

**To: Blue Transmission Walney 2 Limited**

**Electricity Act 1989  
Section 11A(2)**

**Notice of statutory consultation on a proposal to modify the offshore electricity transmission licence held by the licensee named above**

1. The Gas and Electricity Markets Authority (the **Authority**) proposes to modify the offshore electricity transmission licence (the **Licence**) held by the licensee named above, granted or treated as granted under section 6(1)(b) of the Electricity Act 1989 by modifying:

a. ASC E12-J3: Restriction of Transmission Revenue: Allowed Pass-through Items; and

b. ASC E12-J4: Restriction of Transmission Revenue: Annual Revenue Adjustments.

2. The proposed licence modifications are set out in the schedule attached to this Notice. Deletions are shown in strikethrough and new text is double underlined.

**PROPOSED MODIFICATIONS TO ASC E12-J3: RESTRICTION OF TRANSMISSION REVENUE: ALLOWED PASS-THROUGH ITEMS**

Health Reviews and Investment Works

3. The Authority has decided that all offshore transmission owners (the **Licensees**) should be able to claim for costs which have been economically and efficiently incurred as a direct result of carrying out a review of the condition of their transmission assets (a **Health Review**) – the scope and timing of which must be approved by the Authority in writing in advance.

4. The Authority has also decided that all Licensees should be able to claim for costs which have been economically and efficiently incurred as a direct result of carrying out the works identified during the Health Review that are needed to extend the lifetime of the transmission assets (the **Investment Works**) – which must be approved by the Authority in writing in advance.

5. The Authority is proposing therefore to amend ASC E12-J3: Restriction of transmission revenue: Allowed pass-through items in the Licence (as set out in part 1 of the schedule to this Notice) to allow the licensee to submit claims for the cost of the Health Review and thereafter, if applicable, Investment Works to the Authority for consideration. In each case, the licensee will be required to submit written evidence to the Authority of the costs incurred in carrying out either the Health Review or the Investment Works (as appropriate). The Authority may seek further information from the licensee in support of any claim, will consult with relevant parties and determine whether the Health Review or Investment Works (as applicable) were carried out in accordance with guidance and any directions issued by the Authority.

### Decommissioning Cost Adjustment

6. The Authority has decided to amend the Licence to allow the licensee to claim for additional costs and expenses in the event that VAT is applied to decommissioning costs. This will bring the Licence into line with those granted from tender round three onwards.

7. The Authority has also decided to amend the Licence to allow the licensee to claim for additional costs or expenses incurred as a result of the disallowance of scrap value from the decommissioning security. This will bring the Licence into line with those granted from tender round four onwards.

8. The Authority therefore proposes to amend ASC E12-J3 of the Licence (as set out in part 1 of the schedule to this Notice) to state that the licensee may submit claims for these costs to the Authority for consideration.

### **PROPOSED MODIFICATIONS TO ASC E12-J4: RESTRICTION OF TRANSMISSION REVENUE: ANNUAL REVENUE ADJUSTMENTS**

#### Availability losses

9. The Authority has decided that all licensees should be able to claim for availability lost as a direct result of carrying out Health Reviews, and for availability lost as a direct result of undertaking the Investment Works, if applicable, identified during the Health Review.

10. The Authority is therefore proposing to modify ASC E12-J4: Restriction of Transmission Revenue: Annual Revenue Adjustments of the Licence (as set out in part 2 of the schedule to this Notice) to enable the licensee to reclaim lost availability for cumulative outages of up to 7 calendar days as a result of carrying out the Health Reviews and/or undertaking the Investment Works, without the need to obtain approval of the Authority.

11. The Authority is proposing that for both Health Reviews and Investment Works, where cumulative outages of more than 7 days have occurred, the licensee should be required to submit claims for lost availability to the Authority for consideration. These arrangements would allow the Authority to require the licensee to provide details of the reduction in availability, the duration of the outage, and the reasons why in each case (either in respect of the Health Review or the Investment Works) the outage has (or cumulative total of the outages have) exceeded 7 days. The licensee would also be required to provide the Authority with any additional information or analysis that we may require in order to assess the claim.

#### Incremental Capacity Incentive Adjustment

12. ASC E12-J4 Part C provides a mechanism to compensate licensees for any additional costs incurred as a result of the licensee entering into an agreement under Standard Licence Condition E17: obligations in relation to connection.

13. The Authority is proposing to modify ASC E12-J4 Part C in the Licence (as set out in part 2 of the schedule to this Notice) to make it clear that the licensee can seek to recover costs where the licensee has entered into an agreement with the system operator under SLC E17 and the licensee incurs costs as a result of that agreement.

## Next Steps

14. Further details on the reasons for, and effect of, each of these modifications can be found in the cover letter accompanying this Notice.

15. A copy of the proposed modifications and other documents referred to in this Notice has also been published on our website. Alternatively, they are available from [foi@ofgem.gov.uk](mailto:foi@ofgem.gov.uk). Any representations with respect to the proposed licence modifications must be made by e-mail on or before 09 December 2022 to [offshorelicensing@ofgem.gov.uk](mailto:offshorelicensing@ofgem.gov.uk).

16. We are not issuing hard copies of the modification documents, nor do we expect consultation responses by post. If, however, you do wish to receive the documents and respond by post, we are able to organise this for you. Please contact us at the email address above, or on 020 7901 7295, to request hard copies of the relevant documents and postal address for responses.

17. We normally publish all responses on our website. However, if you do not wish your response to be made public, then please clearly mark it as not for publication. We prefer to receive responses in an electronic format so they can be placed easily on our website.

18. If we decide to make the proposed modifications, they will take effect not less than 56 days after the decision is published.



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**Stuart Borland**  
**Deputy Director, Offshore Network Regulation**

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

**11 November 2022**

**This is the schedule to the foregoing Notice addressed to Blue Transmission Walney 2 Limited**

**Schedule part 1**

**Amended Standard Condition E12-J3: Restriction of transmission revenue: Allowed pass-through items**

1. The purpose of this condition is to provide for revenue adjustments to reflect certain costs that can be passed through to consumers as part of allowed transmission owner revenue.
2. For the purposes of paragraph 4 of amended standard condition E12 - J2 (Restriction of transmission revenue: revenue from transmission owner services)  $PT_t$  is derived from the following formula:

$$PT_t = LF_t + RB_t + CEL_t + DC_t + IAT_t + TPD_t + TCA_t + MCA_t + CEA_t + \underline{HR_t} + \underline{IW_t}$$

(9)

where

$LF_t$  means the licence fee cost adjustment term, whether of a positive or of a negative value, and shall be determined in accordance with paragraph 3.

$RB_t$  means the network rates cost adjustment term, whether of a positive or of a negative value, and shall be determined in accordance with paragraphs 4 and 5.

$CEL_t$  means the Crown Estate Lease cost adjustment term, whether of a positive or negative value, and shall be determined in accordance with paragraph 6.

$DC_t$  means the decommissioning cost adjustment term and shall be determined in accordance with paragraphs 7 to 13A.

$IAT_t$  means the income adjusting event revenue adjustment term, whether of a positive or of a negative value, and shall be determined in accordance with paragraphs 14 to 24.

$TPD_t$  means the temporary physical disconnection payment term and shall be determined in accordance with paragraph 25.

$TCA_t$  means the tender fee cost adjustment term and shall be determined in accordance with paragraph 26.

$MCA_t$  means the Marine and Coastal Access Act 2009 cost adjustment term and shall be determined in accordance with paragraphs 27 to 33.

$CEA_t$  means the contingent event revenue adjustment term and shall be determined in accordance with paragraphs 34 to 44.

$HR_t$  means the Health Review revenue adjustment term which shall be determined in accordance with paragraphs 45 to 55A.

$IW_t$  means the Investment Works revenue adjustment term which shall be determined in accordance with paragraphs 56 to 67.

**Formula for the Licence Fee Cost Adjustment ( $LF_t$ )**

3. For the purposes of paragraph 2,  $LF_t$  is an amount in respect of licence fee payments and means the amount equal to the payments made by the licensee, in the relevant year  $t$ , in

accordance with its obligations set out in standard condition A4 (Payments to the Authority).

**Formula for the Network Rates Cost Adjustment ( $RB_t$ )**

4. For the purposes of paragraph 2,  $RB_t$  is an amount in respect of networks rates payments and means, subject to paragraph 5 of this condition, the amount equal to the rates payments made by the licensee in the relevant year  $t$ .
5. The licensee shall at the time of network rates revaluation use reasonable endeavours to minimise the costs that it will incur in respect of network rates.

**Formula for Crown Estate Lease Cost adjustment ( $CEL_t$ )**

6. For the purposes of paragraph 2,  $CEL_t$  is an amount equal to the payments made by the licensee to the Crown Estate, in the relevant year  $t$ , in accordance with its obligations set out in its Crown Estate Lease in respect of the:
  - (a) annual rent of the seabed; and
  - (b) legal expenses of the Crown Estate for the preparation, negotiation and completion of the Crown Estate Lease.

**Formula for Decommissioning cost adjustment ( $DC_t$ )**

7. Where the licensee considers, and can provide supporting evidence, that there will be additional costs and/or expenses in relation to the licensee's obligations with respect to decommissioning of the transmission system that has arisen due to a change in legislative requirements ("decommissioning legislative requirements") or a Decommissioning Event, then the licensee shall give written notice of this change to the Authority.
8. A notice provided to the Authority under paragraph 7 shall give particulars of:
  - (a) the change in decommissioning legislative requirements and/or the Decommissioning Event to which the notice relates and the reason(s) why the licensee considers that it will face additional costs or expenses in complying with those obligations, and shall demonstrate that such costs and expenses are not included within the allowed transmission owner income;
  - (b) the expected amount of any change in costs and/or expenses that can be demonstrated by the licensee to be caused by the change in decommissioning legislative requirements and/or the Decommissioning Event and how the amount of these costs and/or expenses has been calculated;
  - (c) the proposed amount of any allowed revenue adjustment proposed as a consequence of the change in decommissioning legislative requirements and/or the Decommissioning Event and how this allowed revenue adjustment has been calculated; and
  - (d) any other analysis or information, which the licensee considers sufficient to enable the Authority to fully assess the change in decommissioning legislative requirements and/or the Decommissioning Event to which the notice relates.
9. If the Authority considers that the analysis or information provided in sub-paragraphs 8(a) to 8(d) above is insufficient to enable the Authority to assess whether a change in decommissioning legislative requirements and/or a Decommissioning Event has occurred and/or the amount of any allowed income adjustment that might be approved, the Authority can request that the supporting evidence be supplemented with additional information that it considers appropriate. If the Authority requests that the supporting evidence be supplemented with additional information, the licensee shall provide such

information to the Authority within not more than one month of the Authority requesting such information, or within such other period as permitted by the Authority.

10. A notice referred to in paragraph 7 shall be given as soon as is reasonably practicable after the occurrence of the change in decommissioning legislative requirements and/or the Decommissioning Event, and, in any event, not later than three months after the end of the relevant year in which it occurs.
11. The Authority shall determine:
  - (a) whether any or all of the costs and/or expenses given in a notice pursuant to paragraph 7 were caused by the change in decommissioning legislative requirements and/or the Decommissioning Event;
  - (b) if so, whether the amount of the proposed income adjustment ensures that the financial position and performance of the licensee are, insofar as is reasonably practicable, the same as if that change in decommissioning legislative ~~decommissioning~~ requirements and/or Decommissioning Event had not taken place, and if not, what allowed income adjustment would secure that effect; and
  - (c) the periods, if any, over which the amounts should apply.
12. In relation to the relevant year  $t$ , the decommissioning cost adjustment term ( $DC_t$ ) shall be:
  - (a) the value determined by the Authority under paragraph 11 above; or
  - (b) if the Authority has not requested additional information under paragraph 9 and the Authority has not made a determination under paragraph 11 above within three months of the date on which notice given by the licensee was provided to the Authority, the amount of the allowed income adjustment proposed by the licensee in that notice given to the Authority; or
  - (c) if the Authority requests additional information under paragraph 9 and the Authority has not made a determination under paragraph 11 above within three months after receiving the additional information requested, the amount of the allowed income adjustment proposed by the licensee in the notice given to the Authority; or
  - (d) in all other cases the value zero, including situations where the Authority has not made a determination under paragraph 11 above within three months of the date on which notice given by the licensee provided to the Authority, or within three months of the date on which the Authority received additional information if requested under paragraph 9, and the Authority has, before the end of the appropriate three month period, informed the licensee that the Authority considers that the analysis or information provided in accordance with paragraphs 8 and/or 9 is insufficient to enable the Authority to assess whether additional costs or expenses have occurred and/or the amount of any allowed income adjustment.
13. The Authority's decision in relation to any notice given under paragraph 7 shall be in writing, shall be copied to the licensee and shall be in the public domain.

13A In this condition:

"Decommissioning Event" means where the licensee has been required by the appropriate Minister to increase the size of the security in respect of its decommissioning plan to account for the payment of VAT and/or the disallowance of scrap value allowed for under decommissioning plan and reflected in  $TRS_t$ ;

"scrap value" means the value allowed for the sale of scrap metals, including metal, to be

recovered through the decommissioning plan; and

“decommissioning plan” means the plan for the decommissioning of the Offshore Transmission Assets as provided to the Authority as part of the licensee’s ITT submission for the Walney 2 project and reflected in the ITT financial model submitted by the licensee for the Walney 2 project.

**Formula for a revenue adjustment in respect of an Income Adjusting Event Revenue Adjustment Term (IAT<sub>t</sub>)**

14. Where the licensee considers, and can provide supporting evidence that, in respect of relevant year t, there have been costs and/or expenses that have been incurred or saved by an income adjusting event, then the licensee shall give written notice of this event to the Authority.
15. An income adjusting event in relevant year t may arise from any of the following:
  - (a) an event or circumstance constituting Force Majeure;
  - (b) an event or circumstance resulting from an amendment to the STC not allowed for when allowed transmission owner revenues of the licensee were determined for the relevant year t; and
  - (c) an event or circumstance other than listed above which, in the opinion of the Authority, is an income adjusting event and is approved by it as such in accordance with paragraph 21 of this licence condition,  
  
where the event or circumstance has, for relevant year t, increased or decreased costs and/ or expenses by more than £1,000,000 (the “threshold amount”).
16. A notice provided to the Authority under paragraph 14 shall give particulars of:
  - (a) the event or circumstance to which the notice relates and the reason(s) why the licensee considers this event or circumstance to be an income adjusting event;
  - (b) the amount of any change in costs and/or expenses that can be demonstrated by the licensee to have been caused or saved by the event or circumstance and how the amount of these costs and/or expenses has been calculated, including the extent to which the licensee has claimed or intends to claim under other routes of recourse for any costs and/or expenses arising out of or relating to the event or circumstances;
  - (c) the amount of any allowed income adjustment proposed as a consequence of that event or circumstance and how this allowed income adjustment has been calculated; and
  - (d) any other analysis or information, which the licensee considers sufficient to enable the Authority and the relevant parties to fully assess the event or circumstance to which the notice relates.
17. If the Authority considers that the analysis or information provided in sub-paragraphs 16(a) to 16 (d) (inclusive) above is insufficient to enable both the Authority and the relevant parties to assess whether an income adjusting event has occurred and/or the amount of any allowed income adjustment that should be approved, the Authority can make a request or requests that the supporting evidence be supplemented with additional information that it considers appropriate. If the Authority requests that the supporting evidence be supplemented with additional information, the licensee shall provide such information to the Authority within one month of the Authority requesting such information or within such extended time as permitted by the Authority.
18. A notice of an income adjusting event shall be given as soon as is reasonably practicable



after the occurrence of the income adjusting event, and, in any event, not later than three months after the end of the relevant year in which it occurs.

19. The Authority will make public, excluding any confidential information, any notice of an income adjusting event as soon as is reasonably practicable following its receipt.
20. Any notice submitted to the Authority under paragraph 14 above should clearly identify whether any of the information contained in the notice is of a confidential nature. The Authority shall make the final determination as to confidentiality having regard to:
  - (a) the need to exclude from disclosure, so far as is reasonably practicable, information whose disclosure the Authority considers would or might seriously prejudicially affect the interests of a person to which it relates; and
  - (b) the extent to which the disclosure of the information mentioned in sub-paragraph 20(a) is necessary for the purposes of enabling the relevant parties to fully assess the event to which the notice relates.
21. The Authority shall determine (after consultation with the licensee and such other persons as it considers desirable):
  - (a) whether any or all of the costs and/or expenses given in a notice pursuant to paragraph 14 were caused or saved by an income adjusting event;
  - (b) whether the event or circumstance has increased or decreased the costs and/or expenses given in the notice pursuant to paragraph 14 by more than the threshold amount; and
  - (c) if so:,
    - i. subject to sub-paragraph (iii), whether the amount of the proposed income adjustment ensures that the financial position and performance of the licensee are, insofar as is reasonably practicable, the same as if that income adjusting event had not taken place, and if not, what allowed income adjustment would secure that effect. Such adjustment shall be:
      - (a) where the income adjusting event relates to an Uninsurable event or circumstance, reduced by:
        - i. if the licence was granted on or before 28 November 2018, the amount of the insurance deductible set out in the invitation to tender questionnaire submitted in respect of this licence pursuant to the tender regulations ; or
        - ii. if the licence was granted after 28 November 2018, either £5 million or the insurance deductible set out in the invitation to tender questionnaire submitted in respect of this licence pursuant to the tender regulations, whichever is greater; and
      - (b) for the avoidance of doubt, reduced by costs and/or expenses caused by the income adjusting event that are recovered by other routes of recourse available to the licensee, including, but not limited to, commercial arrangements;
  - unless, and to the extent that, the Authority has already applied such reductions to a previous income adjustment related to the same event or circumstance as that set out in the notice pursuant to paragraph 14;
  - (ii) subject to sub-paragraph (iii), the periods, if any, over which the amounts



- should apply; and
- (iii) where it is not yet possible to make a final determination under sub-paragraphs (c)(i) and (c)(ii) above, the Authority may direct a partial amount of income adjustment, if any, pending the final determination of amount, such final determination to be made as soon as is reasonably practicable.
22. In relation to the relevant year  $t$ , the allowed income adjustment ( $IAT_t$ ) shall be:
- (a) the value, or relevant proportion of the value, determined by the Authority under paragraph 21 above; or
  - (b) if the Authority has not requested additional information under paragraph 17 and the Authority has not made a determination under paragraph 21 above within three months (excluding the duration of any consultation under paragraph 21) of the date on which notice of an income adjusting event was provided to the Authority, the amount of the allowed income adjustment proposed as a consequence of the event in the notice given to the Authority under paragraph 14; or
  - (c) if the Authority requests additional information under paragraph 17 and the Authority has not made a determination under paragraph 21 above within three months (excluding the duration of any consultation under paragraph 21) after receiving the additional information requested, the amount of the allowed income adjustment proposed by the licensee in the notice given to the Authority; or
  - (d) in all other cases the value zero, including situations where the Authority has not made a determination under paragraph 21 above within three months (excluding the duration of any consultation under paragraph 21) of the date on which notice of an income adjusting event, provided under paragraph 14, was provided to the Authority, or within three months (excluding the duration of any consultation under paragraph 21) of the date on which the Authority received additional information if requested under paragraph 17, and the Authority has, before the end of that relevant period, informed the licensee that the Authority considers that the analysis or information provided in accordance with paragraphs 16 and/or 17 is insufficient to enable the Authority to assess whether an income adjusting event has occurred and/or the amount of any allowed income adjustment.
23. The Authority's decision in relation to any notice given under paragraph 14 shall be in writing, shall be copied to the licensee and shall be in the public domain.
24. The Authority may amend or revoke an approval of an income adjusting event and allowed income adjustment with the consent of the licensee, following consultation with the licensee and relevant parties, and any such amendment or revocation of any income adjusting event and allowed income adjustment shall be in writing, shall be copied to the licensee and shall be in the public domain.

**Formula for the Temporary Physical Disconnection Term ( $TPD_t$ )**

25. For the purposes of paragraph 2,  $TPD_t$  shall be an amount equal to the interruption payments made by the System Operator in the licensee's transmission system area and charged by the System Operator to the transmission licensee in accordance with the STC within each respective relevant year. Such costs shall include any financing or other costs such as to ensure that the financial position and performance of the licensee is, insofar as is reasonably practicable, the same as if those costs had not been incurred.

**Formula for the Tender Fee Cost Adjustment Term ( $TCA_t$ )**

26. For the purposes of paragraph 2,  $TCA_t$  shall be an amount representing the payments made to the Authority in accordance with The Electricity (Competitive Tender for

Offshore Transmission Licences) Regulations 2010 with respect to the recovery of the Authority's tender costs. Where the payments have been made in relation to an application for the grant of more than one licence, the licensee shall attribute an appropriate proportion of the relevant payment made to the Authority.

**Formula for the Marine and Coastal Act cost adjustment (MCAI)**

27. Where the licensee considers, and can provide supporting evidence, that there will be additional costs and/or expenses in relation to additional obligations imposed on the licensee with respect to the introduction of the Marine and Coastal Access Act 2009 requirements then the licensee may give written notice of these changes to the Authority.
28. A notice provided to the Authority under paragraph 27 shall give particulars of:
  - (a) the additional obligations to which the notice relates and the reason(s) why the licensee considers that it will face additional costs or expenses in complying with those additional obligations, and demonstrate that such costs or expenses are not included within allowed transmission owner income;
  - (b) the expected amount of any change in costs and/or expenses that can be demonstrated by the licensee to be caused by the introduction of those new obligations under the Marine and Coastal Access Act 2009 and how the amount of these costs and/or expenses has been calculated;
  - (c) the proposed amount of any allowed revenue adjustment proposed as a consequence of the licensee incurring additional obligations in relation to the Marine and Coastal Access Act 2009 requirements and how this allowed revenue adjustment has been calculated; and
  - (d) any other analysis or information, which the licensee considers sufficient to enable the Authority to fully assess the additional obligations to which the notice relates.
29. If the Authority considers that the analysis or information provided in sub-paragraphs 28(a) to (d) above is insufficient to enable the Authority to assess the amount of any allowed income adjustment that might be approved, the Authority can request that the supporting evidence be supplemented with any additional information that it considers appropriate. If the Authority requests that the supporting evidence be supplemented with additional information, the licensee shall provide such information to the Authority within not more than one month of the Authority requesting such information.
30. A notice referred to in paragraph 27 shall be given as soon as is reasonably practicable after the new obligations imposed by the Marine and Coastal Access Act 2009 take effect, and, in any event, not later than three months after the end of the relevant year in which they occur.
31. The Authority shall determine:
  - (a) whether any or all of the costs and/or expenses given in a notice pursuant to paragraph 27 were caused by the introduction of new obligations as a consequence of the Marine and Coastal Access Act 2009 requirements and not already incorporated within allowed transmission owner revenue;
  - (b) if so, whether the amount of the proposed income adjustment ensures that the financial position and performance of the licensee are, insofar as is reasonably practicable, the same as if that the additional obligations had not been implemented, and if not, what allowed income adjustment would secure that effect; and
  - (c) the periods, if any, over which the amounts should apply.

32. In relation to the relevant year  $t$ , the Marine and Coastal Act adjustment ( $MCA_t$ ) shall be:
- (a) the value determined by the Authority under paragraph 31 above; or
  - (b) if the Authority has not requested additional information under paragraph 29 and the Authority has not made a determination under paragraph 31 above within three months of the date on which notice given by the licensee was provided to the Authority, the amount of the allowed income adjustment proposed by the licensee in that notice given to the Authority; or
  - (c) if the Authority requests additional information under paragraph 29 and the Authority has not made a determination under paragraph 31 above within three months after receiving the additional information requested, the amount of the allowed income adjustment proposed by the licensee in the notice given to the Authority; or
  - (d) in all other cases the value zero, including situations where the Authority has not made a determination under paragraph 31 above within three months of the date on which notice given by the licensee provided to the Authority, or within three months of the date on which the Authority received additional information if requested under paragraph 29, and the Authority has, before the end of the appropriate three month period, informed the licensee that the Authority considers that the analysis or information provided in accordance with paragraphs 28 and/or 29 is insufficient to enable the Authority to assess whether additional costs or expenses has occurred and/or the amount of any allowed income adjustment.
33. The Authority's decision in relation to any notice given under paragraph 27 shall be in writing, shall be copied to the licensee and shall be in the public domain.

**Formula for a revenue adjustment in respect of a Contingent Event Revenue Adjustment Term (CEAt)**

34. Where the licensee considers, and can provide supporting evidence that, in respect of relevant year  $t$ , there have been costs and/or expenses that have been or will be incurred by the licensee under or in respect of any contingent event, then the licensee shall give written notice of this contingent event to the Authority, (in respect of which, the licensee shall not also be entitled to serve a notice in respect of such costs and/or expenses under paragraph ~~15~~ 14 of this amended standard condition).
35. A notice provided to the Authority under paragraph 34 shall give particulars of:
- (a) the relevant contingent event to which the notice relates;
  - (b) the extent to which, if at all, the licensee has claimed or intends to claim for any costs and/or expenses arising out of or relating to the relevant contingent event under other routes of recourse, including but not limited to commercial solutions available to it, including any warranties and/or indemnities;
  - (c) the amount of any change in costs and/or expenses that can be demonstrated by the licensee to have been or that will be incurred or suffered in connection with the relevant contingent event and how the amount of these costs and/or expenses has been calculated;
  - (d) the amount of any allowed revenue adjustment proposed as a consequence of the relevant contingent event, whether this allowed revenue adjustment is required for a one-off cost or for ongoing costs and how this allowed revenue adjustment has been calculated; and
  - (e) any other analysis or information, which the licensee considers sufficient to

enable the Authority and the relevant parties to fully assess the relevant contingent event to which the notice relates.

36. If the Authority considers that the analysis or information provided in sub-paragraphs 35(a) to 35(e) (inclusive) above is insufficient to enable both the Authority and the relevant parties to assess the relevant contingent event and/or the amount of any allowed revenue adjustment that should be approved, the Authority can request that the supporting evidence be supplemented with additional information that it considers appropriate. If the Authority requests that the supporting evidence be supplemented with additional information, the licensee shall provide such information to the Authority within not more than one month of the Authority requesting the information.
37. A notice of a contingent event shall be given as soon as is reasonably practicable after the occurrence of the relevant contingent event, and, in any event, not later than three months after the end of the relevant year in which it occurs.
38. The Authority will make public, excluding any confidential information, any notice of a contingent event following its receipt.
39. Any notice submitted to the Authority under paragraph 34 above should clearly identify whether any of the information contained in the notice is of a confidential nature. The Authority shall make the final determination as to confidentiality having regard to:
  - (a) the need to exclude from disclosure, so far as is reasonably practicable, information whose disclosure the Authority considers would or might seriously prejudicially affect the interests of a person to which it relates; and
  - (b) the extent to which the disclosure of the information mentioned in sub-paragraph 39(a) is necessary for the purposes of enabling the relevant parties to fully assess the event or circumstance to which the notice relates.
40. The Authority shall determine (after consultation with the licensee and such other persons as it considers desirable):
  - (a) whether any or all of the costs and/or expenses given in a notice pursuant to paragraph 34 were caused by the relevant contingent event;
  - (b) if so, whether the amount of the proposed revenue adjustment ensures that the financial position and performance of the licensee are, insofar as is reasonably practicable, the same as if that contingent event had not taken place (including considering any other methods of recourse/commercial arrangements that the licensee has or ought to have available to it, such as commercial solutions with relevant third parties), and if not, what allowed revenue adjustment would secure that effect;
  - (c) whether the amount of the proposed revenue adjustment accounts for the extent to which, if at all, the licensee has claimed or intends to claim for any costs under other routes of recourse, including but not limited to commercial solutions available to it, including any warranties, and/or indemnities the periods, if any, over which the amounts should apply.
41. In relation to the relevant year *t*, the allowed revenue adjustment (CEAt) shall be:
  - (a) the value determined by the Authority under paragraph 40 above; or
  - (b) if the Authority has not requested additional information under paragraph 36 and the Authority has not made a determination under paragraph 40 above within three months of the date on which notice of a contingent event was provided to the Authority, the amount of the allowed revenue adjustment proposed as a

consequence of the relevant contingent event in the notice given to the Authority under paragraph 34; or

- (c) if the Authority requests additional information under paragraph 36 and the Authority has not made a determination under paragraph 40 above within three months after receiving the additional information requested, the amount of the allowed income adjustment proposed by the licensee in the notice given to the Authority; or
  - (d) in all other cases the value zero, including situations where the Authority has not made a determination under paragraph 40 above within three months of the date on which notice of a contingent event, provided under paragraph 34 was provided to the Authority, or within three months of the date on which the Authority received the additional information if requested under paragraph 36, and the Authority has, before the end of the appropriate three month period, informed the licensee that the Authority considers that the analysis or information provided in accordance with paragraphs 35 and/or 36 is insufficient to enable the Authority to assess the relevant contingent event and/or the amount of any allowed revenue adjustment.
42. The Authority's decision in relation to any notice given under paragraph 34 shall be in writing, shall be copied to the licensee and shall be in the public domain.
43. The Authority may revoke an approval of a contingent event and allowed revenue adjustment with the consent of the licensee, following consultation with the licensee and relevant parties, and any such revocation of any contingent event and allowed revenue adjustment shall be in writing, shall be copied to the licensee and shall be in the public domain.
44. In this condition:
- |                    |  |
|--------------------|--|
| "contingent event" | means any liability of the licensee under or in connection with clause 5.1 of the Hydrocarbon Resources Limited crossing agreement and/or clause 11.1 of the Burlington Resources (Irish Sea) Limited crossing agreement, or any assignment or novation of either, in respect of the decommissioning of the gas pipeline which is crossed by the licensee's transmission assets. |
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**Formula for a Health Review cost adjustment (HR<sub>c</sub>)**

45. Where the licensee considers that in respect of the relevant year t, there have been costs and/or expenses that have been directly incurred by the licensee in undertaking a Health Review, the licensee shall give written notice of this to the Authority (a "Health Review Notice").
46. A Health Review Notice provided under paragraph 45 shall give particulars (including supporting evidence) of:
- (a) the amount of any costs and/or expenses that the licensee can demonstrate have been directly incurred as a result of undertaking the Health Review and how these costs and/or expenses have been calculated;
  - (b) the amount of any revenue adjustment proposed as a consequence of undertaking

the Health Review and how this proposed revenue adjustment has been calculated; and

- (c) any other analysis or information, which the licensee considers necessary to enable the Authority to fully assess the proposed revenue adjustment.
47. If the Authority considers that the analysis or information provided in sub-paragraphs 46(a) to 46(c) above is insufficient to enable it to assess the amount of any proposed revenue adjustment, the Authority may request that the supporting evidence be supplemented with additional information that it considers appropriate. If the Authority requests additional information, the licensee shall provide such information to the Authority within one (1) month of the Authority's request, or within such other period as directed by the Authority.
48. Unless otherwise agreed in writing with the Authority, a Health Review Notice shall be given as soon as is reasonably practicable after completion of the Health Review and, in any case, not later than three (3) months after the end of the relevant year in which the Health Review is completed.
49. The Authority shall make public, excluding any confidential information, the Health Review Notice as soon as reasonably practicable following its receipt.
50. Any Health Review Notice should clearly identify whether any of the information contained in the notice is of a confidential nature. The Authority shall make the final determination as to confidentiality having regard to:
- (a) the need to exclude from disclosure, so far as is reasonably practicable, information whose disclosure the Authority considers would or might seriously prejudicially affect the interests of a person to which it relates; and
  - (b) the extent to which the disclosure of the information mentioned in sub-paragraph 50(a) is necessary for the purposes of enabling the relevant parties to fully assess the Health Review to which the notice relates.
51. The Authority shall determine (after consultation with the licensee and relevant parties) whether:
- (a) any or all of the costs and/or expenses set out in the Health Review Notice can be directly attributed to undertaking the Health Review;
  - (b) such costs and/or expenses were incurred economically and efficiently; and
  - (c) the amount of the proposed revenue adjustment ensures that the financial position and performance of the licensee are, insofar as is reasonably practicable, the same as if the Health Review had not been undertaken and if not, the Authority shall determine what revenue adjustment shall secure that effect (subject always to any deductions made under sub-paragraphs 51(a) and 51(b)).
52. In relation to any relevant year t, the allowed revenue adjustment (HR<sub>t</sub>) shall be:
- (a) the value determined by the Authority under paragraph 51 above or as modified under paragraph 55; or
  - (b) the amount of the proposed revenue adjustment as set out in the Health Review Notice where:
    - (i) the Authority has not requested additional information under paragraph 47 and the Authority has not made a determination under paragraph 51 above within three (3) months of the date of receipt of the Health Review Notice by the Authority; or



- (ii) the Authority has requested additional information pursuant to paragraph 47 and has not made a determination within three (3) months, or such other period that the Authority notifies the licensee, of the date on which the additional information requested was received by the Authority; or
  - (c) in all other cases zero, including where:
    - (i) the licensee has failed to provide additional information requested by the Authority in accordance with paragraph 47; or
    - (ii) the Authority has not made a determination under paragraph 51 above within three (3) months of the date on which the Health Review Notice was provided to the Authority, or if additional information has been requested by the Authority under paragraph 47, within (3) months from the date of receipt by the Authority of the additional information, and where in either case, the Authority has, before the end of the relevant three (3) month period, informed the licensee that the Authority considers that the analysis or information provided in accordance with paragraph 46 or the additional information provided in response to a request by the Authority under paragraph 47 is insufficient to enable the Authority to assess the amount of any allowed revenue adjustment.
53. The allowed revenue adjustment in relation to a Health Review Notice, as determined by the Authority under paragraph 51 shall be set out in writing, shall be copied to the licensee and shall be in the public domain.
54. The licensee shall inform the Authority in writing of any change in circumstance which has a material impact on the determination under paragraph 51.
55. The Authority may modify or revoke a determination made under paragraph 51, following consultation with the licensee and relevant parties, and any such modification or revocation shall be in writing, shall be copied to the licensee and shall be in the public domain.

55A In this condition:

“Health Review” means a review of the condition of the Offshore Transmission Assets to be carried out by the licensee, the scope and timing of which shall be approved in writing in advance with the Authority in accordance with guidance issued by the Authority (as amended from time to time).

**Formula for an Investment Works cost adjustment (IW<sub>c</sub>)**

56. Where the licensee considers that in respect of the relevant year t, there have been costs and/or expenses that have been directly incurred by the licensee as a result of carrying out Investment Works, the licensee shall give written notice of this to the Authority (an “Investment Works Notice”).
57. An Investment Works Notice provided under paragraph 56 shall give particulars (including supporting evidence) of:
- (a) the amount of any costs and/or expenses that the licensee can demonstrate have been directly incurred as a result of carrying out the Investment Works and how these costs and/or expenses have been calculated;
  - (b) the amount of any revenue adjustment proposed as a consequence of the Investment Works and how this proposed revenue adjustment has been calculated; and



- (c) any other analysis or information, which the licensee considers necessary to enable the Authority to fully assess the proposed revenue adjustment.
58. If the Authority considers that the analysis or information provided in sub-paragraphs 57(a) to 57(c) above is insufficient to enable it to assess the amount of any proposed revenue adjustment, the Authority may request that the supporting evidence be supplemented with additional information that it considers appropriate. If the Authority requests additional information, the licensee shall provide such information to the Authority within one (1) month of the Authority's request, or within such other period as directed by the Authority.
59. Unless otherwise agreed in writing with the Authority, an Investment Works Notice shall be given as soon as is reasonably practicable after practical completion of the Investment Works and, in any case, not later than three (3) months after the end of the relevant year in which practical completion of the Investment Works is achieved.
60. The Authority shall make public, excluding any confidential information, the Investment Works Notice as soon as reasonably practicable following its receipt.
61. Any Investment Works Notice should clearly identify whether any of the information contained in the notice is of a confidential nature. The Authority shall make the final determination as to confidentiality having regard to:
- (a) the need to exclude from disclosure, so far as is reasonably practicable, information whose disclosure the Authority considers would or might seriously prejudicially affect the interests of a person to which it relates; and
  - (b) the extent to which the disclosure of the information mentioned in sub-paragraph 61(a) is necessary for the purposes of enabling the relevant parties to fully assess the Investment Works to which the notice relates.
62. The Authority shall determine (after consultation with the licensee and relevant parties) whether:
- (a) any or all of the costs and/or expenses set out in the Investment Works Notice can be directly attributed to the Investment Works;
  - (b) such costs and/or expenses were incurred economically and efficiently; and
  - (c) the amount of the proposed revenue adjustment ensures that the financial position and performance of the licensee are, insofar as is reasonably practicable, the same as if the Investment Works had not been carried out and if not, the Authority shall determine what revenue adjustment shall secure that effect (subject always to any deductions made under sub-paragraphs 62(a) and 62(b)).
63. In relation to any relevant year t, the allowed revenue adjustment (IW<sub>t</sub>) shall be:
- (a) the value determined by the Authority under paragraph 62 above or as modified under paragraph 66; or
  - (b) the amount of the proposed revenue adjustment as set out in the Investment Works Notice where:
    - (i) the Authority has not requested additional information under paragraph 58 and the Authority has not made a determination under paragraph 62 above within three (3) months of the date of receipt of the Investment Works Notice by the Authority; or
    - (ii) the Authority has requested additional information pursuant to paragraph 58 and has not made a determination within three (3) months, or such

other period that the Authority notifies the licensee, of the date on which the additional information requested was received by the Authority; or

(c) in all other cases zero, including where:

(i) the licensee has failed to provide additional information requested by the Authority in accordance with paragraph 58 above; or

(ii) the Authority has not made a determination under paragraph 62 above within three (3) months of the date on which the Investment Works Notice was provided to the Authority, or if additional information has been requested by the Authority under paragraph 58, within (3) months from the date of receipt by the Authority of the additional information, and where in either case, the Authority has, before the end of the relevant three (3) month period, informed the licensee that the Authority considers that the analysis or information provided in accordance with paragraph 57 or the additional information provided in response to a request by the Authority under paragraph 58 is insufficient to enable the Authority to assess the amount of any allowed revenue adjustment.

64. The allowed revenue adjustment in relation to an Investment Works Notice, as determined by the Authority under paragraph 62 shall be set out in writing, shall be copied to the licensee and shall be in the public domain.

65. The licensee shall inform the Authority in writing of any change in circumstance which has a material impact on the determination under paragraph 62.

66. The Authority may modify or revoke a determination made under paragraph 62, following consultation with the licensee and relevant parties, and any such modification or revocation shall be in writing, shall be copied to the licensee and shall be in the public domain.

67. In this condition:

“Investment Works” means the works required to be undertaken by the licensee on the Offshore Transmission Assets as identified by the Health Review, and approved by the Authority in writing in advance, in accordance with the guidance issued by the Authority (as amended from time to time) to ensure that the Offshore Transmission Assets can continue to operate for such additional period as determined by the Authority.

## **Schedule part 2**

### **Amended Standard Condition E12-J4: Restriction of transmission revenue: Annual revenue adjustments**

1. The purpose of this condition is to provide for adjustments to allowed transmission revenue in relation to the licensee's transmission system performance and this condition shall not take effect until the transmission system to which this licence relates has been transferred to the licensee.
2. For the purposes of paragraph 4 of amended standard condition E12 - J2 (Restriction of transmission revenue: revenue from transmission owner services),  $PA_t$  is derived from the following formula:

$$PA_t = TSAI_t + TSAP_t + ICA_t \quad (10)$$

where:

$TSAI_t$  means the transmission system availability incentive, whether of a positive or of a negative value, as derived from the formula set out in paragraph 6;

$TSAP_t$  means the transmission system availability payment for the value of performance credits from the last 5 years of the revenue period, as determined in accordance with paragraph 21; and

$ICA_t$  means the incremental capacity incentive adjustment term as derived from the formula set out in paragraph 22.

#### **Part A: Transmission system availability incentive**

3. The licensee shall, in providing transmission owner services, use reasonable endeavours to make its transmission system available to the System Operator in accordance with standard condition E15 (Obligation to provide transmission services) and Good Industry Practice to minimise the effect and duration of any transmission service reduction.
4. Where a transmission service reduction applies to a part of the licensee's transmission system and the licensee reasonably expects that the duration of such a transmission service reduction will apply for a period of more than 21 days then the licensee shall within 7 days of the transmission service reduction occurring notify the Authority in writing of the transmission service reduction including:
  - (a) details of the transmission service reduction on the transmission services the licensee provides to the System Operator;
  - (b) the cause of the transmission service reduction and whether, in the licensee's opinion, the transmission service reduction has been caused (in whole or in part) by an exceptional event;
  - (c) any interim work or other actions which are being undertaken to minimise the effect of the transmission service reduction; and
  - (d) indicate the timescale in which the licensee reasonably considers that the transmission service reduction will be resolved together with supporting information that shall include (without limitation) any Service Restoration Proposal agreed with the System Operator in accordance with the STC.
5. Where, in the incentive period  $y$ , the total effect and duration of all transmission service reductions, excluding those caused (in whole or in part) by an exceptional event:
  - (a) results in transmission system availability being, on average, below 75 per cent in that incentive period; or

- (b) results in transmission system availability being, on average, below 80 per cent when considering the 24 month period of the incentive period y and the incentive period y-1;

then the licensee shall provide a written statement to the Authority, from an authorised director of the licensee, within three months of the end of incentive period y, explaining how the steps the licensee has taken have discharged the obligations in paragraph 3.

6. For the purposes of paragraph 2, the term  $TSAl_t$  is derived from the following formula:

$$TSAl_t = \left( \frac{BR_{t-1}}{PR_{t-1}} \times TSAC_y \times PR_{t-6} \right) - BR_{t-1} \times TSAF_y \quad (11)$$

where  $t=y$

where:

$BR_t$  means base revenue calculated in accordance with the formula specified in paragraph 4 of amended standard condition E12 – J2 (Restriction of Transmission Revenue: revenue from transmission owner services); and

$TSAC_y$  means the transmission system availability credit factor, which in any relevant year before the commencement relevant year shall take the value zero and in each subsequent relevant year is the percentage credit revenue adjustment factor based on the licensee's performance against the transmission system availability incentive during incentive period y, and is derived from the following formula:

$$TSAC_y = TSIF \times \left( \frac{PAPC_y}{AVCOL_{y-5}} \right) \quad (12)$$

where:

$TSIF$  means the transmission system incentive factor and shall in each incentive period y take the value of 10 per cent.

$PAPC_y$  means the performance availability payout credits, after being held in the performance balance for 5 incentive periods and offsetting any penalties in that period, available to be cashed in incentive period y as set out in paragraph 8.

$AVCOL_y$  means the annual value of the collar and is derived from the following formula:

$$AVCOL_y = \sum_{i=1}^{12} MVCOL_{i,y} \quad (13)$$

Where:

$MVCOL_{i,y}$  means the monthly value of the collar and is derived from the following formula:

$$MVCOL_{i,y} = MTSA_i \times COL \quad (14)$$

where:

$COL$  means the maximum penalty collar for the availability incentive of 4 per cent.

$MTSA_i$  means the maximum transmission system availability in month i that is required to be delivered being the minimum of:

- (i) the aggregate Transmission Entry Capacity;  
and
- (ii) the maximum system availability in month  $i$  that is capable of being delivered by the licensee by providing transmission services to the Normal Capability Limits;

both expressed as number of MW hours that could be achieved if the available capacity were fully utilised.

$TSAF_y$  means the transmission system availability penalty factor, which in any relevant year before the commencement relevant year shall take the value zero and in each subsequent relevant year is the percentage penalty revenue adjustment factor based on the licensee's performance against the transmission system availability incentive during incentive period  $y$  and, subject to paragraphs 14 to 16, is derived from the following formula:

$$TSAF_y = TSIF \times \left( \frac{-PPRO_y}{AVCOL_y} \right) \quad (15)$$

where:

$PPRO_y$  means the performance penalty revenue offset representing the number of penalty permits that are offset against revenues in incentive period  $y$  as set out in paragraph 7.

7. For the purposes of paragraph 6, the performance penalty revenue offset ( $PPRO_y$ ) shall be calculated in accordance with the following formula:

If  $TPAPE_y < 0$  then (16)

If  $TPAPE_y < -AVCOL_y$  then

$$PPRO_y = -AVCOL_y$$

If  $TPAPE_y \geq -AVCOL_y$  then

$$PPRO_y = TPAPE_y$$

If  $TPAPE_y \geq 0$  then

$$PPRO_y = 0$$

where:

$TPAPE_y$  means the total performance availability permits earned representing the cumulative value of penalties and credits earned up to and including incentive period  $y$  along with those credits and penalties up to period  $y$  that have effected revenue, being calculated as follows:

$$TPAPE_y = TPAPE_{y-1} + TSPP_y + TSPC_y - 5YPL_y - PPRO_{y-1} - PAPC_{y-1} \quad (17)$$

Where:

$TSPP_y$  means the transmission system performance penalties incurred in each month  $i$  of incentive period  $y$ , being calculated as follows:

$$TSPP_y = \sum_{i=1}^{i=12} APE_{i,y} \quad (18)$$

Where:

$APE_{i,y}$  means the availability penalties earned in each month  $i$  of incentive period  $y$  being calculated as follows:

If  $APAPE_{i,y} < 0$  then (19)

$$APE_{i,y} = APAPE_{i,y}$$

If  $APAPE_{i,y} \geq 0$  then

$$APE_{i,y} = 0$$

$APAPE_{i,y}$  means the adjusted performance availability permits earned in each month  $i$  of incentive period  $y$ , being calculated as follows:

$$APAPE_{i,y} = (RSIP_{i,y} - (TSIT_i \times MTSA_i)) \times TSIR_i \quad (20)$$

Where:

$TSIT_i$  means the base transmission system incentive target, in percentage terms, for month  $i$  as set out in Annex A.

$RSIP_{i,y}$  means the reported system incentive performance (expressed as the number of MW hours the system was capable of delivering) in respect of month  $i$  in incentive period  $y$  derived in accordance with paragraph 9 to 13.

$TSIR_i$  means the transmission system incentive rate as set out against the table in Annex A to this condition.

$TSPC_y$  means the transmission system performance credits earned in each month  $i$  of incentive period  $y$ , being calculated as follows:

$$TSPC_y = \sum_{i=1}^{i=12} ACE_{i,y} \quad (21)$$

where:

$ACE_{i,y}$  means the availability credits earned in each month  $i$  of incentive period  $y$  being calculated as follows:

If  $APAPE_{i,y} > 0$  then (22)

$$ACE_{i,y} = APAPE_{i,y}$$

If  $APAPE_{i,y} \leq 0$  then

$$ACE_{i,y} = 0$$

$5YPL_y$  means the 5 year penalty limit, which limits the effect of large outages to only 5 years of OFTO revenue, taking the value zero until incentive period  $y=6$  and is then calculated as follows:

If  $TSPP_{y-5} + AVCOL_{y-5} < 0$  and if  $5YPB_y < 0$  then (23)

$$5YPL_y = 5YPB_y$$

If  $TSPP_{y-5} + AVCOL_{y-5} \geq 0$  or  $5YPB_y \geq 0$  then

$$5YPL_y = 0$$

Where:

5YPB<sub>y</sub> means the 5 year penalty balance being calculated as follows:

$$5YPB_y = 5YPB_{y-1} + TSPP_{y-5} + TSPC_{y-1} - PPRO_{y-1} - 5YPL_{y-1} - PAC_{y-1} \quad (24)$$

8. For the purposes of paragraph 6 the performance availability payout credits (PAPC<sub>y</sub>), represent those credits to effect revenue after being held in the performance balance (through the 5YCM<sub>y</sub> mechanism) for 5 years from the incentive period y and offsetting any penalties in the intervening period, is determined in accordance with the following formula:

If  $5YCM_y > 0$  then (25)

$$PAPC_y = 5YCM_y$$

If  $5YCM_y \leq 0$  then

$$PAPC_y = 0$$

where:

5YCM<sub>y</sub> means the 5 year credit mechanism, which holds all credits in the performance balance for 5 years, using them to offset any penalties in the intervening period, before those credits can be cashed, and is calculated as:

$$5YCM_y = 5YCM_{y-1} + TSPC_{y-5} + TSPP_y - PPRO_{y-1} - 5YPL_{y-1} - PAC_{y-1} \quad (26)$$

9. For the purposes of this amended standard condition “reported system incentive performance (RSIP<sub>i,y</sub>)” shall mean, in month i of incentive period y, the extent to which the licensee made transmission services available to the System Operator for the purposes of conveying, or affecting the flow of, electricity and reported system incentive performance (RSIP<sub>i,y</sub>) shall be calculated as the maximum transmission system availability in month i (MTSA<sub>i</sub>) less the effect, also in month i, of any transmission service reduction that applied to licensee’s transmission system, subject to the following exclusions:

- (a) any reduction in transmission system availability resulting from a de-energisation or disconnection of a user’s equipment under an event of default as defined in the CUSC;
- (b) any reduction in transmission system availability resulting from a user’s request for disconnection in accordance with the Grid Code;
- (c) any reduction in transmission system availability resulting from emergency de-energisation by a user as defined in the CUSC;
- (d) any reduction in transmission system availability resulting from an emergency de-energisation or disconnection of a user’s equipment necessary to ensure compliance with the Electricity Safety, Quality and Continuity Regulations 2002, as amended from time to time, or to otherwise ensure public safety;
- (e) any reduction in transmission system availability directly resulting from undertaking the Health Review (as defined in paragraph 55A of amended standard condition E12-J3 (Restriction of transmission revenue: Allowed pass-through items)), provided that the cumulative total of such period or periods of reduction does not exceed 7 calendar days and subject to the licensee acting in compliance with any directions given by the Authority and guidance issued in relation to the Health Review to manage the impact of the Health Review on the availability of services provided to the System Operator, including using its best endeavours to co-ordinate any reduction in transmission system availability as a result of undertaking the Health Review with any planned outages;



- (f) any reduction in transmission system availability required as a result of Investment Works (as defined in paragraph 67 of amended standard condition E12-J3 (Restriction of transmission revenue: Allowed pass-through items)), provided that the cumulative total of such period or periods of reduction does not exceed 7 calendar days and subject to the licensee acting in compliance with any directions given by the Authority and guidance issued in relation to the Investment Works to manage the impact of the Investment Works on the availability of services provided to the System Operator, including using its best endeavours to co-ordinate any reduction in transmission system availability as a result of undertaking the Investment Works with any planned outages; and
  - (g) any reduction in transmission system availability directly resulting from undertaking a Health Review or Investment Works which exceeds a cumulative total of 7 calendar days in either case, provided that:
    - (i) the licensee provides details to the Authority of the reduction in transmission system availability, the reasons why the reduction has exceeded a total of 7 calendar days and the duration of the reduction in transmission system availability;
    - (ii) the licensee provides to the Authority any additional information or analysis the Authority requests; and
    - (iii) the extent of the exclusion shall be directed by the Authority and shall be based on the extent to which the Authority is satisfied that the licensee has acted in accordance with Good Industry Practice, any directions given by the Authority and guidance issued in relation to the Health Review and/or Investment Works, to manage the impact of the Health Review and/or Investment Works on the availability of services provided to the System Operator, including using its best endeavours to co-ordinate any reduction in transmission system availability as a result of undertaking the Health Review and/or Investment Works with any planned outages.
10. The Authority shall, by written notice to the licensee, direct that, for the purpose of calculating the reported system incentive performance ( $RSIP_{i,y}$ ) that the value of reported system incentive performance ( $RSIP_{i,y}$ ) shall be adjusted to the extent specified in that direction to offset the impact of the exceptional event, where:
- (a) the licensee considers that any event on the licensee's transmission system that causes a transmission service reduction has been wholly or partially caused by an exceptional event;
  - (b) the licensee has notified the Authority of such an event within 14 days of its occurrence;
  - (c) the licensee has provided details of the reduction in system availability that the licensee considers resulted from the exceptional event (including the anticipated duration of any reduction in availability) and such further information, if any, as the Authority may require in relation to such an exceptional event; and
  - (d) the Authority is satisfied that the event notified to it under sub-paragraph (b) is an exceptional event
11. For the purpose of paragraph 10, the adjustment directed by the Authority shall be based on the extent to which the Authority is satisfied that the licensee had taken reasonable steps, consistent with Good Industry Practice, to manage the impact of the event on the

availability of services provided to the System Operator in accordance with standard condition E15 (Obligation to provide transmission services) (both in anticipation of the event and after the event has occurred).

12. A direction under paragraph 10 shall not have effect unless, before it is made, the Authority has given notice to the licensee:
  - (a) setting out the terms of the proposed direction, including the extent to which the value of reported system availability performance for month  $i$ , and each subsequent month, should be increased to offset the impact of the exceptional event;
  - (b) stating the reasons, having regard to the information provided by the licensee and Good Industry Practice, why it proposes to issue the direction; and
  - (c) specifying the period (not being less than 14 days from the date of the notice) within which the licensee may make representations or objections

and the Authority has considered such representations or objections and given reasons for its decision.
13. The licensee may request that a direction issued by the Authority pursuant to paragraph 10 be modified, where the licensee considers that:
  - (a) there has been a material change to the information previously provided by the licensee in relation to the exceptional event specified in the previous direction; and
  - (b) it has notified the Authority of the material change, no later than 3 months after the end of the incentive period to which it relates.
14. For the purposes of paragraph 6, the licensee may request that the transmission system availability penalty factor ( $TSAF_y$ ) in respect of the incentive period  $y$ , take a value:
 
$$TSAF_y > \left[ TSIF \times \left( \frac{-PPRO_y}{AVCOL_y} \right) \right] \quad (27)$$

being an amount between 10 and 50 per cent, with the purpose of bringing forward future long term penalties.
15. In making a request pursuant to paragraph 14, the licensee shall set out:
  - (a) its reasons for making the request;
  - (b) its calculations and supporting information in support of the proposed value of  $TSAF_y$  in incentive period  $y$ ; and
  - (c) its proposals for future restrictions on the value of  $TSAF_{y+1}, \dots, TSAF_{y+4}$  that the licensee considers would be necessary to maintain revenue neutrality with respect to the penalty liabilities incurred in respect of incentive period  $y$ .
16. The proposed value of  $TSAF_y$  and proposed restrictions on  $TSAF_{y+1}, \dots, TSAF_{y+4}$  set out in the requested pursuant to paragraph 14 shall only apply if, following consultation with interested parties, the Authority gives its consent, in writing, to the licensee; and the Authority's consent shall not be unreasonably withheld.

## **Part B: Transmission System Availability Incentive: supplementary provisions**

17. The licensee shall, by no later than 14 days after the end of each three month period (being the three months ending either 31 March, 30 June, 30 September and 31 December), submit to the Authority a report setting out the reported system incentive performance ( $RSIP_{i,y}$ ) for each of the months within the three month period and the report should include the calculation of  $RSIP_{i,y}$  and provide a commentary in relation to those months where reported system incentive performance ( $RSIP_{i,y}$ ) has fallen below the monthly

incentive target ( $TSIT_i \times MTSA_i$ ).

18. The licensee shall, by no later than sixteen years after this condition comes into force, procure, to the satisfaction of the Authority, financial security for the purposes of covering future financial liabilities up to and including the closing relevant year.
19. For the purposes of paragraph 18, the licensee shall, by no later than 3 months before the date that is sixteen years after this condition comes into force, provide to the Authority a notice specifying:
  - (a) the amount of financial security that the licensee intends to procure, being no less than 50 per cent of base transmission revenue;
  - (b) the form of the financial security that the licensee intends to procure;
  - (c) the independent financial institution with which the financial security is to be lodged; and
  - (d) the detailed terms on which the security can be called upon in the closing relevant year to meet the financial payments that have been incurred by the licensee in respect of the Transmission System Availability Incentive.
20. The Authority shall, within 2 months of receiving the notice specified in paragraph 19, indicate to the licensee whether the proposed arrangements for financial security (as specified in the notice) would be satisfactory. In the event that the Authority considers that the financial security arrangements proposed by the licensee are not satisfactory, the Authority shall set out in writing to the licensee the reasons why the proposed financial security arrangements are not satisfactory and those areas where modifications would be required. The Authority shall also set out the timescales within which the licensee is required to provide its amended proposal.
21. For the purposes of paragraph 2,  $TSAP_t$  shall take the value zero except in the relevant year following the closing relevant year, where it shall be calculated in accordance with the following formula which uses the incentive periods 23 to 27 to calculate the value of the final credit payouts:

$$TSAP_{22} = \sum_{y=23}^{y=27} \frac{BR_{21}}{PR_{21}} \times TSAC_y \times PR_{t-6} \quad (28)$$

where  $t=y$

### Part C: Incremental capacity incentive adjustment

22. For the purposes of paragraph 2, the incremental capacity incentive adjustment term ( $ICA_t$ ) is derived from the following formula:

$$ICA_t = ICUA_t + (ACA_t \times RIT_t) \quad (29)$$

Where:

$ICUA_t$  means the incremental capacity utilisation adjustment, as derived from the formula set out in paragraph 23; and

$ACA_t$  means the ~~additional capacity~~ incremental investment adjustment, which for the purposes of this licence shall take the value zero, but may be changed in accordance with paragraph 24.

$RIT_t$  means the revenue indexation adjustment term calculated in accordance with the formula specified in paragraph 4 of amended standard condition E12 – J2 (Restriction of Transmission Revenue: revenue from transmission owner services).

23. For the purposes of paragraph 22, the incremental capacity utilisation adjustment term ( $ICUA_t$ ) shall be derived in accordance with the following formula:

$$ICUA_t = \max(0, ICRD_t \times ICU_t) \quad (30)$$

where:

$ICRD_t$  means the incremental capacity revenue driver (in £/kW) and shall take the value as defined by the formula:

$$ICRD_t = \frac{BR_t}{CCR \times PF} \times RCF \quad (31)$$

Where:

$CCR$  means the composite circuit rating based on the thermal rating of the offshore transmission cable circuit and shall take the value 192,000 kVA.

$PF$  means the power factor (kW to kVA ratio) associated with the offshore transmission cable circuit and shall take the value of 0.95.

$RCF$  means the risk compensation factor and shall take the value 0.31.

$ICU_t$  means the incremental capacity utilisation term (expressed in kW) representing the amount of capacity that the licensee has agreed to make and has made available to the System Operator in accordance with standard condition E17.

24. For the purposes of paragraph 22, the ~~additional capacity~~ incremental investment adjustment term ( $ACA_t$ ) shall be determined by the Authority in accordance with paragraphs 25 to 27 and shall otherwise take the value zero.

25. Where the licensee has entered into an agreement with the System Operator in accordance with standard condition E17 (Obligations in relation to offers for connection etc) ~~to provide additional capacity~~ it shall:

- (a) submit a notice in writing to the Authority, together with supporting evidence, setting out the revenue adjustment that it considers is required to remunerate the costs that it will incur in ~~providing that additional capacity~~ complying with that agreement, which shall include (without limitation):
  - (i) the amount of additional capacity (if any) that the licensee is contractually required to make available to the System Operator;
  - (ii) the capital costs that it expects to incur in ~~providing the additional capacity~~ complying with that agreement, demonstrating that such costs are not more than 20 per cent of the original investment cost incurred by the licensee in respect of the licensee's transmission system in the commencement relevant year;
  - (iii) the anticipated additional costs of operation and maintenance that are expected to be incurred as a consequence of ~~providing the additional capacity~~ entering into that agreement; and
  - (iv) the costs of financing the additional investment in the licensee's transmission system.
- (b) provide such additional information as the Authority may require to make a determination of the appropriate revenue adjustment in accordance with paragraph 27.

26. A notice referred to in paragraph 25 shall be given as soon as is reasonably practicable after the licensee has entered an agreement with the System Operator in accordance with standard condition E17 (Obligations in relation to offers for connection etc), and, in any event, not later than three months after the end of the relevant year in which it occurs.
27. The Authority shall determine:
- (a) the revenue adjustment ( $ACA_t$ ) that would be required to remunerate the efficient costs that the Authority considers to have been reasonably incurred by the licensee;
  - (b) the relevant year from which the adjustment shall apply.
28. For the purposes of paragraph 27, in determining an appropriate adjustment:
- (a) the Authority may request that the licensee provide such information that it reasonably requires for the purposes of making its determination. The licensee is required to provide such information within the timescales set out by the Authority;
  - (b) the Authority shall, following consultation with interested parties, notify the licensee in writing of its proposed determination of the incremental investment adjustment to allowed transmission owner revenue ( $ACA_t$ );
  - (c) the licensee~~;~~ shall have 28 days, or such extended time as permitted by the Authority, within which to make representations to the Authority's proposed determination that has been notified to it pursuant to sub-paragraph (b);
  - ~~(d)~~ the Authority, having regard to any representations made by the licensee and not withdrawn, shall propose a modification to the  $ACA_t$  pursuant to sections 11A ~~and to 11B F~~ of the Act. The proposed modification shall only take effect where made by the Authority and in accordance with sections 11A ~~and to 11B F~~ of the Act.

29. In this condition:

"financial security"	means a deposit of money, a performance bond or bank guarantee, an insurance policy or a letter of credit.
"Good Industry Practice"	means in relation to any undertaking and any circumstances, the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator engaged in the same type of undertaking under the same or similar circumstances.
"normal capability limits"	means the technical limits that would normally apply to the provision of its transmission services in accordance with the STC as at the date this condition comes into force.

"service restoration proposal"

means a transmission owner's proposal, in accordance with the STC as at the date this condition comes into force, in reasonable but not excessive detail for, as appropriate:

- (a) any interim works or other actions which are able to be undertaken by such transmission owner to minimise the effect of the services reduction or services reduction risk and including, where relevant, any revised operational capability limits that would apply during the period of such services reduction or services reduction risk;
- (b) restoring the transmission services such that they are provided in accordance with their services capability specification (and to their normal capability limits); and
- (c) otherwise removing, mitigating or dealing with a services reduction risk, including, in the case of sub-paragraphs (b) and (c), where necessary and appropriate, by proposing to amend the content of its services capability specification (including any normal capability limits).

"Transmission Entry Capacity"

means the figure specified as such for a connection site in a transmission owner construction agreement in accordance with the STC as at the date this condition comes into force.