

The references

1. On 31 July 1992 the Secretary of State for Trade and Industry sent to the MMC the following references.

FAIR TRADING ACT 1973

MONOPOLY REFERENCE TO THE MONOPOLIES AND MERGERS COMMISSION

The Secretary of State in exercise of his powers under sections 47(1), 49(1) and 51(1) of the Fair Trading Act 1973 hereby refers to the Monopolies and Mergers Commission the matter of the existence or possible existence of a monopoly situation in relation to the supply within Great Britain of gas through pipes to tariff customers and to non-tariff customers.

The Commission shall investigate and report on the questions whether a monopoly situation exists in relation to such supply and, if so:

- (a) by virtue of which provisions of section 6 of the Act that monopoly situation is to be taken to exist;
- (b) in favour of what person or persons that monopoly situation exists;
- (c) whether any steps (by way of uncompetitive practices or otherwise) are being taken by that person or those persons for the purpose of exploiting or maintaining the monopoly situation and, if so, by what uncompetitive practices or in what other way;
- (d) whether any action or omission on the part of that person or those persons is attributable to the existence of the monopoly situation and, if so, what action or omission and in what way it is so attributable; and
- (e) whether any facts found by the Commission in pursuance of their investigation under the preceding provisions of this paragraph operate or may be expected to operate against the public interest.

For the purposes of this reference, 'tariff customers' has the same meaning as in Part I of the Gas Act 1986 and 'non-tariff customers' shall be construed accordingly.

The Commission shall report on this reference within a period of 9 months beginning with the date hereof.

31 July 1992

(signed) CATHERINE BELL
An Under Secretary of the Department of Trade and Industry

FAIR TRADING ACT 1973

MONOPOLY REFERENCE TO THE MONOPOLIES AND MERGERS COMMISSION

The Secretary of State in exercise of his powers under sections 47(1), 49(1) and 51(1) of the Fair Trading Act 1973 hereby refers to the Monopolies and Mergers Commission the matter of the existence or possible existence of a monopoly situation in relation to the supply within Great Britain of the services of the conveyance or storage of gas by public gas suppliers.

The Commission shall investigate and report on the questions whether a monopoly situation exists in relation to such supply and, if so:

- (a) by virtue of which provisions of section 7 of the Act that monopoly situation is to be taken to exist;
- (b) in favour of what person or persons that monopoly situation exists;
- (c) whether any steps (by way of uncompetitive practices or otherwise) are being taken by that person or those persons for the purpose of exploiting or maintaining the monopoly situation and, if so, by what uncompetitive practices or in what other way;
- (d) whether any action or omission on the part of that person or those persons is attributable to the existence of the monopoly situation and, if so, what action or omission and in what way it is so attributable; and
- (e) whether any facts found by the Commission in pursuance of their investigations under the preceding provisions of this paragraph operate or may be expected to operate against the public interest.

For the purposes of this reference, the expression 'public gas suppliers' shall be construed in accordance with Part I of the Gas Act 1986.

The Commission shall report on this reference within a period of 9 months beginning with the date hereof.

31 July 1992

(signed) CATHERINE BELL
An Under Secretary of the Department of Trade and Industry

Subsequently the Secretary of State extended the period for reporting on the references to 30 July 1993. On the same day the Director General of Gas Supply sent to the MMC a reference, under the Gas Act, into the conveyance and storage of gas. Shortly thereafter he sent a further reference, also under the Gas Act, into the fixing of tariffs for the supply of gas. Details are contained in Volume 1, Appendix 1.1, of the Gas Act report.

2. The questions in the reference concerning the supply of gas to tariff and non-tariff customers are answered in the following paragraphs:

- (a) 2.3;
- (b) 2.3;
- (c) 2.63, 2.94, 2.119 and 2.208;
- (d) 2.64, 2.65, 2.94, 2.120, 2.208 and 2.209; and
- (e) 2.66 to 2.68, 2.94, 2.120, 2.212 and 2.213.

3. The questions in the reference concerning the supply of the services of the conveyance or storage of gas are answered in the following paragraphs:

- (a) 2.5;
- (b) 2.5;
- (c) 2.141;
- (d) 2.141; and
- (e) 2.142 and 2.143.

4. The composition of the Group of members of the MMC which was responsible for the present investigation and report is indicated in the list of members in the preface to this report. We also took the opportunity to discuss a number of points with the Chairman of the MMC, Mr G D W Odgers.

5. Notices inviting interested parties to submit evidence to the MMC were placed in:

Financial Times

Daily Mail

The Daily Telegraph

Natural Gas

Pipeline and Gas Journal

6. Written and oral evidence was provided by BG, OFGAS, DTI, OFT, GCC, OFFER, gas producers, gas suppliers, gas users and users' representative bodies, consumer groups, trade unions, consultants and other interested bodies and individuals. The organizations which submitted evidence are given at Annex 1.

7. During the course of our inquiry, members and staff visited BG's Easington terminal, Rough storage field, Hinckley operational centre and East Midlands Regional HQ; Shell UK's facilities in Aberdeen, its offshore co-ordination centre, its Brent Charlie Gas Platform and St Fergus Gas Plant; Caledonian Gas and its majority shareholder Scottish Power in Glasgow, Northern Gas and its joint owners Norweb and UtiliCorp in Bolton; and UtiliCorp in London. Members and staff also met with BG and OFGAS on a number of occasions.

8. We held three hearings with BG, two with OFGAS, DTI and OFT and one with the GCC and OFFER. We also held hearings with gas producers, suppliers, users and users' representative bodies, trade unions and other interested parties and those with whom we held hearings are indicated in the list in Annex 1 by an asterisk.

9. During our inquiry we were also assisted on various matters by two consultants, R J Hopper Energy Consultancy and Penspen Limited.

10. We should like to thank all those who assisted in the inquiry, particularly the representatives of BG, upon whom most of our inquiries fell.