier and the issue to Designated Pipe-line Operators and the Authority of a notice (a "Debt Notice") in relation to any such Debt Payment and/or Debt Repayment arising which shall contain:
  - (i) details of any PS Notified Debt and interest thereon and any Recovery to which such Debt Payments/Repayments relate;
  - (ii) details of the relevant Designated Pipe-line Operator's Debt Entitlement;
  - (iii) particulars of the Debt Payment or Debt Repayment to be charged or credited to each PS Gas Supplier;

- (iv) sufficient information concerning the Total Monthly Payments and Auxiliary Payments in any period relevant to the calculation of Debt Payment or Debt Repayment to permit verification of the calculations of Debt Payment or Debt Repayment in the Debt Notice.
- (g) the calculation of the Year-End Postalised Charges and any Capacity Reconciliation Payments and Commodity Reconciliation Payments applicable to each PS Gas Supplier in accordance with the provisions of Condition 2A.2.6.3 and Condition 2A.2.6.4; and the notification of the results of all such calculations to all Designated Pipe-line Operators and to the Authority no later than the 1st Business Day in December after the end of each Gas Year;
- (h) the calculation as soon as reasonably practicable, and within 5 Business Days of receipt of all relevant information in accordance with Condition 2A.6.1.3 of the Year-End Amount, if any, to be paid by or to each of the Designated Pipe-line Operators in respect of the previous Gas Year;
- (i) the calculation of upstream tariffs as required under the terms of Designated Pipe-line Operators' licences and notification to the respective Designated Pipe-line Operator and the Authority, no later than the ~~17~~20 Business Day in ~~July~~April;
- (j) on or before the 5th Business Day following each Due Date the calculation in respect of each Designated Pipe-line Operator of the applicable Monthly Postalised Entitlements and Monthly Distributions in respect of the relevant month; and the issue of appropriate directions to the Trustee for the purpose of implementing Condition 2A.6 so that any such Monthly Distributions are made to Designated Pipe-line Operators as soon as possible and at least within 7 Business Days of the Due Date;
- (k) calculation of any additional sums due by way of Monthly Distribution in respect of any sum received into the PoT Account after the issue of

instructions to the Trustee in accordance with (j) above and before the next Debt Notice Date;

- (l) following the end of each Gas Year, the calculation, recording and notification to the Authority and the Designated Pipe-Line Operators not later than the 10th Business Day in December of the next Gas Year of the amount of any Commodity Reconciliation Payments which would have been payable by each PS Gas Supplier in respect of each Gas Year but for the application of the 15%  $\Sigma$ MPCoM<sub>Pst</sub> cap contained in Condition 2A.2.6.4(e). Such amounts in respect of each Gas Year and each PS Gas Supplier shall be defined as the “Unrecovered Postalisation Payments” (“UNRP<sub>t</sub>”) and shall be calculated in accordance with the following formula:

$$\text{UNRP}_t = (\text{YEPCoM}_{\text{Ct}} - \text{FPCoM}_{\text{Ct}}) \times \text{PS Annual Exit Quantity} - \Sigma\text{CoM}_{\text{RP}_t}$$

where  $\Sigma\text{CoM}_{\text{RP}_t}$  is equal to all Commodity Reconciliation Payments as determined under Condition 2A.2.6.4 (e) in Gas Year “t”

- (m) the re-calculation of the Forecast Postalised Charges as required under Condition 2A 2.5.2 and Condition 2A.2.5.3 within three Business Days of receipt of adjusted figures from the Authority.
- (n) The division of any amounts in respect of Termination Payments received into the PoT Account:
  - (aa) between Designated Pipe-Line Operators where two or more Designated Pipe-line Operators have invoiced such payments to the same PS Gas Supplier in the same month, in proportion to the relevant invoices;
  - (bb) between that part of Termination Payments payable in respect of PS Transmission Charges relating to the Gas Year in which termination occurs and that part of Termination Payments related to future Gas Years, the allocation to be made in such a way that:

- (i) Termination Payments shall be applied first in respect of sums due in respect of PS Transmission Charges in the Gas Year in which termination occurs; and
- (ii) secondly, in respect of Termination Payments related to future Gas Years.

The PSA shall notify the Designated Pipe-line Operators of the sums allocated and issue directions to the Trustee to transfer the part of any such Termination Payment applicable to future Gas Years to the relevant Primary DPO in accordance with Condition 2A. 6.1.4.