



**PROPOSED AMENDMENTS TO THE PUBLIC
ELECTRICITY SUPPLY LICENCE FOR
MIDLANDS ELECTRICITY PLC**

CONSULTATION PAPER

MARCH 1999

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1. INTRODUCTION

- 1.1 On 2 December 1998 OFFER issued a consultation paper on the regulatory issues involved in a purchase by National Power of Midlands Electricity plc's supply business¹. We noted that "The proposed acquisition of a supply business rather than the entire business of MEB (Midlands Electricity) gives rise to new regulatory issues not previously considered in the mergers that have taken place to date. The DGES will need to consider whether in the context of the merger the position of customers of MEB continues to be safeguarded." We raised for consideration whether MEB's supply and distribution functions could be separated in the way proposed, and if so what safeguards would need to be put in place to ensure that MEB continues to meet its statutory and licence obligations. We suggested that licence changes might be required.
- 1.2 The separation of distribution and supply is of relevance to a wide range of parties, including consumer groups and other licensees. OFFER believes that it is appropriate in the present case to seek early views on its developing proposals from all interested parties. This will enable early revisions to licences to be made should the merger proceed whilst ensuring that all interested parties have an opportunity to comment on the proposals.
- 1.3 Accordingly this consultation considers further those aspects of the proposed merger which are connected with the separation of the MEB supply and distribution businesses. The paper does not comment on other aspects of the merger or whether the proposed acquisition should be referred to the Monopolies and Mergers Commission (MMC). Decisions on an MMC reference in such cases are a matter for the Secretary of State.
- 1.4 However, if the merger is to proceed OFFER's initial view is that wide-ranging changes will be required to MEB's PES licence and special arrangements made in respect to licensing of National Power's supply activities. These requirements arise primarily because of the separation of distribution and supply inherent in the proposed acquisition. Other licence changes may be appropriate if the merger proceeds - however these changes arise from other aspects of the proposal. Changes here may include further steps to deal with the financial ring-fence, obligations on the distribution business to facilitate competition, changes to non-discrimination and cross-subsidy provisions and new conditions relating to trading between the supply business and generation businesses within the National Power group. Such possible changes are not considered further in this paper.
- 1.5 The next section sets out the background to the present consultation including further details of the legal and commercial arrangements proposed by the parties to facilitate the acquisition of the supply business. Section 3 describes the statutory and licence position. Section 4 sets out the issues to be addressed and OFFER's main proposals. Section 5 invites comments on the proposals.

¹ National Power plc bid for Midlands Electricity plc's supply business: a consultation paper by OFFER. Press Release R91/98: OFFER 2 December 1998

National Power announced its intention to purchase Midlands Electricity's supply business on 25 November 1998.

2. BACKGROUND

- 2.1 In the December consultation paper we noted that the issues surrounding the separation of distribution and supply needed careful consideration in the circumstances of the proposed acquisition. Several respondents to the consultation paper referred to the issue of separation. None objected to the separation of the businesses. Indeed several welcomed this aspect of the proposed acquisition as a means of accelerating the more general issue of the separate ownership of supply and distribution businesses. Several respondents stressed the need for early moves to operational separation of the two businesses. On the possibility of licence modifications two respondents stressed that these should not be seen as an alternative to legislation in the longer term. One respondent stressed the need for early changes to licences and suggested a separate consultation document to set out the proposed approach. Having considered responses to the consultation OFFER has decided that it would be helpful to consult further on the issues involved. This is without prejudice to the Secretary of State's decision on the merger.
- 2.2 The December consultation gave few details about the arrangements by which National Power has proposed to acquire the supply business of MEB. These are necessary to enable consultees to understand the overall framework within which it is proposed supply in MEB's area would be conducted.
- 2.3 National Power is proposing an arrangement whereby it will acquire an economic interest and operational role in respect of MEB's first and second tier supply business. National Power proposes that MEB will surrender its second tier licence and its contract customers will transfer to National Power. Under the arrangement a member of the National Power group (a licensed subsidiary, National Power Energy Company, established for the purpose) will pay a cash sum to MEB in return for which:
- the tangible assets employed by MEB in its supply business would be transferred to National Power Energy Company (NPEC);
 - any contracts between MEB and customers for the supply of electricity would be assigned to NPEC;
 - the employees currently engaged in MEB's supply business would transfer to NPEC; and
 - MEB's brand name would be dedicated, in so far as the supply activity is concerned, to the activity managed by NPEC.
- 2.4 NPEC would thereafter be responsible for the day to day operations of MEB's supply activity under the terms of an agency agreement and would retain the profits from the supply activity.
- 2.5 Although the proposed arrangement involves the separation of the supply and distribution businesses it will involve some sharing of facilities between the two businesses. National Power and Midlands Electricity intend these shared facilities to be subject to a Transitional Services Agreement - a contract between the two setting out the terms upon which services are provided from one business to the other and making arrangements for the cessation of the shared services. The parties have stated that they expect most if not all shared services to cease within about 2 years as each business sources independently the services it requires.

3. STATUTORY AND LICENCE OBLIGATIONS

- 3.1 The present legislation governing the powers and duties of PESs does not provide for legal separation of the PES supply and distribution activities. The existing licences issued to all public electricity suppliers, including MEB, include some conditions that apply to a PES supply business, some conditions that apply to a PES distribution business and some conditions that apply to both the supply and distribution businesses. Similarly the statutory obligations under the Electricity Act do not distinguish between supply and distribution functions.
- 3.2 Full separation will require legislation for separate licensing of the businesses. The Government's Consultation Paper on the Future of Gas & Electricity Regulation², issued in October 1998, confirmed its intention to introduce new legislation to address this issue. However, it is expected that, if the proposed acquisition proceeds, it will be completed before such new legislation is in place. OFFER must therefore consider whether the two functions can be separated in the way proposed and, if so, what safeguards need to be put in place to ensure that MEB continues to meet its statutory and licence obligations and to enable OFFER to fulfil its regulatory functions.
- 3.3 Under the provisions of the Act the legal duties and powers of MEB's first tier supply business must continue to be with MEB as the PES licence holder. MEB cannot assign tariffs and cannot delegate its statutory and licence obligations. Accordingly, MEB will retain the legal obligations associated with supplying tariff customers in the area. Tariff customers (at present almost all customers below 100kW are tariff customers) will have a tariff supply relationship with MEB. They will look to MEB to meet its tariff supply obligations and will expect the rights provided to tariff customers. However, National Power will for all practical purposes be responsible for the services and prices these customers receive. National Power will effectively be carrying out the supply functions of a public electricity supply business whilst the PES licence covering both the supply and distribution functions will be held by MEB. MEB will rely entirely on its agency agreement with NPEC to fulfil its PES licence supply business obligations to customers.

² "A Fair Deal for Consumers: The Future of Gas and Electricity Regulation", DTI, October 1998.

4. IMPLICATIONS AND PROPOSALS

- 4.1 These arrangements give rise to a number of concerns that would need to be addressed if the acquisition were to proceed. First, MEB in its own right would no longer possess the management or other resources necessary to conduct the MEB PES supply business. It would rely on its contractual relationship with NPEC to fulfil these functions. Were that contract to be terminated, or were NPEC otherwise to cease to provide the relevant services, it might be difficult for MEB to comply with its obligations at least in the short term. Enforcement action by the Director would be of limited effect in safeguarding customer interests in such circumstances.
- 4.2 Second, on a day to day basis the operation of the supply business would no longer be of direct concern to MEB. MEB may have little or no control over the way in which the business is conducted. Were the supply business to fail to meet licence and/or statutory obligations, including for example limits on prices and obligations to offer supply to customers, MEB might not be in a position to require NPEC to comply or that compliance would rely on the terms of an agency agreement to which the Director is not a party. However, the Director would have no clear recourse to NPEC to require it directly to comply with MEB supply business obligations.
- 4.3 Third, there may be confusion about where formal documentation needs to be sent which may result in unnecessary duplication or inadequate notifications. It may also be unclear whether officials of NPEC are acting on the authority of MEB in discussions with the regulator.
- 4.4 Concerns also arise from the operation of the Transitional Services Agreement. In particular NPEC and other parts of the National Power group may gain inappropriate access to information about distribution matters and the activities of their competitors by virtue of the shared services arrangements.
- 4.5 OFFER has considered what licence arrangements would best safeguard customers' interests in respect of the concerns set out above were the merger to proceed. Our initial conclusions are that three main steps are required.
- a) Subject to it satisfying the application requirements, a new special second tier licence should be issued to NPEC. This should include a special condition relating to the agency arrangements between MEB and NPEC. A similar condition should be included in MEB's PES licence.
 - b) The MEB PES licence should be revised to introduce separate sections for those obligations relating to the distribution business and those relating to the supply business.
 - c) To maintain confidentiality of information used or collected for distribution business activities new conditions should be introduced to strengthen the present obligations on confidentiality and to ensure that NPEC complies with such obligations where it has access to information intended for MEB distribution.
- 4.6 These are considered in more detail in the next sub-sections.

New Supply Licence for NPEC and Agency Conditions

- 4.7 A new second tier supply licence for NPEC would authorise supply to all areas of the country except the MEB authorised area. However the licence would include a new condition (the Agency Condition). This condition would remain in force until the arrangements contemplated by the memorandum of understanding (in effect the

acquisition agency agreement) are terminated or cease to have effect and the Director directs that the condition should no longer be in force.

4.8 The intent of the condition is to:

- recognise within the licence the agency relationship between NPEC and MEB;
- provide for the Director to take enforcement action against either NPEC or MEB in the case of any breach of MEB supply business licence or other enforceable conditions; and
- ensure that formal documents relating to the operation of the MEB supply business and required under the Act or licence to be served on the Director by MEB (or vice versa) - for example, enforcement orders and notifications of new terms of supply - are valid even if they are served on or by NPEC.

4.9 A reciprocal change would be required to MEB's licence. Copies of the proposed condition for NPEC's prospective licence and of that for MEB are attached at Annex 1 and 2 respectively.

Separation of Supply and Distribution in MEB's PES licence

4.10 To ensure the maintenance of good service to customers it would be desirable to minimise the possible areas for dispute between NPEC and MEB over their respective responsibilities. OFFER is also concerned that disputes between the parties and with OFFER over the extent to which licence obligations are the responsibility of NPEC or of MEB may hamper OFFER's work in ensuring compliance with the conditions and may result in extended legal processes before disputed conditions can be enforced. In particular the new agency condition relies for its effectiveness on as clear as possible a definition of MEB's supply business functions.

4.11 To minimise the scope for dispute and to assist third parties in identifying respective responsibilities OFFER's initial view is that there would be benefit in revising the MEB PES licence to more clearly separate those elements of the licence which relate to supply and those which relate to distribution activities.

4.12 We have produced a draft revised licence to achieve this. In addition to separate sections for supply and distribution obligations there is a short section dealing with General obligations. These primarily relate to requirements which need to be placed on the PES licensee as a whole and include, for example, the conditions on separate accounts.

4.13 In producing this revised licence many licence conditions have not needed to be changed (beyond changes to condition numbers and similar minor and consequential changes). For example the contract terms conditions are largely unaffected by the changes. Other conditions have needed to be duplicated to ensure that they apply to both businesses. An example here is the requirements on relations with the consumers' committee. Many conditions, however, have required significant changes to separate the supply and distribution activities which they cover. Examples here include the conditions on the provision of services (including use of system and metering) to third parties and the conditions relating to the publication of information to customers. Finally, a few new conditions have had to be added, normally to reflect supply business obligations present in second tier licences but not in PES licences. An example here is the supply business requirement in relation to the Master Registration Agreement.

- 4.14 The licence has been revised on the basis of present business responsibilities. This means, for example, that metering and meter reading functions are retained in the distribution business. However, OFFER has recently consulted on the future of metering and has suggested a number of changes to present arrangements³. These suggest that further changes will be required to the MEB licence in due course, including potentially the transfer of some conditions from the distribution to supply sections.
- 4.15 To assist consultees, Annex 3 of this paper sets out the contents page of the revised licence with comments on the derivation of the conditions. Annex 4 sets out the contents of the existing licence and shows where it is proposed the existing conditions should be allocated. In total the revised licence is in excess of 250 pages long and so has not been annexed to this paper. However, it is available from OFFER at its web site (at www.open.gov.uk/offer/) or by request to the address at the end of this paper.

Confidentiality and Operational Separation

- 4.16 Under the proposed Agency agreement between MEB and NPEC various services will be shared for a period. This sharing of services will be governed by a Transitional Services Agreement which will provide for future flexibility in the handling of specific services.
- 4.17 As with most PESs MEB has gone some way already to separate its supply and distribution functions. However, in a number of areas (particularly the storage and dissemination of data) it has made use of extensive shared services between distribution and supply. These shared services would continue for a period after the acquisition.
- 4.18 It will be important to maintain confidentiality of data held for or by the distribution business. It would also be desirable to ensure that the use of shared services is minimised to those areas which are necessary for the effective and economic operation of the distribution business. A clearer operational separation of the businesses would also reduce distortions in the supply market and produce a more effective ring-fence around distribution business activities. Accordingly OFFER proposes changes to both MEB's PES licence and the prospective special licence issued to NPEC.
- 4.19 These would include conditions:
- requiring NPEC to co-operate with MEB in ensuring that procedures established by MEB to ensure confidentiality, and their associated compliance provisions, are adhered to;
 - requiring the operational, managerial and information separation of the two businesses (subject to provisions allowing shared services on a transitional basis in specified circumstances); and
 - introducing a compliance officer reporting directly to the MEB Board on compliance with the separation requirements.
- 4.20 Annex 5 includes the (three) conditions proposed for inclusion in MEB's PES licence in respect of the above requirements. The requirement for NPEC to co-operate with MEB is included within the new agency condition proposed for NPEC's second tier licence as set out at Annex 1.

³ "Reviews of PESs 1998 to 2000. Separation of Businesses. Second consultation paper. November 98.

5. COMMENTS INVITED

- 5.1 OFFER is seeking views on the proposals set out in this paper and on the draft revised MEB PES licence. The initial draft of the amended PES licence for MEB is available on OFFER's web-site at

www.open.gov.uk/offer/

- 5.2 It is likely that, before the Conditions and modifications are finalised, changes may be made in respect of drafting, technical and consistency points. The Director may also wish to make changes considered appropriate in the light of comments received on this draft.
- 5.3 OFFER would welcome comments on the general issues raised in this paper and on the approach OFFER proposes to take should the merger proceed. It would also be helpful to receive specific comments on the licence amendment proposals. Comments should be submitted by 19 March 1999 and addressed to:

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OFFER
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Fax 0121 456 6402
E mail: kmarshall@offer.gov.uk

- 5.4 Replies will be placed in OFFER's library for public inspection unless clearly marked "In Confidence - not for Disclosure".

March 1999

Condition A. Agency Condition for National Power Energy Co Ltd

1. The Licensee shall comply with each of the Relevant Obligations.
2. The Licensee shall not be in breach of the duty set out at paragraph 1 where it is unable to comply with any Relevant Obligation solely by virtue of an act or omission of the Principal, and where:
 - (a) that act or omission can be rectified only by the Principal itself; and
 - (b) the Licensee has used its best endeavours to procure that the Principal does rectify that act or omission.
3. Where the Principal has fully complied with any Relevant Obligation, its compliance shall be deemed for the purposes of this Condition to be compliance by the Licensee and nothing in this Condition shall require the Licensee to take any further steps to comply with that Obligation.
4. The exercise by the Principal of any Relevant Power shall be treated, for the purposes of this Condition, as the exercise of such Power by the Licensee.
5. The service on the Director by the Principal of any application, consent, representation, notice, request or other communication given in accordance with or by virtue of any of the Relevant Provisions shall be treated, for the purposes of this Condition, as the service of such document on the Director by the Licensee.
6. The service by the Director on the Principal of any direction, consent, determination, derogation, consultation or other communication given in accordance with or by virtue of any of the Relevant Provisions shall be treated, for the purposes of this Condition, as the service of such document by the Director on the Licensee.

7. The Licensee shall:

- (a) co-operate with, and use all reasonable endeavours to assist, the Principal for the purpose of ensuring that the Principal is able to comply with its obligations under Condition 14 of the PES Licence and with the terms and conditions of any direction issued pursuant to paragraph 7 of that Condition; and
- (b) provide the Compliance Officer with such access to its premises, systems, information and documentation as, in each case, the Compliance Officer might reasonably expect to require for the fulfilment of the duties and tasks assigned to him.

8. This Condition shall continue in force until:

- (a) the arrangements contemplated by the Memorandum of Understanding are terminated or cease to have effect; and
- (b) the Director directs in writing that, from such date and subject to such terms and conditions as he may specify in his direction, the provisions of this Condition shall no longer be in force.

9. In this Condition:

- | | |
|-------------------------------|--|
| “Compliance Officer” | means the person of that title appointed by the Principal in accordance with the provisions of Condition 14A of the PES Licence. |
| “Memorandum of Understanding” | means the document dated xx xx xx setting out the basis of arrangements for the operation and management of the Supply Business by the Licensee. |
| “PES Licence” | means the public electricity supply licence granted to the Principal under s.6(1)(c) of the Act, as modified from time to time. |

“Principal”	means Midlands Electricity plc, registered in England & Wales under company number 2366928.
“Relevant Obligation”	means an obligation placed upon the Principal under or by virtue of any Relevant Provision, but such that, for the purposes of this Condition, that Provision shall apply to the Licensee as if the Licensee were the Principal and as if any document, property, business, customer, agreement, activity, duty or power expressed as pertaining to the Principal pertained instead to the Licensee.
“Relevant Power”	means a power, right or capacity granted to the Principal, for the purpose of performing its authorised activities, under or by virtue of any Relevant Provision.
“Relevant Provision”	means the conditions of Part B of the PES Licence and such provisions of the Act as, in the reasonable opinion of the Director, apply to the Supply Business.
“Supply Business”	bears the meaning ascribed to that term in the PES Licence.

Condition 79. Arrangements for the provision of services by the Agent

1. This Condition shall continue in force until:
 - (a) the arrangements contemplated by the Memorandum of Understanding are terminated or cease to have effect; and
 - (b) the Director directs in writing that, from such date and subject to such terms and conditions as he may specify in his direction, this Condition shall no longer be in force.
2. The exercise by the Agent of any Relevant Power shall, insofar as the Agent can lawfully exercise that power, be deemed to be made with the necessary authorisation of the Licensee and shall be treated by the Director, for the purposes of this Licence and of the Act, as the exercise of such Power by the Licensee.
3. The service on the Director by the Agent of any application, consent, representation, notice, request or other communication given in accordance with or by virtue of any of the Relevant Provisions shall be treated as the service of such document on the Director by the Licensee.
4. The service by the Director on the Agent of any direction, consent, determination, derogation, consultation or other communication given in accordance with or by virtue of any of the Relevant Provisions shall be treated as the service of such document by the Director on the Licensee.
5. In this Condition:

“Agent” means National Power Energy Company Ltd, registered in England & Wales under company number xxxxxxxx.

- “Memorandum of Understanding” means the document dated xx xx xx and setting out the basis of arrangements for the operation and management of the Supply Business by the Agent.
- “Relevant Power” means a power, right or capacity granted to the Licensee, for the purpose of performing its authorised activities, under or by virtue of any Relevant Provision.
- “Relevant Provision” means the Conditions of Part B of this Licence and such provisions of the Act as, in the reasonable opinion of the Director, apply to the Supply Business.

ORIGIN OF CONDITIONS IN MIDLANDS' SEPARATED PES LICENCE

Condition in the 'separated' Midlands' PES Licence		Present condition in Midlands' existing PES Licence	
<u>Condition No.</u>	<u>Title</u>	<u>Condition No.</u>	<u>Title</u>
1.	Definitions and interpretation.	1.	Definitions and interpretation.
2.	Availability of Distribution Business resources	2B.	Availability of resources.
3.	Distribution Charge restriction conditions: definitions.	3.	Charge restriction conditions: definitions.
3A.	Restriction of distribution charges.	3A.	Restriction of distribution charges.
3B.	Restriction of distribution charges: adjustments.	3D.	Restriction of distribution charges and of supply charges: adjustments.
3C.	Information to be provided to the Director in connection with the distribution charge restriction conditions.	3E.	Information to be provided to the Director in connection with the charge restriction conditions.
3D.	Distribution Business allowance in respect of security costs.	3F.	Allowance in respect of security costs.
3E.	Duration of distribution charge restriction conditions.	3G.	Duration of charge restriction conditions.
4.	Prohibition of cross-subsidies.	4.	Prohibition of cross-subsidies and of discrimination in electricity sale contracts.
5.	Basis of charges for use of system, connection to the system and Metering and Data Services: requirements for transparency.	8. and 11E.	Basis of charges for top-up and standby supplies or sales of electricity, exempt supply services, use of system, and connection to the system: requirements for transparency. And Basis of charges for Metering and Data Services: requirements for transparency.

Condition in the 'separated' Midlands' PES Licence		Present condition in Midlands' existing PES Licence	
<u>Condition No.</u>	<u>Title</u>	<u>Condition No.</u>	<u>Title</u>
5A.	Non-discrimination in the provision of use of system, connection to the system and Metering and Data Services.	8A. and 11D.	Non-discrimination in the provision of top-up and standby supplies or sales of electricity, exempt supply services, use of system and connection to the system. and Non-discrimination in the provision of Metering and Data Services.
5B.	Requirement to offer terms for use of system, connection and the provision of Metering and Data Services.	8B. and 11C.	Requirement to offer terms. and Requirement to offer terms for the provision of Metering and Data Services.
5C.	Requirement to offer Standard Terms of Connection.	8C.	Requirement to offer Standard Terms of Connection.
5D.	Functions of the Director	8D. and 11F.	Functions of the Director.
6.	Distribution system planning standard and quality of service.	9.	Distribution system planning standard and quality of service.
7.	Safety and Security of Supplies Enquiry Service.	9A.	Safety and Security of Supplies.
8.	Provision of information about theft, damage and meter interference.	9B.	Procedures for the detection and prevention of theft, damage and meter interference.
9.	Provisions relating to the connection of metering equipment.	9C.	Provisions relating to the connection of metering equipment.
10.	Generation Security Standard.	10.	Generation Security Standard.
11.	Distribution Code.	11.	Distribution Code.
12.	The Metering Point Administration Service and the Master Registration Agreement.	11E.	The Metering Point Administration Service and the Master Registration Agreement.
13.	Establishment of Data Transfer Service.	11B.	Establishment of Data Transfer Service.

Condition in the 'separated' Midlands' PES Licence		Present condition in Midlands' existing PES Licence	
<u>Condition No.</u>	<u>Title</u>	<u>Condition No.</u>	<u>Title</u>
14.	Restriction on use of information and independence of the Distribution Business.	12.	Restriction on use of information.
14A.	Appointment of Compliance Officer.	N/A	N/A
15.	Compliance with the Grid Code.	13.	Compliance with the Grid Code.
16.	Security Arrangements.	14.	Security Arrangements.
17.	Conditions affecting customers' statutory rights.	16.	Conditions of supply affecting customers' statutory rights.
18.	Licensee's apparatus on customers' side of meter.	17.	Licensee's apparatus on customers' side of meter.
19.	Provision of distribution services for persons who are of pensionable age or disabled or chronically sick.	20.	Provision of services for persons who are of pensionable age or disabled or chronically sick.
20.	Code of practice on procedures with respect to site access.	20A.	Code of practice on procedures with respect to site access
21.	Standards of Performance for the Distribution Business.	21.	Standards of Performance.
22.	Distribution Business complaint handling procedure.	23.	Complaint handling procedure
23.	Preparation, review of and compliance with customer service codes.	23A.	Preparation, review of and compliance with customer service codes.
24.	Record of and report on Distribution Business performance.	19.	Record and report on performance.
25.	Publication of supply numbers.	23C.	Publication of information to customers.
26.	Relations with the Relevant Consumers' Committee.	24.	Relations with the Relevant Consumers' Committee.
27.	Health and safety of employees.	25.	Health and safety of employees.

Condition in the 'separated' Midlands' PES Licence		Present condition in Midlands' existing PES Licence	
<u>Condition No.</u>	<u>Title</u>	<u>Condition No.</u>	<u>Title</u>
28.	Availability of Supply Business resources.	2B.	Availability of resources.
29.	Supply charge restriction conditions: definitions.	3.	Charge restriction conditions: definitions.
29A.	Restriction on Supply Charges.	3A.	Restriction of distribution charges.
29B.	Restriction of supply charges: adjustments.	3D.	Restriction of distribution charges and of supply charges: adjustments.
29C.	Information to be provided to the Director in connection with the supply charge restriction conditions.	3E.	Information to be provided to the Director in connection with the charge restriction conditions.
29D.	Supply Business allowance in respect of security costs.	3F.	Allowance in respect of security costs.
29E.	Duration of supply charge restriction conditions.	3G.	Duration of charge restriction conditions.
30.	Prohibition of cross-subsidies and of discrimination in electricity sale contracts.	4.	Prohibition of cross-subsidies and of discrimination in electricity sale contracts.
31.	Prohibition of discrimination in supply.	4A.	Prohibition of discrimination in supply.
31A.	Duration of discrimination conditions.	4B.	Duration of discrimination conditions.
32.	Obligation on economic purchasing	5.	Obligation on economic purchasing
33.	Tariffs.	7.	Tariffs.
34.	Arrangements for informing customers on revocation of Licence.	7A.	Arrangements for informing customers on revocation of Licence.

Condition in the 'separated' Midlands' PES Licence		Present condition in Midlands' existing PES Licence	
<u>Condition No.</u>	<u>Title</u>	<u>Condition No.</u>	<u>Title</u>
35.	Basis of charges for top-up and standby supplies or sales of electricity, exempt supply services and prepayment meter services: requirements for transparency.	8. and 11E.	Basis of charges for top-up and standby supplies or sales of electricity, exempt supply services, use of system, and connection to the system: requirements for transparency. and Basis of charges for Metering and Data Services: requirements for transparency.
35A.	Non-discrimination in the provision of top-up or standby supplies or sales of electricity, exempt supply services and prepayment meter services.	8A. and 11D.	Non-discrimination in the provision of top-up and standby supplies or sales of electricity, exempt supply services, use of system and connection to the system. and Non-discrimination in the provision of Metering and Data Services.
35B.	Requirement to offer terms for top-up and standby, exempt supply services and prepayment meter services.	8B. and 11C.	Requirement to offer terms. and Requirement to offer terms for the provision of Metering and Data Services.
35C.	Arrangements in respect of Standard Terms of Connection.	8C.	Standard Terms of Connection.
35D.	Functions of the Director.	8D. and 11F.	Functions of the Director.
36.	Provision of information to customers about security and safety of supplies.	9A.	Security and safety of supplies.
37.	Procedures for the detection and prevention of theft, damage and meter interference.	9B.	Procedures for the detection and prevention of theft, damage and meter interference.
38.	Agreements for the provision of meters.	9D.	Agreements for the provision of meters.
39.	Generation Security Standard.	10.	Generation Security Standard.

Condition in the 'separated' Midlands' PES Licence		Present condition in Midlands' existing PES Licence	
<u>Condition No.</u>	<u>Title</u>	<u>Condition No.</u>	<u>Title</u>
40.	The Master Registration Agreement.	N/A	N/A
41.	Restriction on use of certain information.	12.	Restriction on use of certain information.
42.	Compliance with the Grid Code.	13.	Compliance with the Grid Code.
43.	Security arrangements.	14.	Security arrangements.
44.	Pooling and Settlement Agreement.	15.	Pooling and Settlement Agreement.
45.	Conditions of supply affecting customers' statutory rights.	16	Conditions of supply affecting customers' statutory rights.
46.	Code of practice on payment of bills and guidance for dealing with customers in difficulty.	18.	Code of practice on payment of bills and guidance for dealing with customers in difficulty.
47.	Provision of supply services for persons who are of pensionable age or disabled or chronically sick.	20.	Provision of services for persons who are of pensionable age or disabled or chronically sick.
48.	Code of practice on procedures with respect to site access.	20A.	Code of practice on procedures with respect to site access.
49.	Supply Business Standards of Performance.	21.	Standards of Performance.
50.	Efficient use of electricity.	22.	Efficient use of electricity.
51.	Supply Business complaint handling procedure.	23.	Complaint handling procedure.
52.	Preparation, review of and compliance with customer service codes.	23A.	Preparation, review of and compliance with customer service codes.
53.	Record of and report on Supply Business performance.	19.	Record of and report on performance.
54.	Information given to Designated Customers.	23B.	Information given to Designated Customers.

Condition in the 'separated' Midlands' PES Licence		Present condition in Midlands' existing PES Licence	
<u>Condition No.</u>	<u>Title</u>	<u>Condition No.</u>	<u>Title</u>
55.	Publication of information to customers.	23C.	Publication of information to customers [Supply Element].
56.	Relations with the Relevant Consumers' Committee.	24.	Relations with the Relevant Consumers' Committee.
57.	Health and safety of employees.	25.	Health and safety of employees.
58.	Designated Premises.	30.	Designated Premises.
59.	Terms for supply of electricity incompatible with Licence Conditions.	31.	Terms for supply of electricity incompatible with Licence Conditions.
60.	Limitation on requirements for termination fees.	32.	Limitation on requirements for termination fees.
61.	Revision of the Contract Terms Conditions.	33.	Revision of the Contract Terms Conditions.
62.	Designated Supply Contracts.	34.	Designated Supply Contracts.
63.	Contractual Terms.	35.	Contractual Terms.
64.	Notification of terms.	36.	Notification of terms.
65.	Security deposits.	37.	Security deposits.
66.	Termination of contracts on notice.	38.	Termination of contracts on notice.
67.	Termination of contracts in specified circumstances.	39.	Termination of contracts in specified circumstances.
68.	Assignment of outstanding charges.	40.	Assignment of outstanding charges.
69.	Modification of provisions under Conditions 66 and 68.	41.	Modification of provisions under Conditions 38 and 40.
70.	Marketing of electricity to Designated Customers.	42.	Marketing of electricity to Designated Customers.

Condition in the 'separated' Midlands' PES Licence		Present condition in Midlands' existing PES Licence	
<u>Condition No.</u>	<u>Title</u>	<u>Condition No.</u>	<u>Title</u>
71.	Separate accounts for Separate Businesses.	2.	Separate accounts for Separate Businesses.
72.	Restriction on activity and financial ring fencing.	2A.	Restriction on activity and financial ring fencing.
73.	Availability of resources.	2B.	Availability of resources.
74.	Prohibition of cross-subsidies.	4.	Prohibition of cross-subsidies and of discrimination in electricity sale contracts.
75.	Restriction on own generation capacity.	6.	Restriction on own generation capacity.
76.	Disposal of relevant assets.	27.	Disposal of relevant assets.
77.	Provision of information to the Director.	28.	Provision of information to the Director.
78.	Payment of fees.	29.	Payment of fees.
79.	Arrangements for the provision of services by the Agent.	N/A	N/A.

Schedule in the 'separated' Midlands' PES Licence		Present schedule in Midlands' existing PES Licence	
Schedule 1.	Description of authorised area.	Schedule 1.	Description of authorised area.
Schedule 2.	Terms as to revocation.	Schedule 2.	Terms as to revocation.
Schedule 3A.	Supplementary provisions of the distribution charge restriction conditions.	Schedule 3A.	Supplementary provisions of the charge restriction conditions.
Schedule 3B.	Supplementary provisions of the supply charge restriction conditions	Schedule 3A.	Supplementary provisions of the charge restriction conditions.

TRANSITION OF CONDITIONS FROM MIDLANDS' EXISTING PES LICENCE TO THE 'SEPARATED' LICENCE

Condition in Midlands' existing PES Licence		Amendments proposed in this consultation	Position in Midlands' 'separated' PES Licence (Condition No. and Title)	
1.	Interpretation.	None	1.	Definitions and interpretation.
2.	Separate accounts for Separate Businesses.	None - relocated in its entirety into the General Section.	71.	Separate accounts for Separate Businesses.
2A.	Restriction on activity and financial ring fencing.	None - relocated in its entirety into the General Section.	72.	Restriction on activity and financial ring fencing.
2B.	Availability of resources.	Duplicated in all three sections with some minor changes in paragraphs 1 and 2 to highlight its application in respect of the business in question.	2. 28. 73.	Availability of Distribution Business resources. Availability of Supply Business resources. Availability of resources.
3.	Charge restriction conditions: definitions.	Split into two new conditions within Distribution and Supply sections each containing the relevant definitions.	3. 29.	Distribution Charge restriction conditions: definitions. Supply charge restriction conditions: definitions
3A	Restriction of distribution charges	None- relocated in its entirety into the Distribution Section	3A.	Restriction of distribution charges.
3B.	Restriction on Supply Charges.	None - relocated in its entirety into the Supply Section	29A.	Restriction on Supply Charges.
3D.	Restriction of distribution charges and of supply charges: adjustments.	Split into two new conditions within Distribution and Supply sections to reflect the obligations as applicable to each business.	3B. 29B.	Restriction of distribution charges: adjustments. Restriction of supply charges: adjustments

Condition in Midlands' existing PES Licence		Amendments proposed in this consultation	Position in Midlands' 'separated' PES Licence (Condition No. and Title)	
3E.	Information to be provided to the Director in connection with the charge restriction conditions.	Split into two new conditions within Distribution and Supply sections to reflect the obligations as applicable to each business.	3C. 29C.	Information to be provided to the Director in connection with the distribution charge restriction conditions. Information to be provided to the Director in connection with the supply charge restriction conditions.
3F.	Allowance in respect of security costs.	Split into two new conditions within Distribution and Supply sections to reflect the obligations as applicable to each business.	3D. 29D.	Distribution Business allowance in respect of security costs. Supply Business allowance in respect of security costs.
3G.	Duration of charge restriction conditions.	Split into two new conditions within Distribution and Supply sections to reflect the obligations as applicable to each business.	3E. 29E.	Duration of distribution charge restriction conditions. Duration of supply charge restriction conditions.
4.	Prohibition of cross-subsidies and of discrimination in electricity sale contracts.	Split into three new conditions: a new condition for both the Distribution and General sections consisting of paragraph 1 only (with minor amendment to reflect the appropriate Businesses); and the existing condition retained in its entirety in the Supply section (again with minor amendment to paragraph 1).	4. 30. 74.	Prohibition of cross-subsidies. Prohibition of cross-subsidies and of discrimination in electricity sale contracts. Prohibition of cross-subsidies.
4A.	Prohibition of discrimination in supply.	None - relocated in its entirety into the Supply Section.	31.	Prohibition of discrimination in supply.
4B.	Duration of discrimination conditions.	None - relocated in its entirety into the Supply Section.	31A.	Duration of discrimination conditions.
5.	Obligation on economic purchasing.	None- relocated in its entirety into the Supply Section.	32.	Obligation on economic purchasing.
6.	Restriction on own generation capacity.	None - relocated in its entirety into Section C.	75.	Restriction on own generation capacity.
7.	Tariffs.	None - relocated in its entirety into the Supply Section.	33.	Tariffs.

Condition in Midlands' existing PES Licence		Amendments proposed in this consultation	Position in Midlands' 'separated' PES Licence (Condition No. and Title)	
7A.	Arrangements for informing customers on revocation of Licence.	None - relocated in its entirety into the Supply Section.	34.	Arrangements for informing customers on revocation of Licence.
7B.	The Programme Implementation Agreement.	Removed - no longer required.	N/A	N/A
8.	Basis of charges for top-up and standby supplies or sales of electricity, exempt supply services, use of system and connection to the system: requirements for transparency.	Initially merged with Condition 11E and then split into two new conditions within the Distribution and Supply sections to reflect each business' obligations.	5. 35.	Basis of charges for use of system, connection to the system and Metering and Data Services: requirements for transparency. Basis of charges for top-up and standby supplies or sales of electricity, exempt supply services and prepayment meter services: requirements for transparency
8A.	Non-discrimination in the provision of top-up or standby supplies or sales of electricity, exempt supply services, use of system and connection to the system.	Initially merged with Condition 11D and then split into two new conditions within the Distribution and Supply sections to reflect each business' obligations.	5A. 35A.	Non-discrimination in the provision of use of system, connection to the system and Metering and Data Services. Non-discrimination in the provision of top-up or standby supplies or sales of electricity, exempt supply services and prepayment meter services.
8B.	Requirement to offer terms.	Initially merged with Condition 11C and then split into two new conditions within the Distribution and Supply sections to reflect each business' obligations.	5B. 35B.	Requirement to offer terms for the provision of use of system, connection to the system and Metering and Data Services. Requirement to offer terms for the provision of top-up or standby supplies or sales of electricity, exempt supply services and prepayment meter services.

Condition in Midlands' existing PES Licence		Amendments proposed in this consultation	Position in Midlands' 'separated' PES Licence (Condition No. and Title)	
8C.	Requirement to offer Standard Terms of Connection.	Split into two new conditions within Distribution and Supply sections to reflect the obligations as applicable to each business. Paragraphs 1-6, 7(b) and 8 form new condition in the Distribution section whilst paragraph 7(a) forms the new condition in the Supply section.	5C. 35C.	Requirement to offer Standard Terms of Connection. Arrangements in respects of Standard Terms of Connection.
8D.	Functions of the Director.	Initially merged with Condition 11F and then split into two new conditions within the Distribution and Supply sections to reflect each business' obligations	5D. 35D.	Functions of the Director. Functions of the Director.
9.	Distribution system planning standard and quality of service.	None - relocated in its entirety into The Distribution Section.	6.	Distribution system planning standard and quality of service.
9A.	Security and Safety of Supplies.	Split into two new conditions within Distribution and Supply sections to reflect the obligations as applicable to each business. Primarily paragraphs 1-6 and 9 form new condition in the Distribution section whilst paragraphs 1-2, 7-9 form new condition in the Supply section.	7. 36.	Safety and Security of Supplies Enquiry Service. Provision of information to customers about security and safety of supplies.
9B.	Procedures for the detection and prevention of theft, damage and meter interference.	Split into two new conditions within Distribution and Supply sections to reflect the obligations as applicable to each business. Primarily paragraphs 2&3 form new condition in Distribution section whilst paragraphs 1 and 2 form new condition in the Supply section.	8. 37.	Provision of information about theft, damage and meter interference. Procedures for the detection and prevention of theft, damage and meter interference.
9C.	Provisions relating to the connection of metering equipment.	None -relocated in its entirety into the Distribution Section.	9.	Provisions relating to the connection of metering equipment.
9D.	Agreements for the provision of meters.	None - relocated in its entirety into the Supply Section.	38.	Agreements for the provision of meters.

Condition in Midlands' existing PES Licence		Amendments proposed in this consultation	Position in Midlands' 'separated' PES Licence (Condition No. and Title)	
10.	Generation Security Standard.	Split into two new conditions within Distribution and Supply sections to reflect the obligations as applicable to each business. Primarily the new condition in Distribution section excludes existing paragraph 3(a) whilst new condition in the Supply section excludes existing paragraph 3(b).	10. 39.	Generation Security Standard. Generation Security Standard
11.	Distribution Code.	None - relocated in its entirety into the Distribution Section.	11.	Distribution Code.
11A.	The Metering Point Administration Service and the Master Registration Agreement.	None - relocated in its entirety into the Distribution Section but also new condition in the Supply Section.	12.	The Metering Point Administration Service and the Master Registration Agreement.
11B.	Establishment of Data Transfer Service.	None - relocated in its entirety into the Distribution Section.	13.	Establishment of Data Transfer Service.
11C.	Requirement to offer terms for the provision of Metering and Data Services	Initially merged with Condition 8B and then split into two new conditions within the Distribution and Supply sections to reflect each business' obligations.	5B. 35B.	Requirement to offer terms for the provision of use of system, connection to the system and Metering and Data Services. Requirement to offer terms for the provision of top-up or standby supplies or sales of electricity, exempt supply services and prepayment meter services.
11D.	Non-discrimination in the provision of Metering and Data Services	Initially merged with Condition 8A and then split into two new conditions within the Distribution and Supply sections to reflect each business' obligations.	5A. 35A.	Non-discrimination in the provision of use of system, connection to the system and Metering and Data Services. Non-discrimination in the provision of top-up or standby supplies or sales of electricity, exempt supply services and prepayment meter services.

Condition in Midlands' existing PES Licence		Amendments proposed in this consultation	Position in Midlands' 'separated' PES Licence (Condition No. and Title)	
11E.	Basis of charges for Metering and Data Services: requirements for transparency	Initially merged with Condition 8 and then split into two new conditions within the Distribution and Supply sections to reflect each business' obligations.	5. 35.	Basis of charges for use of system, connection to the system and Metering and Data Services: requirements for transparency. Basis of charges for top-up and standby supplies or sales of electricity, exempt supply services and prepayment meter services: requirements for transparency
11F.	Functions of the Director	Initially merged with Condition 8D and then split into two new conditions within the Distribution and Supply sections to reflect each business' obligations	5D. 35D.	Functions of the Director. Functions of the Director.
12.	Restriction on use of certain information.	Split into two new conditions within Distribution and Supply sections to reflect the obligations as applicable to each business. The condition within the Distribution section includes a number of proposed amendments to strengthen the confidentiality provisions and help facilitate the proper separation of the two businesses. NB: See also new Condition 14A.	14. 41.	Restriction on use of certain information and independence of the Distribution Business. NB: See also Condition 14A Restriction on use of certain information. .
13.	Compliance with the Grid Code.	None -duplicated in its entirety in both Distribution and Supply Sections.	15. 42.	Compliance with the Grid Code. Compliance with the Grid Code.
14.	Security arrangements.	None -duplicated in its entirety in both Distribution and Supply Sections.	16. 43.	Security arrangements. Security arrangements.
15.	Pooling and Settlement Agreement.	None -relocated in its entirety into the Supply Section.	44.	Pooling and Settlement Agreement.

Condition in Midlands' existing PES Licence		Amendments proposed in this consultation	Position in Midlands' 'separated' PES Licence (Condition No. and Title)	
16.	Conditions of supply affecting customers' statutory rights.	Split into two new conditions within Distribution and Supply sections to reflect the obligations as applicable to each business. Primarily the new condition in Distribution section excludes existing paragraphs 2(a) and 3 whilst new condition in the Supply section excludes existing paragraph 2(c).	17. 45.	Conditions affecting customers' statutory rights. Conditions of supply affecting customers' statutory rights.
17.	Licensee's apparatus on customers' side of meter.	None - relocated in its entirety in the Distribution Section.	18.	Licensee's apparatus on customers' side of meter.
18.	Code of practice on payment of bills and guidance for dealing with customers in difficulty.	None - relocated in its entirety in the Supply Section.	46.	Code of practice on payment of bills and guidance for dealing with customers in difficulty.
19.	Record of and report on performance.	Split into two new conditions within Distribution and Supply sections to reflect the obligations as applicable to each business. Sub-paragraphs 2(a), (b), (d), (f) and (g) are excluded from the new condition in Distribution section whilst all of the existing condition is contained within the Supply section.	24. 53.	Record of and report on Distribution Business performance. Record of and report on Supply Business performance.
20.	Provision of services for persons who are of pensionable age or disabled or chronically sick.	Split into two new conditions within Distribution and Supply sections to reflect the obligations as applicable to each business. The condition in Distribution section relates to the existing obligation to maintain a register of such persons and the condition in the Supply section contains all the other existing obligations.	19. 47.	Provision of distribution services for persons who are of pensionable age or disabled or chronically sick. Provision of supply services for persons who are of pensionable age or disabled or chronically sick.
20A.	Code of practice on procedures with respect to site access.	None -duplicated in its entirety in both Distribution and Supply Sections.	20. 48.	Code of practice on procedures with respect to site access. Code of practice on procedures with respect to site access.

Condition in Midlands' existing PES Licence		Amendments proposed in this consultation	Position in Midlands' 'separated' PES Licence (Condition No. and Title)	
21.	Standards of Performance.	Split into two new conditions within the Distribution and Supply sections to reflect obligations as applicable to each business. Primarily the whole of the existing condition (with a few minor amendments) is contained in the Distribution section whilst existing paragraphs 1 and 3 form the new condition in the Supply section.	21. 49.	Standards of performance for the Distribution Business. Supply Business Standards of Performance.
22.	Efficient use of electricity.	None - relocated in its entirety into the Supply section.	50.	Efficient use of electricity.
23.	Complaint handling procedure.	Duplicated in its entirety in both Distribution and Supply Sections (with a minor amendment to paragraph 1).	22. 51.	Distribution Business complaint handling procedure. Supply Business complaint handling procedure.
23A.	Preparation, review of and compliance with customer service codes.	None - duplicated in its entirety in both Distribution and Supply Sections.	23. 52.	Preparation, review of and compliance with customer service codes. Preparation, review of and compliance with customer service codes.
23B.	Information given to Designated Customers.	None - relocated in its entirety into the Supply section.	54.	Information given to Designated Customers.
23C.	Publication of information to customers	Split into two new conditions within the Distribution and Supply sections to reflect obligations as applicable to each business. Primarily existing paragraphs 1-3 and 5 form the new condition in the Distribution section and existing paragraphs 3-5 form the new condition in the Supply section.	25. 55.	Publication of supply numbers. Publication of information given to customers.
24.	Relations with the Relevant Consumers' Committee.	None - duplicated in its entirety in both Distribution and Supply Sections.	26. 56.	Relations with the Relevant Consumers' Committee. Relations with the Relevant Consumers' Committee.

Condition in Midlands' existing PES Licence		Amendments proposed in this consultation	Position in Midlands' 'separated' PES Licence (Condition No. and Title)	
25.	Health and safety of employees.	None - duplicated in its entirety in both Distribution and Supply Sections.	57. 27.	Health and safety of employees. Health and safety of employees.
26.	No longer used	N/A	N/A	N/A
27.	Disposal of relevant assets.	None - relocated in its entirety into the General section.	76.	Disposal of relevant assets.
28.	Provision of information to the Director.	None - relocated in its entirety into the General section.	77.	Provision of information to the Director.
29.	Payment of fees.	None - relocated in its entirety into the General section.	78.	Payment of fees.
30.	Designated Premises.	None - relocated in its entirety into the Supply section.	58	Designated Premises.
31.	Terms for supply of electricity incompatible with Licence Conditions.	None - relocated in its entirety into the Supply section.	59.	Terms for supply of electricity incompatible with Licence Conditions.
32.	Limitation on requirements for termination fees.	None - relocated in its entirety into the Supply section.	60.	Limitation on requirements for termination fees.
33.	Revision of the Contract Terms Conditions.	None - relocated in its entirety into the Supply section.	61.	Revision of the Contract Terms Conditions.
34.	Designated Supply Contracts.	None - relocated in its entirety into the Supply section.	62.	Designated Supply Contracts.
35.	Contractual Terms.	None - relocated in its entirety into the Supply section.	63.	Contractual Terms.
36.	Notification of terms.	None - relocated in its entirety into the Supply section.	64.	Notification of terms.
37.	Security deposits.	None - relocated in its entirety into the Supply section.	65.	Security deposits.
38.	Termination of contracts on notice.	None - relocated in its entirety into the Supply section.	66.	Termination of contracts on notice.
39.	Termination of contracts in specified circumstances.	None - relocated in its entirety into the Supply section.	67.	Termination of contracts in specified circumstances.

Condition in Midlands' existing PES Licence		Amendments proposed in this consultation	Position in Midlands' 'separated' PES Licence (Condition No. and Title)	
40.	Assignment of outstanding charges.	None - relocated in its entirety into the Supply section.	68.	Assignment of outstanding charges.
41.	Modification of provisions under Conditions 38 and 40.	None - relocated in its entirety into the Supply section.	69.	Modification of provisions under Conditions 66 and 68.
42.	Marketing of electricity to Designated Customers.	None - relocated in its entirety into the Supply section.	70.	Marketing of electricity to Designated Customers.
Schedule 1.	Description of authorised area	None	Schedule 1.	Description of authorised area.
Schedule 2.	Terms as to revocation.	None	Schedule 2.	Terms as to revocation.
Schedule 3.	Supplementary provisions of the charge restriction conditions.	Schedule divided into Schedules 3A and 3B to reflect the split in the charges restriction conditions re distribution and supply. Parts A and C of original schedule split further between the two new schedules whilst parts B, D and E relocated in entirety into Schedule 3A.	Schedule 3A. Schedule 3B.	Supplementary provisions of the distribution charge restriction conditions. Supplementary provisions of the supply charge restriction conditions.

Condition 14. Restriction on use of certain information and independence of the Distribution Business

1. Any information relating to or deriving from the management or operation of the Distribution Business shall, for the purposes of this Condition, be treated as confidential information.
2. The Licensee shall not (and shall procure that its affiliates and related undertakings shall not) disclose or authorise access to confidential information:
 - (a) save to the extent provided by sub-paragraphs 3(b) to (d), to such of its (or its affiliates' or related undertakings') employees, agents, advisers, consultants or contractors as are engaged in the management or operation of the Supply Business; or
 - (b) save to the extent permitted by paragraph 3, to any other person.
3. The Licensee shall (and shall procure that its affiliates and related undertakings shall) disclose or authorise access to confidential information only:
 - (a) to such of its (or its affiliates' or related undertakings') employees, agents, advisers, consultants or contractors as are engaged in the management or operation of the Distribution Business and require access to the information for that purpose;
 - (b) where the Licensee (or any affiliate or related undertaking of the Licensee) is required or permitted to disclose such information in compliance with:
 - (i) any requirement of a Competent Authority;

- (ii) the conditions of any licence granted under the Act or any document referred to in such a licence with which it is required by virtue of the Act or that licence to comply;
 - (iii) any other requirement of law; or
 - (iv) the rules of the Electricity Arbitration Association or of any judicial or other arbitral process or tribunal of competent jurisdiction;
- (c) where such information was provided by and relates to any person who has notified (or otherwise agreed with) the Licensee that it need not be treated as confidential; or
- (d) where such information is in the public domain otherwise than as a consequence of unauthorised disclosure by the Licensee (or any affiliate or related undertaking of the Licensee) or by any person to whom the same is disclosed or suffered to be disclosed by the Licensee (or such affiliate or related undertaking)

and in each case the Licensee shall disclose or authorise access to the confidential information only insofar as is necessary in all the circumstances.

4. The Licensee shall use all reasonable endeavours to ensure that any person who is in possession of or has access to confidential information in accordance with subparagraph 3(a) shall use such information only for the purposes of the Distribution Business.
5. For the purpose of facilitating its compliance with paragraphs 1 to 4, the Licensee shall establish and shall thereafter maintain the full managerial and operational independence of the Distribution Business from:
 - (a) each other business (whether or not a Separate Business) of the Licensee and of its affiliates and related undertakings; and

- (b) each other business of the Agent and of its affiliates and related undertakings.

- 6. In order to facilitate its compliance with paragraphs 1 to 5, the Licensee shall ensure that:
 - (a) the Distribution Business is provided with such premises, systems, equipment, facilities, property, personnel, data and management resources as are necessary for the efficient and effective management and operation of the Business;

 - (b) no business of the Licensee or the Agent (or of any affiliate or related undertaking of the Licensee or the Agent), other than the Distribution Business, may use or have access to:
 - (i) premises or parts of premises occupied by persons engaged in the management or operation of the Distribution Business;

 - (ii) systems for the recording, processing or storage of data to which persons engaged in the management or operation of the Distribution Business also have access;

 - (iii) equipment, facilities or property employed for the management or operation of the Distribution Business; or

 - (iv) the services of persons who are (whether or not as their principal occupation) engaged in the management or operation of the Distribution Business; and

 - (c) it can and does, insofar as is legally possible, prevent any person who has ceased to be engaged in the management or operation of the Distribution Business from being engaged in the activities of any other business of the Licensee or the Agent (or of any affiliate or related undertaking of the Licensee or the Agent) until the expiry of an appropriate time from the date on which he ceased to be engaged by the Distribution Business.

7. The Director may, upon the written request of the Licensee, issue a direction relieving the Licensee of its obligations under paragraphs 1 to 6 - to such extent and subject to such terms and conditions as he may specify in that direction - where:
 - (a) it is not reasonably practicable for the Licensee to comply with any aspect of those obligations; or
 - (b) in the case of paragraph 5 and sub-paragraph 6(b), any arrangements for the use of or access to premises, systems, equipment, facilities, property or personnel by both the Distribution Business and any other business of the Licensee or the Agent (or of any affiliate or related undertaking of the Licensee or the Agent):
 - (i) do not involve a cross-subsidy being either given to the Distribution Business by such other business or received from the Distribution Business by such other business;
 - (ii) obtain for the Distribution Business, in the most efficient and economical manner possible, the use of the relevant premises, systems, equipment, facilities, property or personnel; and
 - (iii) do not restrict, distort or prevent competition in the generation or supply of electricity.
8. Where, subsequent to the issue of a direction pursuant to paragraph 7, the criteria set out at sub-paragraph 7(a) or (b) cease to be satisfied, the Director may withdraw the direction or modify any terms and conditions which may be specified in it.
9. For the purposes of paragraphs 7 and 8 the Director shall, following consultation with the Licensee, determine any question as to whether the criteria set out at sub-paragraph 7(a) or (b) are or continue to be satisfied.

10. In this Condition:

“appropriate time”	means 3 months, or such shorter period as the Director may approve in respect of any person or class of persons.
“Competent Authority”	means the Secretary of State, the Director, the Compliance Officer, the Stock Exchange, the Panel on Take-overs and Mergers, or any local or national agency, regulatory body, authority, department, inspectorate, minister, ministry, official or public or statutory person (whether autonomous or not) of, or of the government of, the United Kingdom or the European Community.
“confidential information”	bears the meaning given at paragraph 1.
“Electricity Arbitration Association”	means the unincorporated members’ club of that name formed inter alia to promote the efficient and economic operation of the procedure for the resolution of disputes within the electricity supply industry by means of arbitration or otherwise in accordance with its arbitration rules.

Condition 14A. Appointment of Compliance Officer

1. The Licensee shall no later than [date] prepare a statement in a form approved by the Director setting out the practices, procedures and systems which the Licensee has adopted (or intends to adopt) to ensure its compliance with the Relevant Obligations.
2. The Licensee may periodically revise the information set out in and, with the approval of the Director, alter the form of the statement prepared in accordance with paragraph 1 and shall, at least once every year during which this Licence is in force, review such statement in order that the information set out therein shall continue to be accurate in all material respects.
3. The Licensee shall send a copy of the statement prepared in accordance with paragraph 1, and of each revision of such statement in accordance with paragraph 2, to the Director.
4. The Licensee shall, following consultation with the Agent and the Director, appoint a competent person (who shall be known as the "Compliance Officer") for the purpose of facilitating compliance by the Licensee with the Relevant Obligations.
5. The Licensee shall at all times engage the services of the Compliance Officer for the performance of such duties and tasks as the Licensee considers it appropriate to assign to him for the purposes specified at paragraph 4, which duties and tasks shall include those set out at paragraph 8.
6. The Licensee shall procure that the Compliance Officer:
 - (a) is provided with such staff, premises, equipment, facilities and other resources; and
 - (b) has such access to its premises, systems, information and documentation

as, in each case, he might reasonably expect to require for the fulfilment of the duties and tasks assigned to him.

7. The Licensee shall make available to the Compliance Officer a copy of any complaint or representation received by it from any person in respect of a matter arising under or by virtue of Condition 14 or in relation to any of the practices, procedures and systems adopted by the Licensee in accordance with the statement referred to at paragraph 1.

8. The duties and tasks assigned to the Compliance Officer shall include:
 - (a) providing relevant advice and information to the Licensee for the purpose of ensuring its compliance with the Relevant Obligations;
 - (b) monitoring the effectiveness of the practices, procedures and systems adopted by the Licensee in accordance with the statement referred to at paragraph 1;
 - (c) advising whether, to the extent that the implementation of such practices, procedures and systems requires the co-operation of the Agent, they are designed so as reasonably to admit of the required co-operation;
 - (d) investigating any complaint or representation made available to him in accordance with paragraph 7;
 - (e) recommending and advising upon the remedial action which any such investigation has demonstrated to be necessary or desirable;
 - (f) providing relevant advice and information to the Licensee for the purpose of ensuring its effective implementation of:
 - (i) the practices, procedures and systems adopted in accordance with the statement referred to at paragraph 1; and
 - (ii) any remedial action recommended in accordance with sub-paragraph (d); and

- (g) reporting annually to the directors of the Licensee - in respect of the year ending 31 December 1999 and of each subsequent year - as to his activities during the period covered by the report, including the fulfilment of the other duties and tasks assigned to him by the Licensee.
9. As soon as is reasonably practicable following each annual report of the Compliance Officer, the Licensee shall produce a report:
- (a) as to its compliance during the relevant year with the Relevant Obligations; and
 - (b) as to its implementation of the practices, procedures and systems adopted in accordance with the statement referred to at paragraph 1.
10. The report produced in accordance with paragraph 9 shall in particular:
- (a) detail the activities of the Compliance Officer during the relevant year;
 - (b) refer to such other matters as are or may be appropriate in relation to the implementation of the practices, procedures and systems adopted in accordance with the statement referred to at paragraph 1; and
 - (c) set out the details of any investigations conducted by the Compliance Officer, including:
 - (i) the number, type and source of the complaints or representations on which such investigations were based;
 - (ii) the outcome of such investigations; and
 - (iii) any remedial action taken by the Licensee following such investigations.

11. The Licensee shall submit to the Director a copy of the report produced in accordance with paragraph 9, and shall give or send a copy of the report to any person who requests such a copy.

12. In this Condition:

“Relevant Obligations” means the obligations set out at Condition 14 and the terms and conditions of any direction issued pursuant to paragraph 7 of Condition 14.

Condition 41. Restriction on use of certain information

1. Any information relating to or deriving from the management or operation of the Distribution Business shall, for the purposes of this Condition, be treated as confidential information.

2. The Licensee shall (and shall procure that its affiliates and related undertakings shall) ensure that any of its (or its affiliates' or related undertakings') employees, agents, advisers, consultants or contractors who:

(a) is engaged in the management or operation of the Supply Business; and

(b) is in possession of or has access to confidential information

shall not use such information in a manner which may obtain for the Licensee (or any affiliate or related undertaking of the Licensee) any commercial advantage in the operation of the Supply Business or the Second Tier Supply Business.

3. In this Condition:

“confidential information” bears the meaning given at paragraph 1.