

CONFIDENTIAL

PRIME MINISTER

Gas Bill: Draft Licence

Prime Minister 2

No need to read i
detail. Note that the
Secretary's concerns were
justified, even if not
dramatically so.

DBS
10/12

At E(A) this morning, doubts were expressed about the adequacy of some of the provisions of the draft Licence for BGC as Gas Supplier. In view of the need for the terms of the draft Licence to be available to Parliament in advance of the Second Reading of the Gas Bill on 10 December, you asked officials to consider urgently how these doubts could be resolved.

2. The problems centred on the arrangements to ensure even-handed treatment of contract customers, and on the effect of the common carrier provisions in facilitating direct sales of gas by UKCS licensees to industrial customers.

Condition 5: Pricing for Contract Customers

3. Concern was expressed that the licence required no more of BGC than that they should publish, within three months of receiving the licence, a general statement of their policy as regards their willingness to enter into negotiations for prices for gas supplied to contract customers: nothing was said about the terms of the statement, where the Government and contract customers would in effect be entirely in the hands of BGC.

Officials agreed that it would be appropriate for BGC's assurance on contract prices to take effect at the same time as the issue of the Licence; this can be achieved by substituting 'at the time' for 'within three months of the date' in line 1 of Section 1. Officials noted that it was the intention of the Secretary of State for Energy to agree the terms of the draft assurance with his Ministerial colleagues in time for the text to be published at the relevant point during the Committee Stage of the Gas Bill. The other Departments involved should thus have a full opportunity to ensure that the terms of the assurance are sufficient to meet their concerns.

CONFIDENTIAL

CONFIDENTIAL

Condition 9: common carriage

4. Concern was expressed that too much might be left to the discretion of BGC, and in particular that the arrangements might not deal effectively with situations in which the rate of output from a field did not correspond exactly with the direct industrial customer's off take. Officials noted that it was again the intention of the Secretary of State for Energy to clear with his colleagues, in advance of the relevant Committee Stage discussion, the draft of the guidance to be given by BGC. Since under the Bill the Director is responsible for policing the use of BGC's lines for the common carriage of gas, the definitive text has formally to be cleared with the Director after the Licence has entered into force; but BGC will have in practice to keep to the arrangements set out at the time of the Committee Stage discussion. Meanwhile the Department of Energy will be seeking a legal opinion on whether the term 'conveyance of gas' is sufficiently broad to give the Director jurisdiction to settle the common carriage terms (including the use of BGC's storage facilities) in cases where a field's production and a customer's off take correspond only over an extended period (i.e. not on an hourly, or even a daily basis). Officials noted that pressure differences are inevitable as between the point where gas is landed and the point where it is drawn from the distribution system by the industrial customer, and that it would be necessary to ensure that the definitions are drawn widely enough to take account of this.

Condition 10: supply of back-up gas

5. Concern was expressed that - unlike the common carrier provisions - there was no explicit obligation either in the Bill or in the Licence under which BGC would be required to provide back-up gas, and no means of resolving disputes about the terms on which such gas would be supplied. Officials agreed that it would be appropriate to revise the draft of this condition to make clear the obligation on BGC, and to empower the Director to resolve disputes. The attached revised draft text specifically requires BGC to 'stand ready to supply back-up gas on reasonable terms to a third party Supplier' and this should have the desired

CONFIDENTIAL

effect both in terms of the obligation and of the role of the Director. (As in the case of the common carrier provisions, BGC are only required to supply back-up gas where they can do so without prejudice to the rights of their existing customers.) Again the terms of the draft statement by BGC will be cleared collectively by Ministers in advance of the relevant Committee Stage Debate.

Purchase by BGC of residual gas in directly-sold fields

6. Officials noted that it would not be possible to incorporate in the Licence provisions relating to the terms on which BGC would buy the residual gas in directly-sold fields, since the Licence is confined to BGC's position as seller of gas. The Secretary of State for Energy would, however, make clear at Second Reading on 10 December the Government's intention that BGC would buy such gas on equitable terms; further consideration would need to be given to the form in which BGC might subsequently give binding effect to such an assurance, and to the possible means of providing safeguards and enforcing it. It will also be necessary to consider possible broader assurances to be given by BGC about non-discriminatory treatment of different UKCS producers, in the context of the further work to be done on policy towards future imports and exports of gas.

CONCLUSION

7. Officials noted that the Secretary of State for Energy would make clear the Government's willingness to consider suggestions for improvements in the terms of the draft Licence. I understand that the Secretary of State for Trade and Industry and the Financial Secretary, Treasury are now content for the draft Licence to be published today, subject to the amendments set out above. They emphasise the importance of ensuring that there is ample time to consider the texts of the statements or assurances to be given by BGC well in advance of the relevant Committee Stage Debates.



CONFIDENTIAL

8. I am sending copies of this minute to the other members of E(A), the Lord President, the Solicitor General and Sir Robert Armstrong.

J.W.

A J WIGGINS

Cabinet Office

9 December, 1985

CONQUEROR

CONFIDENTIAL



Treasury Chambers, Parliament Street, SW1P 3AG

PRIME MINISTER

NBP .

GAS BILL : DRAFT LICENCE

with DN?

I have seen a copy of Mr Wiggins' minute to you to 9 December.

I am content to proceed on the basis he describes. The fundamental change to the draft licence condition dealing with "back-up" supplies of gas brings this condition into line with E(A)'s decisions on November 14.

It is important that the further work and material described in Mr Wiggins's minute is made available to Ministers collectively in time for full and proper consideration before the relevant clauses of the Bill is discussed in the Committee Stage debates.

I am copying to members of E(A), the Lord President, the Solicitor General and Sir Robert Armstrong.

A handwritten signature in blue ink, appearing to be "Jm.".

JOHN MOORE

11 December 1985

