

Appendix 2 - Temporary Facilitative Licence Condition

Condition [X]¹: Transition to Independent System Operator and Planner (ISOP)

Part A: General Requirement

1. The licensee must take any reasonable step within its power that:
 - a) it is directed to take by the Secretary of State or the Authority in order to enable the ISOP Implementation Objectives to be met; or
 - b) is necessary or expedient in order to give full and timely effect to the matters set out in any ISOP Change Programme.

Part B: Requirement to Co-operate

2. Without prejudice to paragraph 1, the licensee must cooperate with other holders of licences pursuant to [the Electricity Act 1989] [and] [the Gas Act 1986]² (and with the Secretary of State, the Authority and such other persons as the Secretary of State or the Authority may direct), and must take any reasonable step within its power that it is directed to take by the Secretary of State or the Authority, in order to enable:
 - a) such other holders of licences to comply with conditions of their licences that are equivalent to paragraph 1 of this condition, so that they are able to comply with such conditions from the time at which they are effective (or intended to be effective); and
 - b) any modifications to licences and Relevant Documents made pursuant to section 169 of the Energy Act 2023 to be given full and timely implementation on the date specified in the notice providing for such modifications.

Part C: Requirement not to Frustrate

3. Without prejudice to any public or administrative law right, or statutory right, that the licensee may have to bring any claim against any public body or person, the licensee must not take any step, or exercise any right, which is intended to hinder or frustrate meeting the ISOP Implementation Objectives or the giving of full and timely effect to any ISOP Change Programme.

Part D: Potential Conflict

4. If the licensee is aware of any conflict between its compliance with the provisions of this condition and its compliance with any other condition of the licence or Relevant Requirement, the licensee must, as soon as reasonably practicable, inform the Authority of such conflict.

¹ The schedule to the notice which accompanies this condition specifies the condition number or reference in respect of each licence proposed to be modified.

² To refer to the Electricity Act in electricity licences and the Gas Act in gas licences; but to refer to both Acts in the smart meter communication licence.

5. Provided the licensee complies with paragraph 4, the other conditions of the licence or Relevant Requirement will prevail over this condition in the event of conflict.

Part E: Cessation of the effectiveness of this Condition

6. This condition shall cease to have effect on the date on which the powers under sections 169 (1) and (2) of the Energy Act 2023 cease to be exercisable pursuant to section 169(6) of that Act, or on such earlier date as may be directed by the Secretary of State or the Authority, but without prejudice to the continuing enforceability of any right or obligation which may have accrued or otherwise fallen due for performance prior to that date.

Part F: Interpretation

7. For the purposes of this condition, unless the context otherwise requires:

"ISOP Implementation Objectives" means (a) adequate preparation by the licensee and other persons for the designation of a person under section 162(1) of the Energy Act 2023, and (b) the timely and effective taking of such steps that are necessary or expedient in connection with or in consequence of the designation of a person under that provision;

"ISOP Change Programme" means any document of that name consulted on and published by the Secretary of State or the Authority from time to time for the purposes of specifying preparation that is to be made or steps that are to be taken as are referred to in the definition of ISOP Implementation Objectives;

"Relevant Document" has the meaning given to that term in section 169 of the Energy Act 2023; and

"Relevant Requirement" has the meaning given to that term in [section 25(8) of the Electricity Act 1989] [and in] [section 28(8) of the Gas Act 1986].³

³ To refer to the Electricity Act in electricity licences and the Gas Act in gas licences; but to refer to both Acts in the smart meter communication licence.