

**To: National Grid Electricity System Operator Limited**

**Electricity Act 1989  
Section 11A(1)(a)**

**Modification of the special conditions of the electricity transmission licence held  
by National Grid Electricity System Operator Limited**

1. National Grid Electricity System Operator Limited ('NGESO') is the holder of an electricity transmission licence ('the Licence') granted or treated as granted under section 6(1)(b) of the Electricity Act 1989 ('the Act').
2. Under section 11A(2) of the Act, the Gas and Electricity Markets Authority ('the Authority')<sup>1</sup> gave notice on 21 July 2022 ('the Notice') that we propose to modify Special Condition ('SpC') 1.1 (Interpretations and definitions) and SpC 2.7 (Prohibition on engaging in preferential or discriminatory behaviour) of the Licence.<sup>2</sup> We stated that any representations to the modification proposal must be made on or before 19 August 2022.
3. A copy of the Notice was sent to the Secretary of State in accordance with section 11A(4)(b) of the Act, and we have not received a direction that the change should not be made.
4. We received two responses to the Notice, which we carefully considered. We have placed the non-confidential responses on our website. The responses were supportive of the proposed changes. We here thank these parties for engaging in the consultation and have provided our views on the responses in the attached letter. As a result of the responses, we have determined to make minor housekeeping changes to ensure consistency with text elsewhere in the Licence, but this does not change the intent or effect of the modifications.
5. The modifications to the Licence are set out in Schedules 1 and 2, with the minor housekeeping changes from the consulted on proposed modifications highlighted in yellow. More information on the changes is detailed in the accompanying letter.
6. The effect of us making these modifications is to ensure that appropriate obligations for business separation (in particular between NGESO and the distribution licensees within its business group) are covered within the Licence. The modifications extend NGESO's existing business separation obligations to cover distribution licensees within the National Grid Group and explicitly prevent NGESO from unduly preferring or discriminating against any distribution licensees, in addition to the extant condition applying to transmission licensees.
7. Where an application for permission to appeal our decision is made to the Competition and Markets Authority ('CMA') under section 11C of the Act, Rule 5.7 of the Energy Licence Modification Appeals: Competition and Markets Authority Rules<sup>3</sup> requires that the appellants must send to any relevant licence holders who are not

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<sup>1</sup> The terms "the Authority", "we", "us" and "our" are used interchangeably in this document.

<sup>2</sup> <https://www.ofgem.gov.uk/publications/statutory-consultation-modification-licence-held-national-grid-electricity-system-operator-relation-business-separation>

<sup>3</sup> CMA70:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1019199/energy-licence-modification-appeals-rules.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1019199/energy-licence-modification-appeals-rules.pdf)

parties to the appeal a non-sensitive notice setting out the matters required in Rule 5.2. Schedule 3 provides a list of the relevant licence holders in relation to this modification. Section 11A(10) of the Act sets out the meaning of 'relevant licence holder'.

Under the powers set out in section 11A(1)(a) of the Act, we hereby modify the special conditions of the electricity transmission licence of National Grid Electricity System Operator Limited in the manner specified in attached Schedules 1 and 2. This decision will take effect from 20 November 2022.

This document is notice of the reasons for the decision to modify the electricity transmission licence held by National Grid Electricity System Operator Limited as required by section 49A(2) of the Act.

**David Beaumont**  
**Head of ESO Regulation**

**Duly authorised on behalf of the**  
**Gas and Electricity Markets Authority**

**23 September 2022**

## Schedule 1: Modifications to Part B 1.1.16 in Special Condition 1.1 of the electricity transmission licence held by National Grid Electricity System Operator Limited

(Deletions are shown in strikethrough; new text is double underlined)

### Part B: Definitions

.....In these special conditions the following defined terms have the meanings given in the table below.....

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Relevant Regulated Businesses	means National Grid Electricity Transmission plc (company number 2366977) (and its successors in title) and its affiliates or related undertakings participating in the transmission of electricity pursuant to a transmission licence treated as granted to National Grid Electricity Transmission plc under section 6(1)(b) of the Act; <del>and</del> National Grid Gas plc (company number 2006000) (and its successors in title) and its affiliates or related undertakings participating in gas transportation pursuant to a gas transporter licence treated as granted to National Grid Gas plc under section 7 of the Gas Act 1986; <u>Western Power Distribution (South West) plc (company number 02366894) (and its successors in title) and its affiliates or related undertakings participating in the distribution of electricity pursuant to a distribution licence treated as granted to Western Power Distribution (South West) plc under section 6(1)(c) of the Act;</u> <u>Western Power Distribution (South Wales) plc (company number 02366985) (and its successors in title) and its affiliates or related undertakings participating in the distribution of electricity pursuant to a distribution licence treated as granted to Western Power Distribution (South Wales) plc under section 6(1)(c) of the Act;</u> <u>Western Power Distribution (West Midlands) plc (company number 03600574) (and its successors in title) and its affiliates or related undertakings participating in the distribution of electricity pursuant to a distribution licence treated as granted to Western Power Distribution (West Midlands) plc under section 6(1)(c) of the Act; and</u> <u>Western Power Distribution (East Midlands) plc (company number 02366923) (and its successors in title) and its affiliates or related undertakings participating in the distribution of electricity pursuant to a distribution licence treated as granted to Western Power Distribution (East Midlands) plc under section 6(1)(c) of the Act.</u>
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## **Schedule 2: Modifications to SpC 2.7 of the electricity transmission licence held by National Grid Electricity System Operator Limited**

(Deletions are shown in strikethrough; new text is double underlined, yellow-highlighted text is an alteration to the modifications set out in the Notice.)

### **Special Condition 2.7 Prohibition on engaging in preferential or discriminatory behaviour**

#### **Introduction**

2.7.1 The purpose of this condition is to prevent the licensee from unduly preferring, or discriminating between: ~~Transmission Licensees~~

(a) Transmission Licensees; and/or

(b) Electricity Distribution Licensees.

#### **Part A: Prohibition on engaging in preferential or discriminatory behaviour**

2.7.2 The licensee must not, in meeting its obligations under this licence, unduly discriminate as between other Transmission Licensees, or unduly prefer any other Transmission Licensee, or unduly prefer itself over any other Transmission Licensee.

2.7.2A The licensee must not, in meeting its obligations under this licence, unduly discriminate against any Electricity Distribution Licensees or unduly prefer any Electricity Distribution Licensees, or unduly prefer itself over any Electricity Distribution Licensees.

2.7.3 On direction by the Authority, the licensee must keep and maintain such records concerning its compliance with this condition as are in the opinion of the Authority sufficient to enable the Authority to assess whether the licensee is complying with this condition and as are specified in any such direction; and the licensee must provide to the Authority such records in such manner and at such times as the Authority may require.

### **Schedule 3: Relevant Licence Holders<sup>4</sup>**

National Grid Electricity System Operator Limited

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<sup>4</sup> <https://www.ofgem.gov.uk/publications/list-all-electricity-licensees-including-suppliers>