

# Appendix 3

## Gas Supply Licences (extracts)

### **Condition 1.8: Modifications**

#### 1.8.1 Modifications of licence Conditions<sup>1</sup>

The Conditions of the licence are subject to modifications in accordance with their terms or with Articles 9, 14, ~~17, 17A-14A~~, 14G or 18 of the Order or with any provisions for the modification of the same in the Energy Order.

---

<sup>1</sup> British Gas trading Condition 1.7, NIE Energy Ltd Condition 1.4, Coolkeeragh ESB Ltd Condition 1.4

### **Condition 1.11: Payment of Fees to the Authority**<sup>2</sup>

1.11.1 In respect of each year, beginning on 1 April, during which the Licence is in force, the Licensee shall pay to the Authority a fee of the amount determined in accordance with this Condition (the **licence fee**).

1.11.2 The Licensee shall pay to the Authority the licence fee for each year (the **relevant year**) within 30 days of the Authority giving notice to the Licensee of the amount due from the Licensee for the relevant year.

1.11.3 For each relevant year, the licence fee shall be the total of:

- (a) an amount that is the Relevant Contribution to the Estimated Costs of the Authority for the relevant year;
- (b) an amount that is the Relevant Contribution to the Estimated Costs of the Consumer Council with regard to the exercise of its functions relating to gas consumers for the relevant year; and
- (c) ~~an amount that is the Relevant Contribution to the Estimated Costs of the Competition Commission, in connection with any reference made to it in respect of the Licence or any other licence granted under Article 8(1)(c) of the Order, for the year immediately preceding the relevant year (the **previous year**); and~~
- ~~(d)~~ an amount which is the difference (which may be a positive or negative amount), if any, between:
  - (i) the licence fee that would have been due from the Licensee for the ~~previous~~ year immediately preceding the relevant year (the **previous year**) had such fee been calculated in relation to the actual costs of:
    - (A) the Authority for the previous year; and
    - (B) the Consumer Council with regard to the exercise of its functions relating to gas consumers for the previous year;

---

<sup>2</sup> British Gas trading Condition 1.10, NIE Energy Ltd Condition 1.6, Coolkeeragh ESB Ltd Condition 1.7

and

~~\_(C) the Competition Commission, in connection with references of the type referred to in sub-paragraph 1.11.3(e), for the year immediately preceding the previous year; and~~

(ii) the licence fee paid by the Licensee for the previous year,

provided that where the Licence is in force for only a part of the relevant year, the amount payable in respect of that year shall be a proportionate part of the licence fee due for the full year.

1.11.4 Where:

- (a) the Estimated Costs of the Authority or of the Consumer Council are revised during the course of the relevant year (**Revised Costs**);
- (b) the Licensee has paid the licence fee for the relevant year; and
- (c) the Revised Costs would, had they applied to the calculation of the licence fee paid by the Licensee, have resulted in the calculation of a lower licence fee than that paid by the Licensee,

the Authority may, where it is reasonable for it to do so taking into consideration the timing of the Revised Costs and the provisions of paragraph 1.11.3(~~ec~~), refund to the Licensee the difference between the amount of the licence fee paid by the Licensee and the amount of the lower licence fee referred to in paragraph 1.11.4(c) above.

1.11.5 Where the Licensee fails to pay the amount of the licence fee as notified to it under paragraph 1.11.2 above within the 30 day period specified, it shall with effect from the end of that 30 day period pay simple interest on the amount at the rate which is from time to time equivalent to the base lending rate of an institution designated by the Authority for this purpose.

1.11.6 In this Condition:

“Estimated Costs”

(i) in relation to the costs of the Authority, means the costs estimated by the Authority as likely to be its costs for the relevant year as calculated in accordance with the Principles; and

(ii) in relation to the costs of the Consumer Council, means either:

(A) the costs notified to the Authority by the Consumer Council as its estimated costs for the relevant year as approved by the Department; or

(B) in the event that the Authority does not receive such notification by 31 July in the relevant year, the costs estimated by the Authority (having regard to any estimate of such costs in any forward work programme published by the Consumer Council in respect of the relevant year) as likely to be the costs of the Consumer Council for the relevant year; and

~~(iii) in relation to the costs of the Competition Commission, means the costs estimated by the Authority following consultation with the Competition Commission as likely to be the costs of the Competition Commission for the previous year in connection with references of the type referred to in sub-paragraph 4.11.3(c) above.~~

- “Principles” means the principles determined by the Authority for the purposes of this Condition generally, following consultation with the Licensee and with others likely to be affected by the application of such principles and as notified to the Licensee in writing.
- “Relevant Contribution” means, in respect of the Estimated Costs, the level of contribution to those costs applicable, whether by way of a specified amount or a stated proportion, to the Licensee as determined under or in accordance with the Principles.

## **Condition 2.4: Charges for Gas and Other Terms for the Supply of Gas**

### **2.4.1 Control over Charges in the absence of competition**

If consumers of different cases or classes of cases or for different areas, whose consumption of gas at any premises is reasonably expected not to exceed 2,197,500 kilowatt hours in any period of twelve months:

- (a) do not have the opportunity of taking a supply of gas from another gas supplier (or if there is such an opportunity it does not safeguard the interests of consumers); and
- (b) the Authority determines that competition from fuels other than gas is not safeguarding the interests of those consumers;

then the Licensee shall take all reasonable steps to secure that in any period of 12 months the average price per therm of gas supplied to such consumers shall not exceed a maximum price to which the Authority has consented (and the Authority having consulted with the Licensee before deciding whether to give or withhold its consent), and (without prejudice to any other means of modifying the licence under Condition 1.8 and the Order and the Energy Order), failing consent then:

- (c) within 28 days of the date on which the Authority gives notice of its withholding consent, the Licensee may request the Authority by notice to the Authority (a "disapplication notice") not to apply this Condition 2.4.1 in which event it shall not apply;
- (d) unless within six months of the date of the disapplication notice the Authority ~~makes a reference to the Competition Commission~~publishes a decision under Article ~~15-14(8)~~ of the Order ~~relating to modify~~ in whole or ~~in part to the modification of~~ this Condition 2.4.1, this Condition 2.4.1 will continue not to be applied after that period has passed in respect of those consumers; ~~and~~

- ~~(e) in the event of such a reference to the Competition Commission under paragraph (d) above, the Commission gives a report, then until the~~

~~licence shall be modified in accordance with the Order in relation to that reference, the Licensee may continue to charge for the supply of gas notwithstanding that the Authority has not consented to such charges;~~

and in relation to charges imposed by the Licensee with the consent of the Authority where this Condition 2.4.1 applies, then the Licensee shall continue to comply with charging arrangements to which the Authority has consented until the Authority otherwise agrees with the Licensee that such consent may be modified or the need for such consent is no longer relevant.