

CCBU

PRIME MINISTER

GAS INDUSTRY PRIVATISATION

E(A) is meeting at 0930 on Monday morning to discuss this. The formal item on the agenda is policy towards imports and exports. But Mr. Walker has circulated today the licence he proposes to issue to BGC under the provisions of the Gas Bill. He aims to publish this on Monday. The Treasury will object vehemently.

I suggest you avoid all discussion of the licence until imports and exports have been sorted out and, indeed, for tactical reasons not to mention it before imports and exports have been dealt with.

Imports and Exports

The papers are:

- A ✓ Cabinet Office brief
- B ✓ Policy Unit brief
- C ✓ Letter reporting oil company views on gas imports and exports, from the Department of Energy
- D ✓ Note of a meeting between the Chancellor and Mr. Walker which the Treasury have sent me privately
- E ✓ Mr. Walker's paper

This is likely to be a very difficult decision. The Treasury feel very strongly that Mr. Walker must not be allowed his way on this, after the decision on the industrial contracts market, and I expect that Mr. Brittan and Mr. Ridley at least will agree.

The Cabinet Office think the discussion is to some extent academic because almost whatever is said BGC in their view will be under the pressure of quasi-market forces. The Treasury do not agree: they fear that BGC will abuse its

monopoly power to hold down the prices it pays for North Sea gas. The Policy Unit strongly recommend an open door policy, subject to ad hoc exceptions, emphasising the need at this stage in the privatisation programme for the Government to signal its overriding commitment to free markets and competition.

Reading the papers I have found it extremely hard to assess the merits of the arguments on substance. But the argument about the effect of perceptions of the privatisation programme must be given weight.

The Chief Whip has discussed this with Mr. Walker and represented to him how difficult it will be if he were to expect you to over-rule in his favour all the other Cabinet Ministers concerned in this area. Mr. Walker seems to have taken this on board, but in the Chief Whip's view is still likely to fight his corner to the end (of the meeting - no talk of resignation).

BGC Licence

The papers here are:

- F Cabinet Office brief
- G Policy Unit brief
- H Internal Treasury submission which I have obtained
- I Mr. Walker's minute

The Treasury minute (Flag H) points to a need for very careful scrutiny of the licence. There may well be more in it than immediately meets the eye.

But to delay publication would clearly lead to substantial criticism. If colleagues feel that it is impossible to delay, the licence would have to be published as a draft. This is a high risk, but with the saving grace that all the public comment is likely to point in the direction of a tightening of the terms of the licence.

The Policy Unit compromise of publishing Mr. Walker's proposed layman's outline of the licence could risk the worst of both worlds: immediate publication of something which would tend to restrict the internal discussions, but inadequate to allow scope for public comment to push Mr. Walker in the right direction. Nevertheless, it would be worth considering if neither of the other options stands up.

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DAVID NORGROVE

6 December 1985

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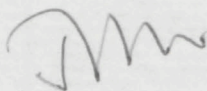
PRIME MINISTER

6 December 1985

GAS BILL - DRAFT BGC LICENCE


At E(A) on Monday, Nigel Lawson will probably suggest that we should not be rushed into publishing the Draft BGC Licence before Second Reading on Tuesday. Rightly, he will argue that this important element of the package needs to be carefully scrutinised, particularly the precise terms of the hard-fought assurances covering the industrial contract market, and use of common-carriage access to the industrial market by independent producers.

There may be a compromise. At the same time, Peter Walker is proposing to publish a layman's outline of the Draft Licence. This will define the assurances and the supporting regulation. Why not let this suffice for the Second Reading debate, and undertake to publish the Licence in full before the Christmas Recess? Better take time to get a complex draft right than have to amend it in key areas.



JOHN WYBREW

C/1/55  
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MR NORGROVE

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GAS BILL

The Energy Secretary has circulated, under cover of his minute of 6 December to the Prime Minister, the draft of the licence which it is proposed should be issued to BGC under the provisions of the Gas Bill. Since much of the policy on the privatisation is defined in the licence rather than on the face of the Bill, he is anxious to publish the terms of the former in advance of Second Reading, so as to head off the sort of criticism the Government faced in the context of BT.

2. We have not had time to study this material in any detail, but it appears that the proposed licence terms fully reflect the agreement reached following the last E(A) discussion. In particular, the licence provides for the publication of maximum prices for contract customers, together with a statement of BGC's policy in negotiating with such customers; it provides for the publication of specimen tariffs for the use of BGC's lines for the transmission of 'third party' gas; and it provides for BGC to state in advance the prices to be charged for 'back-up' gas where the Corporation's lines are being used to deliver other producers' gas to industrial consumers.

*They do.*

3. It is possible that the Treasury will still feel that it does not go far enough (I have been unable to establish their attitude). In particular they may want some reference to 'non-discrimination' by BGC in purchasing gas from UKCS licensees and others (particularly Norway). They may also



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ask questions about the nature of the assurances to be given by BGC about movements in contract prices over the initial period post-privatisation. If possible, such differences should be settled immediately\*, so as not to delay publication of the licence. If this proves impossible, it may nonetheless be better to go ahead with publication, making clear that the document is very much a draft, and that the Government will be looking to improve and amend it in the light of discussions both of the Bill and of the licence terms.

4. I attach a copy of a background note prepared by the Department of Energy which guides people through the main provisions both of the Bill and of the draft licence.

)W

\* outside E(A)!

A J WIGGINS  
Cabinet Office  
6 December, 1985

Attachment:

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## BACKGROUND NOTE

### REGULATION

#### 1. THE GOVERNMENT'S APPROACH

##### Objectives

The objectives of regulation are:-

- to provide a clearly defined framework for the supply of gas to the public;
- to ensure proper protection for customers;
- to provide incentives for efficiency, and to ensure customers can share in the benefits of this.

##### Regulatory Framework

The Gas Bill opens the way for private sector companies to supply gas to the public. The key features are:-

- suppliers of gas will have to be authorised (Clauses 7, 8);
- a Director will be appointed to head an Office of Gas Supply which will regulate the gas supply business (Clauses 1, 4, Schedule 1);
- a Gas Users' Council will be created to advise the Director on consumer matters and to deal with customers' complaints (Clauses 2, 32, 39, 40 Schedule 2);
- the legislation will put certain key obligations

directly on gas suppliers (including the need to comply with safety regulations) (Clauses 9, 10, 14, 15, 18, Schedule 5);

- conditions may be attached to authorisations for suppliers and these will set out further obligations (Clauses 7, 8);
- power for the Director of the Office of Gas Supply to enforce obligations on Suppliers in the Bill and under their authorisation (Clause 28-30);
- procedures for adaptation of the regulatory regime, where necessary, in the light of experience (Clauses 23-27);
- enhanced opportunities for competition through improved "common carriage" provisions (Clause 19-22).

## 2. THE DRAFT LICENCE

The proposed draft authorisation (licence) for British Gas under Clause 7 of the Gas Bill contains the following provisions:

### Price Control for Tariff Customers

The price of gas to tariff consumers (those taking up to 25,000 therms pa) will be regulated by:-

- an obligation on British Gas to publish tariffs and sell at these tariffs (Gas Bill Clause 10)
- a requirement that British Gas shall not unduly discriminate between customers (Gas Bill Clause 9)
- condition 3 of the authorisation which restricts the average price of tariff gas sold by British Gas



- although standing charges are included in the average price of tariff gas controlled by condition 3, condition 4 separately restricts the rate of increase in standing charges alone to no more than inflation

The maximum price tariff customers will pay will be strictly controlled. The control formula is set out in condition 3 of the authorisation.

### Other Features

Other features of the authorisation are:

- a requirement for BGC to publish separate accounts for their gas supply business (Condition 2).
- a requirement for the basis of connection charges to be published (Condition 6), together with a provision in the Bill which limits the extent to which costs can be recovered (Clause 10).
- an incentive for efficiency through the RPI-X+Y component of the formula, and a mechanism to ensure that the consumer will gain from the likely improvements (Condition 3).
- a requirement for British Gas to publish maximum prices for industrial contract customers (Condition 5).
- a requirement for BGC to give all necessary information to the regulator, and to give information to the Gas Users' Council for the investigation of complaints (Conditions 7, 8).
- a requirement for British Gas to publish typical prices for the conveyance of gas for third parties (Condition 9).

- a requirement for British Gas to make clear the circumstances in which it is prepared to make gas supplies available as a back up for those using the common carriage provisions (Condition 10).

- a requirement for British Gas to continue to provide a telephone service for reports of gas escapes, and to publish codes of practice for tariff customers on quality of service and payment of bills (including advice to customers who have difficulty in paying) (Condition 11, 12).

a Bg  
cc Bkup

FROM: S A ROBSON

DATE: 6 DECEMBER 1985

CHANCELLOR OF THE EXCHEQUER

cc Financial Secretary  
Sir P Middleton  
Mr Monck  
Mr Moore  
Mr Bird  
Mr H Davies

## GAS BILL: E(A) MEETING

This submission recommends you to oppose publication on Monday 9 December of the draft licence attached to Mr Walker's minute of 6 December to the Prime minister.

with DW?  
2. It is pretty intolerable to circulate a draft at this notice. But its content is even worse than its timing. I have not had time to go through it in detail but here are some samples:

(i) Condition 5 on pricing for the contract market. This deals with the assurances BGC is to publish. These are meant to include an assurance on "even handedness" ie non-discrimination and predatory pricing. This is not mentioned in condition 5.

(ii) Common <sup>carriage</sup> ~~carriage~~ - Mr Walker's last E(A) paper said BGC would provide gas storage facilities and back up supplies to third parties and would purchase residual portions of gas fields. The relevant licence conditions - 9 and 10 - provide only for BGC to publish information on third party use of pipelines and to publish a statement on back up supplies. A licence condition which relates to publication alone is pretty useless. It means the content of publication, is entirely in BGC's control and

its implementation cannot be policed by OFGAS. What is more, even the publication process does not extend to cover storage and residual fields.

(iii) Condition 4 on standing charges - in the original version of this condition, these charges were to be controlled below the RPI. Now they can rise with the RPI.

No doubt other points may arise as we go through the licence.

3. The question is what to do. The options are:

(i) to delay publication;

(ii) to let publication go ahead on Monday on the basis that we are not happy with the licence, that we will want it amended and that publication will not prejudice acceptance of our amendments.

4. Mr Walker will make a big fuss about delay. On merits he has nobody to blame but himself. He sprung the licence on us at this short notice.

5. I have discussed the position with the No.10 Policy Unit. They are briefing the Prime Minister to support you in delaying publication. The aim will be to improve the licence and publish it before the Christmas Recess. I recommend you press for this, with 3(ii) above as a fallback, at the E(A) meeting on Monday.

SA

PP S A ROBSON