

Annex H – Proposed Standardised High Pressure Licence Condition ‘Connection Charges and Obligation to Connect’

This Annex is a clean copy of the standardised licence Condition ‘Connection Charges and Obligation to Connect’ for high pressure licences.

LICENCE CONDITION – CONNECTION CHARGES AND OBLIGATION TO CONNECT

Condition: 2.3: Connection Charges and Obligation to Connect

2.3.1 Statement of connection charges and terms for connection to the Network

The Licensee shall, no later than three months after this Condition takes effect, prepare and submit to the Authority for approval as to form and content, a statement showing the methods by, and the principles on, which charges are to be determined by the Licensee, for, connecting to, and disconnecting from, the Network:

- (a) subject to and in accordance with the requirements of Condition 2.3.13, any premises;
- (b) any non standard gas meter and any gas meter that is owned or not owned by the Licensee (or any affiliate or related undertaking of the Licensee) and is located in any premises;
- (c) any pipe-line system to or from which gas will be conveyed by means of the Network; and
- (d) any Storage Facility or LNG Facility,

and in each case the statement shall include:

- (i) the methods by, and principles on, which charges are to be determined by the Licensee for maintaining, repairing or modifying any connection between the Network and any premises or pipe-line system, Storage Facility or LNG Facility, including without limitation in the case of a connection between the Network and any premises, removing any gas fittings that are owned by the Licensee and comprised in the connection; and
- (ii) the Licensee's other terms for such a connection, and an explanation of those terms together with the Licensee's technical design and operational requirements which shall apply to the making of any particular, or particular type of, connection.

2.3.2 Explanation of connection charging methodology for introducing gas to the Network

The Licensee shall comply with any direction given by the Authority to submit a statement to the Authority for approval showing, so far as reasonably practicable, the methods by which and the principles on which charges are to be made by the Licensee for making a connection for the purposes of introducing gas into the Network and, in the context of making such a connection, for:

- (a) modifying apparatus and works associated with a pipe-line so as to increase the capacity of a pipe-line; or
- (b) supplying and installing any pipe-line or works,

including where practicable an indication of likely costs and other terms for the making of such a connection.

2.3.3 Other requirements to be included in the statement

A statement submitted to the Authority by the Licensee under Condition 2.3.1 shall:

- (a) subject to Condition 2.3.12, clearly distinguish between cases and classes of cases of person for whom the Licensee proposes different methods by, or principles on which charges are to be determined for connection; and
- (b) in respect of any such case, or class of cases, show that element of connection costs the Licensee proposes to recover by way of conveyance charges to gas suppliers, including any Separate Business engaged in the supply of gas.

2.3.4 The statement to give likely indication of costs

A statement submitted to the Authority by the Licensee under Condition 2.3.1 shall:

- (a) where practicable, indicate for the Authority's information the costs likely to arise in respect of work done and materials used in connecting any premises, gas meter (including a non standard gas meter, or a gas meter owned or not owned by the Licensee), pipe-line system, Storage Facility or LNG Facility;
- (b) include such information as will reasonably enable any person to estimate the Licensee's connection charges in connecting any premises, gas meter (including a non standard gas meter, or a gas meter owned or not owned by the Licensee), pipe-line system, Storage Facility or LNG Facility; and
- (c) include such information as will reasonably enable any person requesting a connection to the Network to determine the works and/or other actions he would need to undertake, including, without limitation, any work or action required to comply with the Licensee's technical design and operational requirements, in order for the connection to be made.

2.3.5 Authority's approval

The Authority shall, in approving the Licensee's basis for charging for connection as set out in the statement submitted to it by the Licensee under Condition 2.3.1, have regard to the need of the Licensee to be able to finance the carrying on of its activities and obtain a return equal to that which is, in the reasonable opinion of the Authority, appropriate.

2.3.6 Publication of and compliance with statement

The Licensee shall:

- (a) put in place and comply with the statement, as approved by the Authority under Condition 2.3.5;
- (b) publish each approved statement in such manner as will secure adequate publicity for it; and
- (c) send a copy of any such statement to any person who requests one.

2.3.7 Direction by the Authority

Where the Authority determines that it is necessary for the Licensee to revise:

- (a) the methods and principles on which it has determined the charges and other terms for connection in the latest published statement; and/or
- (b) the charges and other terms for connection it has determined and included in the latest published statement,

in order to ensure that they are (or continue to be) proportionate and applied in a non-discriminatory manner, the Authority may direct the Licensee to revise its methods, principles, charges or terms (as the case may be) in accordance with the provisions of the direction.

2.3.8 Revising connection charges

Without prejudice to Condition 2.3.7, the Licensee shall:

- (a) periodically, and on each occasion Condition 2.3 is modified, review its published statement for compliance with the Licensee's obligations under the Licence and propose, and submit to the Authority for approval, any changes necessary in light of the review;
- (b) not revise the basis of its charges for a connection of any premises, gas meter (including a non standard gas meter, or a gas meter owned or not owned by the Licensee), pipe-line system, Storage Facility or LNG Facility, or the other terms for connection, without first giving the Authority a revised statement in the same terms as Condition 2.3.1 and, where such revision is other than any increase in the Retail Prices Index, obtaining Authority's approval to such a revision.

2.3.9 Compliance with a Direction

The Licensee shall comply with the requirements of any direction issued by the Authority under Condition 2.3.7 and shall publish any revised statement as soon as reasonably practical in accordance with Condition 2.3.6.

2.3.10 Connection and Quotation Requests

The Licensee shall:

- (a) within 28 days of receiving a request from any person for a connection to the Network in respect of a gas meter (including a non standard gas meter, or a gas meter owned or not owned by the Licensee), pipe-line system, Storage Facility or LNG Facility, or to introduce gas into the Network, or for a quotation of connection charges likely to apply

in respect of a connection to the Network, provide that person with a specific statement of the connection charges, and other terms of connection, applicable to the request;

- (b) within 10 days of receiving a request for a connection to the Network from any person requesting a connection in respect of any type of premises not included within paragraph (a) above:
 - (i) inform that person that the approval of the Authority is required to the making of the connection; and
 - (ii) submit a copy of the connection request to the Authority, together with such supporting information as the Authority may reasonably require for the purposes of its approval decision;
- (c) where following receipt of the information referred to in paragraph (b)(ii) above the Authority gives its approval to the making of the connection, within 28 days of receiving the Authority's approval provide the person requesting the connection with a specific statement of the connection charges, and other terms of connection, applicable to the request.

2.3.11 Treatment of Request for Connection and Quotation

For the purposes of Conditions 2.3.10(a) and (b) and the Licensee's obligation to provide a specific statement of connection charges, a request for a connection to the Network and quotation of the applicable connection charges shall be treated as such if it is in such form that it can be reasonably expected of the Licensee to provide a specific statement of connection charges in response to it.

2.3.12 Prohibition on undue discrimination

The Licensee shall not show any undue preference towards or undue discrimination against any person or cases or classes of cases of person (including any other business of the Licensee):

- (a) seeking, and entitled pursuant to the provisions of Condition 2.3.14, a connection to be made between their premises and the Network;
- (b) seeking a connection to be made between a non standard gas meter, or a gas meter owned or not owned by the Licensee (or any affiliate or related undertaking of the Licensee), and the Network;
- (c) that own or operate (or proposes to own or operate) a pipe-line system, a Storage Facility or an LNG Facility and seek a connection of that system or facility to the Network;
- (d) seeking a connection for the purposes of introducing gas to the Network.

2.3.13 Connection of Premises – Requirement for Authority Approval

The Licensee shall not make or agree to make a connection between any premises (other than any premises which may constitute a Storage Facility or LNG Facility) and the Network without the prior written approval of the Authority to the making of that connection.

2.3.14 Requests for Connection – Obligation to Connect

Where:

- (a) the Authority gives approval to the making of a connection between a premises and the Network (the '**relevant premises**'); and
- (b) the person seeking the connection is willing to pay the Licensee's charges for connection and comply with the Licensee's other terms for connection, including in relation to compliance with any technical and safety criteria contained in the Network Code and the Licensee's technical design and operational requirements (the '**relevant terms**'),

the Licensee shall make the connection between the relevant premises and the Network in accordance with the applicable legislation and relevant terms or permit the connection to be made (as the case may be).

2.3.15 Connection of other systems and facilities – Obligation to Connect

Where the person seeking a connection to the Network of any gas meter (including a non standard gas meter, or a gas meter owned or not owned by the Licensee), pipe-line system, Storage Facility or LNG Facility or seeking a connection for the purposes of introducing gas to the Network, is willing to pay the Licensee's charges for connection and comply with the Licensee's other terms for connection, including in relation to compliance with any technical and safety criteria contained in the Network Code and the Licensee's technical design and operational requirements (the '**relevant terms**'), the Licensee shall make the connection requested in accordance with the applicable legislation and relevant terms or permit the connection to be made (as the case may be).

2.3.16 No obligation to connect premises

Nothing in Condition 2.3.14 and Condition 2.3.15 shall require the Licensee to make or maintain the connection:

- (a) if the making or maintaining of the connection involves danger to the public and / or a risk to the safety of the Network, provided that the Licensee has taken all such reasonable steps to prevent such danger from occurring;
- (b) if there is insufficient capacity in the Network;
- (c) if the Licensee has reasonable grounds to believe the making of the connection would be in conflict with:
 - (i) the relevant objectives set out in Condition 2.4.1;
 - (ii) any public service obligation (where applicable); or
- (d) if there are any serious economic difficulties with take or pay contracts;

and in any such case the Licensee shall give duly substantiated reasons for believing such circumstances apply.

2.3.17 Resolution of disputes by the Authority

Where:

- (a) there is a dispute between the Licensee and any person entitled or claiming to be entitled to a connection to the Network in respect of the terms of an agreement for the connection to be made ('connection agreement'), any party to the dispute may make

an application to the Authority for determination of the terms of the connection agreement.

- (b) the Authority receives an application pursuant to sub-paragraph (a) and the dispute:
 - (i) has not previously been referred by either party to the Consumer Council for Northern Ireland for investigation; or
 - (ii) has previously been referred by one of the parties to the Consumer Council for Northern Ireland but the Consumer Council for Northern Ireland has advised the Authority that it has not concluded its investigation of the dispute,

the Authority may refer the dispute to the Consumer Council for Northern Ireland for the purposes of enabling the Consumer Council for Northern Ireland to assist the parties in the resolution of the dispute;

- (c) the Authority refers the dispute to the Consumer Council for Northern Ireland under paragraph (b) it will at the same time inform the parties of that referral;
- (d) the Consumer Council for Northern Ireland has not been able to assist the parties in the resolution of the dispute within 3 months of the Authority's referral under paragraph (b) (the 'applicable timescale'), either party to the dispute may refer the matter back to the Authority for determination;
- (e) a dispute referred to the Authority under paragraph (a):
 - (i) is not referred by the Authority to the Consumer Council for Northern Ireland under paragraph (c); or
 - (ii) is referred by the Authority to the Consumer Council for Northern Ireland under paragraph (c) but is referred back to the Authority under paragraph (d),

the Authority may, having given both parties not less than one month in which to make any further representations, settle the terms of the connection agreement in such manner as appears to the Authority to be reasonable having regard (insofar as is relevant and appropriate) to the obligations that would otherwise have applied to the Licensee under this Condition 2.3; and

- (f) the person entitled or claiming to be entitled to a connection to the Network wishes to proceed on the basis of the terms the connection agreement as settled by the Authority, the Licensee shall forthwith enter into and implement such agreement in accordance with its terms.

2.3.18 Interpretation and construction

References in this Condition 2.3 to:

- (a) "charges" shall include references to means whereby such charges may be ascertained.
- (b) "**premises**" includes any land, building or structure.