

**THE SYSTEM OPERATOR  
TRANSMISSION OWNER CODE**

**- DRAFT -**

**2/10/03**

**THE SYSTEM OPERATOR TRANSMISSION OWNER CODE**

**[TABLE OF CONTENTS] [not included]**

**[INTRODUCTION ] [not included]**

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*[To be included: text on the manner in which the STC interacts with the licences, Framework Agreement and Code Subsidiary Documents. Status of Code Subsidiary Documents and applicability of Code and Code Subsidiary Documents.]*

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**Draft - 12/11/03**

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**Draft - 17/11/03**

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**Draft - 13/11/03**

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**Draft - 18/11/03**

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**Draft - 30/10/03**

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**Draft - 02/10/03**

***[not included]***

1. Introduction
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**[SCHEDULES] *[not included]***

**[EXHIBITS] *[not included]***

**[SECTION B: GOVERNANCE]**

**1. GENERAL**

**1.1 Introduction**

This Section B sets out:

- (a) the objectives of the Code;
- (b) arrangements for admission of new Parties to the Code;
- (c) arrangements for withdrawal of Parties from the Code;
- (d) arrangements for establishment and operation of the Committee;
- (e) procedures for making amendments to the Code;[and
- (f) communications, reporting and other general matters.]

**1.2 Parties**

A Party is a person who is, for the time being, bound by the Code by virtue of being a Party to the Framework Agreement.

**2. APPLICABLE OBJECTIVES<sup>1</sup>**

**2.1 The objectives of the Code are the:**

- (a) efficient discharge of the obligations imposed upon the Parties by Transmission Licences;
- (b) development, maintenance and operation of an efficient, co-ordinated and economical system of electricity transmission in relation to which a Party and all other Parties participate in the transmission of electricity (within the meaning given in section 4(3 A) of the Act);
- (c) facilitation of competition in the supply and generation of electricity and, so far as consistent with this objective, the facilitation of competition in distribution of electricity;

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<sup>1</sup> These will be aligned with the STC Transmission Licence Condition (although not entirely a mirror image necessarily) and are subject to review accordingly.

- (d) protection of the security, quality of supply and safe operation of the GB Transmission System; and
- (e) promotion of Good Industry Practice and efficiency in the implementation and administration of the arrangements described in the remainder of the Code,

(the "**Applicable Objectives**").

2.2 The objectives set out in paragraph 2.1 shall be amended from time to time in accordance with any modification of the STC Licence Condition which contains the Applicable Objectives.

### 3. **ADMISSION OF NEW PARTIES**

#### 3.1 **Accession Procedure for Party Applicants**

3.1.1 Any Transmission Licensee which is obliged from time to time by its Transmission Licence to enter into the Framework Agreement shall have the right to enter into and be a Party to the Framework Agreement, subject to and in accordance with the provisions of this paragraph 3.

3.1.2 A person wishing to enter into the Framework Agreement (a "**Party Applicant**") shall submit to the Committee:

- (a) a duly completed application form in such form as the Committee may from time to time prescribe, giving its Party Details as at the time of its application, together with any supporting documentation so prescribed; and
- (b) a written undertaking from the Party Applicant (in the form prescribed in the application form) that the Party Details of such Party Applicant are complete and accurate in all material respects.

3.1.3 Upon receipt of the items referred to in paragraph 3.1.2, the Committee shall as soon as practicable:

- (a) check that the application form has been duly completed by the Party Applicant and the relevant supporting documentation has been provided;
- (b) notify the Authority of the name of the Party Applicant;



- (c) prepare an Accession Agreement<sup>2</sup> for execution by the Party Applicant; and
- (d) upon receipt by the Committee of an Accession Agreement duly executed by the Party Applicant, the Committee shall promptly instruct NGC to:
  - (i) execute and deliver such Accession Agreement on behalf of all Parties; and
  - (ii) send a certified copy of such Accession Agreement, duly executed by the Party Applicant, to the Party Applicant and other Parties; and
  - (iii) give notice of the accession of such Party Applicant to the Authority.

3.1.4 Subject to and in accordance with the provisions of this paragraph 3.1, each Party hereby irrevocably and unconditionally authorises NGC to execute and deliver on behalf of such Party any Accession Agreement duly executed by a Party Applicant, and to admit the Party Applicant as a Party.

3.1.5 Accession of a Party Applicant to the Framework Agreement shall be effective on and from the date of the Accession Agreement.

## 3.2 **New Party Entry Processes**

3.2.1 Prior to its completion of the New Entry Processes (as defined in paragraph 3.2.2 below), a Party shall not provide its Transmission Services to NGC except to the extent required by the New Party Entry Processes and shall be referred to herein as a "**New Party**" until such date as the New Entry Processes have been [completed to the satisfaction of the [other Parties]].<sup>3</sup>

3.2.2 As soon as reasonably practicable [but in any event not less than 30 days] following the accession of a New Party to the Framework Agreement, the Parties shall endeavour to agree the procedures, processes and steps (here referred to as the "**New Party Entry Processes**") that shall be followed by the New Party (and any other Party as specified therein) in order that the New Party may commence the provision of its Transmission Services in accordance with section [***cross reference to provision of transmission services section***] of this Code.

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<sup>2</sup> A pro forma Accession Agreement will be included in the Schedules modelled on the Accession Agreement currently used in Section A of the BSC.

<sup>3</sup> It is intended to keep under review the extent to which the rights and obligations of the New Party and existing Parties should be modified during the New Party Entry Process.

[3.2.3 Each Party, including the New Party, shall undertake such actions as are required of it under and pursuant to the New Party Entry Processes in order to discharge and give effect to same.]

3.2.4 Any failure by the Parties to agree the New Party Entry Processes pursuant to clause [1.2.2] or any other dispute regarding the scope, content or performance of the New Party Entry Processes shall be referred as a Dispute to the Authority by a Party or the New Party under this Code.

3.2.5 Prior to a Party Applicant becoming a New Party, the Parties shall, if requested to do so by the Authority, take all reasonable steps to develop (in consultation with that Party Applicant) the New Party Entry Processes that could apply to that Party Applicant.

#### 4. PARTY DETAILS

4.1 For the purposes of this Code, the "**Party Details**" of a Party (which shall include for the purposes of paragraph [3.1], a Party Applicant) are the following details and documentation of the Party:

- (a) its full name and contact details;
- (b) the name, address and facsimile number of the person for whose attention notices issued in accordance with [**cross reference to notices provision in boilerplate section**] should be marked;
- (c) details for service or process, where the Party is required to provide such details pursuant to section [**cross reference to notices provision in boilerplate section**];
- (d) a copy of its Transmission Licence; and
- (e) whether the Party is registered for VAT purposes and if so, the Party's VAT registration number.

4.2 Each Party shall:

- (a) provide its Party Details to the Committee; and
- (b) ensure that its Party Details for the time being provided to the Committee remain accurate and complete in all material respects.

4.3 Without prejudice to the generality of paragraph [4.2], if at any time:

- (a) a Party wishes to change any of its contact details forming part of such Party Details;  
or
- (b) there is or will be any change in the circumstances of a Party referred to in paragraph [4.1(d)]; or
- (c) the Party Details of a Party otherwise cease for whatever reason to be accurate and complete in all material respects,

then such Party shall notify the Committee as soon as reasonably practicable (and, wherever possible, in advance of such change) and shall provide such further information and supporting documentation as the Committee may reasonably require to evidence such change.

## 5. **WITHDRAWAL**

### 5.1 **Procedure**

- 5.1.1 Subject as provided in paragraph 5.1.4 and 5.1.5, each Party (the "**Withdrawing Party**") shall be entitled to withdraw from the Framework Agreement and thereby cease to be a Party by giving notice in writing (a "**Withdrawal Notice**") to the Committee<sup>4</sup>.
- 5.1.2 [Subject as provided in paragraphs 5.1.4 and 5.1.5 below, in any case where the Licence granted to a Party shall be revoked, that Party shall therefore be deemed to have given notice to withdraw from the Framework Agreement under this paragraph 5, with immediate effect ("withdrawal date")].
- 5.1.3 The Withdrawal Notice shall specify the time and date (except as otherwise extended under paragraphs [5.1.5] or [5.1.6] the "**Withdrawal Date**"), being not less than twenty-eight days after the date of the Withdrawal Notice, with effect from which the Withdrawing Party wishes to withdraw from the Framework Agreement and thereby cease to be a Party.
- 5.1.4 A Withdrawing Party may not withdraw from the Framework Agreement and thereby cease to be a Party to the Code (and any Withdrawal Notice shall be of no effect) if:
  - (a) as at 17:00 hours on the day which is two business days prior to the Withdrawal Date, any sums accrued and payable under the Code by the

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<sup>4</sup> This is intentionally different from the equivalent wording of the BSC.

Withdrawing Party (whether or not due for payment and whether or not the subject of a Dispute) remain, in whole or in part, to be paid by the Withdrawing Party; or

- (b) at the Withdrawal Date there is any outstanding Default by the Withdrawing Party (of which notice has been given to the Withdrawing Party) which is capable of remedy and has not been remedied; or
- (c) the Withdrawing Party is subject to a Transmission Licence Condition by virtue of which it is required to be a Party and/or to comply with the Code or which would otherwise be infringed if the Withdrawing Party withdrew from the Code.

5.1.5 A Withdrawing Party may also not withdraw from the Framework Agreement and thereby cease to be a Party to the Code unless and until that Withdrawing Party shall have completed [to the satisfaction of the Parties (other than the Withdrawing Party)] all such [Decommissioning actions<sup>5</sup>] as shall be reasonably determined by the Parties (other than the Withdrawing Party) and notified to the Withdrawing Party in writing. Where necessary, the Withdrawing Party shall give notice to the other Parties of a revised Withdrawal Date in order to accommodate the fulfilment of such [Decommissioning actions].

5.1.6 Any dispute regarding the nature [and] scope [and performance] of the [Decommissioning actions] determined pursuant to paragraph [5.1.5] shall be referred as a Dispute to the Authority under this Code and the Withdrawal Date may thereby be extended [by the Authority] at its discretion.

## 5.2 Consequential Provisions

5.2.1 Where a Withdrawing Party withdraws from the Framework Agreement and thereby ceases to be a Party pursuant to paragraph 5.1, the provisions of this paragraph 5.2 shall apply.

5.2.2 With effect from the Withdrawal Date:

- (a) the Withdrawing Party shall, subject to the provisions of paragraph 5.2.3, be automatically released and discharged from all its obligations and liabilities under the Code (including, for the avoidance of doubt, the Framework Agreement); and

(b) each other Party shall, subject to the provisions of paragraph 5.2.3 be automatically released and discharged from all its obligations and liabilities to the Withdrawing Party under the Code (including, for the avoidance of doubt, the Code Subsidiary Documents and the Framework Agreement).

5.2.3 Any release and discharge referred to in paragraph 5.2.2 shall not extend to the rights and liabilities (whether actual, contingent, accrued or otherwise) of a Party as at the Withdrawal Date (whether or not the other Parties are aware of such rights and liabilities at the Withdrawal Date).

5.2.4 Save as provided in paragraph 5.2.2, the Framework Agreement and Code shall, upon withdrawal of any Party, remain in full force and effect and binding on each of the other Parties.

## **6. ESTABLISHMENT OF THE COMMITTEE**

### **6.1 Establishment and composition**

6.1.1 To assist in the administration of the Code and the other functions set out in paragraph 6.2, the Parties shall establish a Committee which shall be constituted in accordance with the further provisions of this paragraph 6.

6.1.2 Subject to paragraph [6.3], each Party shall be represented by one or more persons at meetings of the Committee.

6.1.3 There shall be a Committee Secretary who shall be a person appointed from time to time by the Committee.

6.1.4 The Authority shall be entitled to receive notice of, and to appoint one or more representatives to attend and speak at any meeting of the Committee but, for the avoidance of doubt, such representatives shall not have a right to vote at any such meeting.

### **6.2 Functions of the Committee**

6.2.1 The functions of the Committee shall include, but not be limited to:

(a) evaluation and administration of amendments to the Code in accordance with the procedures set out in this Section B;

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<sup>5</sup> Definition/further clarification to be considered.

- [(b) consideration and recommendation of Code Subsidiary Documents<sup>6</sup>;
- (c) consideration of alleged breaches of the Code, including, where requested by [a] relevant Dispute Party, reviewing any Dispute between them and assisting with resolution; and
- [(d) generally, review of the consequences of amendments to the Code.]<sup>7</sup>

### 6.3 Meetings

- 6.3.1 Meetings of the Committee shall be held at such time and such place in Great Britain as the Parties shall decide.
- 6.3.2 A meeting of the Committee shall be convened [by the Committee Secretary] by notice to each Party:
  - (a) setting out the date, time and place of the meeting and (unless the Parties decide otherwise) giving at least five days' notice before the date of the meeting; and
  - (b) accompanied by an agenda of the matters for consideration at the meeting and any supporting papers (and any late papers) at the time the notice is given.
- 6.3.3 The Committee Secretary shall send a copy of the notice convening a meeting of the Committee, and the agenda and papers accompanying the notice (and any late papers) to the following persons at the same time at which the notice under paragraph 6.3.2 is given to the Parties:
  - (a) the Authority or its appointed representatives; and
  - (b) any other person entitled to receive the same pursuant to any provision of the Code.
- 6.3.4 Any Party may notify matters for consideration at a meeting of the Committee, in addition to those notified by the Committee Secretary at paragraph 6.3.2, by notice to all Parties and other persons entitled to receive notice under paragraph 6.3.3, not less than three days before the date of the meeting.

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<sup>6</sup> Note that separate procedures for the adoption and amendment of Code Subsidiary Documents are currently under review.

<sup>7</sup> To be reviewed in light of the conclusions on the Grid Code.

- 6.3.5 The proceedings of a meeting of the Committee shall not be invalidated by the accidental omission to give or send notice of the meeting or a copy thereof or any of the accompanying agenda or papers to, or any failure to receive the same by, any Party or other person entitled to receive such notice, copy, agenda or paper under paragraph 6.3.3.
- 6.3.6 With the consent of all Parties (whether obtained before, at or after any such meeting) the requirements of this paragraph 6.3 as to the manner in and notice on which a meeting of the Committee is convened, may be waived or modified, provided that no meeting of the Committee, other than a meeting at which the only items for consideration are one or more Urgent Code Amendments, shall be held unless notice of the meeting and its agenda has been sent to the Parties and other persons entitled to receive same under paragraph 6.3.3 at least twenty-four hours before the time of the meeting.
- 6.3.7 Subject to paragraph 6.3.8, no matter shall be resolved upon at a meeting of the Committee unless such matter was contained in the agenda accompanying the Committee Secretary's notice under paragraph 6.3.2 or was notified in accordance with paragraph 6.3.4.
- 6.3.8 Where:
- (a) any other matter (not contained in the agenda or so notified) is put before a meeting of the Committee; and
  - (b) in the opinion of the Committee it is necessary (in view of the urgency of the matter) that the Committee should resolve upon such matter at the meeting,
- the Committee may so resolve upon such matter.

#### 6.4 **Proceedings at Committee Meetings**

- 6.4.1 Subject as expressly provided in the Code, the Committee may regulate the conduct of and adjourn and convene its meetings as it sees fit.
- 6.4.2 As soon as is practicable after each meeting of the Committee, the Committee Secretary shall prepare and send to the Parties the minutes of such meeting, which shall be approved (or amended and approved) at the next meeting of the Committee after they were so sent and, when approved, the Committee Secretary shall forward a copy to NGC and NGC shall publish the approved minutes

(excluding any matter which the Committee decided was not appropriate for such publication) on the STC Website<sup>8</sup> and NGC shall promptly do so.

## 6.5 **Attendance by other person**

That part of any meeting of the Committee at which Proposed Amendments are to be considered shall be open to attendance by, in addition to the Parties, any person whom the Parties are in agreement may attend, and any persons so attending such a meeting may speak at the meeting.

## 7. **AMENDMENT OF THE CODE**

### 7.1 **Amendment**

7.1.1 The Code may (and may only) be amended from time to time pursuant to the STC Licence Condition and in accordance with the provisions of this paragraph 7.

7.1.2 The Code may only be amended from time to time:

- (a) in order to comply with any direction of the Authority; or
- (b) with the consent of the Authority.

7.1.3 Without prejudice to paragraph 7.1.1, each Party shall keep under review whether any possible amendment of this Code from time to time would better facilitate achievement of the Applicable Objectives and shall, in accordance with this paragraph 7 and to the extent that such matter is not covered by another Proposed Amendment, propose such Proposed Amendment which in the Party's opinion would do.

### 7.2 **Amendment Proposals**

***[Note: further text on amendment of Code Subsidiary Documents to follow]***

7.2.1 A Proposed Amendment may be made by any of the following:

- (a) a Party; or
- (b) such person or persons having a relevant interest as may be designated in writing for this purpose by the Authority from time to time.

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<sup>8</sup> "STC Website" means the website established and maintained by NGC for the purposes of this Code.



7.2.2 A Proposed Amendment made pursuant to paragraph 7.2.1 shall be submitted in writing to the Committee, and shall contain the following information in relation to such Proposed Amendment:

- (a) the name of the Proposer;
- (b) a description (in reasonable but not excessive detail) of the issue or defect which the Proposed Amendment seeks to address, and the nature and purpose of the Proposed Amendment;
- (c) where possible, an indication of those other parts of the Code which would require amendment in order to give effect to (and/or would otherwise be affected by) the Proposed Amendment and an indication of the nature of those amendments or effects;
- (d) the reasons why the Proposer believes that the Proposed Amendment would better facilitate achievement of the Applicable Objective(s) as compared with the then current version of the Code;
- (e) where possible, an indication of the impact of the Proposed Amendment on [the BSC or CUSC [or Code Industry Documents designated by the Authority] and on any other Proposed Amendment; and

[(f) where the Proposer considers the Proposed Amendment to necessitate the status of an Urgent Amendment], a statement to that effect.]

7.2.3 A Proposed Amendment made pursuant to paragraph 7.2.1, and not withdrawn pursuant to paragraph 7.2.7, shall be processed as further provided in this paragraph 7.2.

7.2.4 The Committee Secretary shall as soon as reasonably practicable:

- (a) send a copy of the Proposed Amendment to:
  - (i) the Authority; and
  - (ii) any other body designated by the Authority; and

7.2.5 NGC shall, upon receiving notice of the Proposed Amendment, post the Proposed Amendment on the STC Website or failing that publish the Proposed Amendment in such other manner as the Committee Secretary deems appropriate to bring it to the attention of interested third parties.

7.2.6 NGC shall promptly comply with the Committee Secretary's instructions under paragraph [7.2.4(b)].

7.2.7 [It shall be a condition to the right to make a Proposed Amendment under this paragraph 7.2 that the Proposer:

(a) grants a non-exclusive royalty-free licence to all Parties who request the same covering all present and future rights, [IPRs]<sup>9</sup> and moral rights it may have in such Proposed Amendment (as regards use or application in Great Britain); and

(b) warrants that, to the best of its knowledge, information and belief, no other person has asserted to the Proposer that such person has any IPRs or moral rights or rights of confidence in such Proposed Amendment inconsistent with the Parties' right to make, publish or use such Proposed Amendment,

and, in making a Proposed Amendment, a Party shall be deemed to have granted the licence and given the warranty contained in (a) and (b) above respectively.]

7.2.8 A Proposer may withdraw his Proposed Amendment on notice to the Committee Secretary at any time prior to the Committee meeting at which such Proposed Amendment is to be considered for the first time, in which case, the Committee Secretary shall promptly:

(a) revise the Amendment Register;

(b) notify the persons referred to in paragraph 7.2.4; and

(c) remove the Proposed Amendment from the agenda of the next Committee meeting and instruct NGC to remove the Proposed Amendment from the STC Website,

and NGC shall promptly comply with the Committee Secretary's instructions under paragraph (c) above.

### 7.3 **Amendment Register**

7.3.1 The Committee Secretary shall establish and maintain a register (the "**Amendment Register**") which shall record, in such form as the Committee may determine, the matters set out in paragraph 7.3.3.

7.3.2 The purpose of the Amendment Register shall be to assist the Committee in the operation of the Amendment Procedures under this Code and to enable Parties and interested third parties to be reasonably informed of the progress of Proposed Amendments and Approved Amendments from time to time.

7.3.3 The Amendment Register shall record:

- (a) details of each Proposed Amendment (including the name of the Proposer, the date of the Proposed Amendment and a brief description of the Proposed Amendment);
- (b) whether [in accordance with paragraph [7.8], any Amendment is an Urgent Amendment Proposal;
- (c) the current status and progress of each Proposed Amendment and the anticipated date for reporting to the Authority in respect thereof including any works to be undertaken pursuant to paragraph [7.10.3(b)] and the anticipated date for completion of such works];
- (d) the current status and progress of each Approved Amendment; and
- (e) such other matters as the Committee may consider appropriate from time to time in order to achieve the purposes set out in paragraph 7.3.2.

7.3.4 The Amendment Register shall, in addition to those matters set out in paragraphs 7.3.3 also include details of:

- (a) each Proposed Amendment which has been withdrawn pursuant to paragraph 7.2.7 or rejected by the Authority; and
- (b) each Approved Amendment which has been implemented pursuant to paragraph [7.10],

for a period of three months after such withdrawal, rejection or implementation, or such longer period as the Committee may determine.

7.3.5 The Committee [Secretary] shall instruct NGC to and NGC shall then promptly publish the Amendment Register (as updated from time to time and indicating the revisions since the previous issue) on the STC Website or (in the absence, for whatever reason, of the STC Website) in such other manner and with such

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<sup>9</sup> To be defined in boilerplate IPR section.

frequency (being not less than once per month) as the Committee may instruct, in order to bring it to the attention of Parties and interested third parties.

#### **[7.4 Monthly Progress Report**

7.4.1 The Committee shall prepare and submit to the Authority each month a progress report (to be known as the "**Monthly Progress Report**") setting out the matters referred to in paragraph 7.4.2 in respect of the preceding month.

7.4.2 The Monthly Progress Report shall contain:

- (a) the current version of the Amendment Register;
- (b) details of the scheduling and timetable for consideration of each Proposed Amendment and completion of the Amendment Report in respect thereof in the context of all other current Proposed Amendments;
- (c) details of any circumstances which lead the Committee to believe that the Implementation Date for an Approved Amendment is unlikely to be met and, if so, why; and
- (d) such other matters as the Authority may request to be included from time to time.

7.4.3 In the event that the Authority at any time submits a written request to the Committee to provide any information with respect to consideration or progress of any Proposed Amendment, the Committee shall promptly comply with such request.

7.4.4 NGC shall publish each Monthly Progress Report on the STC Website within 7 Business Days after it is sent to the Authority, provided that the Committee Secretary shall exclude therefrom any matters in respect of which the Authority issues a notice to the Committee Secretary for the purposes of this paragraph 7.4.

#### **7.5 [Change Co-ordination<sup>10</sup>**

7.5.1 The Committee shall establish (and, where appropriate, revise from time to time) joint working arrangements with each panel or other body responsible for proposing change to the BSC, CUSC, [other Core Industry Document] or other documents designated by the Authority from time to time, to facilitate the identification, co-

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<sup>10</sup> Note that this is subject to the conclusions on change control in the Grid Code, CUSC and BSC. Mirror provisions will be required in the STC.

ordination, making and implementation of change to the BSC or CUSC, [other Core Industry Document] or such other designated documents consequent on an amendment to the Code [or an amendment to a Code Subsidiary Document], in a full and timely manner. [***Tie-in with corresponding licence obligation***]

7.5.2 The working arrangements referred to in paragraph 7.5.1 shall be such as enable the consideration, development and evaluation of Proposed Amendments, and the implementation of Approved Amendments, to proceed in a full and timely manner and enable changes to the BSC or CUSC, [other Core Industry Documents] or other designated documents consequent on an Approved Amendment or [an amendment to a Code Subsidiary Document] to be made and given effect wherever possible (subject to any necessary consent of the Authority) at the same time as such Approved Amendment is made and given effect.

[7.5.3 The Committee shall endeavour to establish the joint working arrangements referred to in paragraph 7.5.1 by no later than the [Go-Live Date].]

## 7.6 **Amendment Meetings**

[7.6.1 Subject to the Urgent Amendment Proposal procedures under paragraph [7.8], the Committee shall consider a Proposed Amendment (unless it is withdrawn by the Proposer under paragraph 7.2.7) at a meeting of the Committee pursuant to paragraph [6.3] or as otherwise requested by a Party and at such meeting shall decide:

(a) whether or not the Proposed Amendment or any proposed alternative amendment ("**Alternative Amendment**") would better meet the Applicable Objectives and therefore may be appropriate to be recommended to the Authority; or

(b) whether to recommend to the Authority that a Proposed Amendment or Alternative Amendment should be treated as an Urgent Amendment Proposal]

7.6.2 Following a decision under paragraph [7.6.1], the Proposed Amendment or any Alternative Amendment shall immediately proceed to the Assessment and Report Phase under paragraph [7.7].

## 7.7 **Assessment and Report Phase**

7.7.1 The Committee and all Parties shall use its and their reasonable endeavours in order to ensure that the Assessment and Report Phase as set out in this paragraph

[7.7] shall take no longer than two months from its initiation under paragraph [7.6.2] up to submission of the Amendment Report to the Authority under paragraph [7.7.6] unless otherwise agreed by the Authority.

7.7.2 The Committee Secretary shall:

- (a) commission from each of the Parties an analysis and impact assessment of the likely effect of the Proposed Amendment on that [Party's Transmission System and other systems] and in such manner as the Committee feels fit so as to assess more fully whether such Proposed Amendment or Alternative Amendment would better meet the Applicable Objectives;
- (b) prepare a report setting out the recommendation of the Committee as to whether such proposed Amendments should be made, any proposed Implementation Dates and any analysis provided pursuant to paragraph (a) ("**Draft Report**");
- (c) copy the Draft Report prepared under paragraph (b) to each of the persons listed in paragraph [●] and instruct NGC to publish it on the STC Website (upon which instruction NGC shall promptly do so) or otherwise in such manner as may be appropriate to bring it to the attention of other persons who may be affected by the Draft Report;
- (d) invite representations on the Draft Report within such period as the Committee may determine;
- (e) prepare a summary of the representations received pursuant to paragraph (d); and
- (f) put the Draft Report and the summary referred to in paragraph (e) on the agenda for the next following meeting of the Committee.

7.7.3 If, pursuant to a meeting of the Committee under paragraph [7.6.1]:

- (a) the Committee determines that it may be appropriate to recommend to the Authority that the Proposed Amendment or any Alternative Amendment should be made; and
- (b) at that time no proposed text to amend the Code in order to give effect to such Proposed Amendment or Alternative Amendment has been commissioned,

the Committee Secretary shall forthwith commission the drafting of proposed text to amend the Code in order to give effect to such Proposed Amendment or Alternative Amendment.

7.7.4 Where pursuant to a meeting of the Committee under paragraph [7.6.1] the Committee is proposing to recommend to the Authority that a Proposed Amendment or Alternative Amendment should not be made and no proposed text to amend the Code has been commissioned, the Committee shall consult with the Authority as to whether the Authority would like the Committee's formal report ("**Amendment Report**") to include such text and, if the Authority indicates that it would, the Committee Secretary shall forthwith commission the drafting of proposed text to amend the Code in order to give effect to such Proposed Amendment or Alternative Amendment.

7.7.5 [The Committee shall consider any proposed text prepared pursuant to paragraphs [7.7.3 or 7.7.4] at the next following Committee meeting together with the Draft Report and, having taken due account of the analysis therein and the representations contained in the summary referred to in paragraph [7.7.2(e)], the Committee shall determine:

- (a) whether to recommend to the Authority that the Proposed Amendment or any Alternative Amendment should be made;
- (b) whether to approve the Amendment Report in the form of the Draft Report or to instruct the Amendment Secretary to make such changes to that report as may be specified by the Committee;
- (c) (if applicable) whether to approve the proposed text for modifying the Code in order to give effect to any Proposed Amendment or Alternative Amendment which it is recommending or to instruct the [Committee Secretary] to make such changes to the text as may be specified by the Committee;
- (d) the proposed Implementation Date for implementation of the Proposed Amendment or any Alternative Amendment (whether or not the Committee recommends the making of such Proposed Amendment or Alternative Amendment).

7.7.6 Within seven Business Days after the Committee meeting referred to in paragraph 7.7.5, the Committee Secretary shall finalise the Amendment Report including the

attachment of [the summary of representations received pursuant to paragraph [7.7.2(e)] and shall forthwith:

- (a) submit such Amendment Report to the Authority; and
- (b) copy such Amendment Report to each Party and instruct NGC to post it on the STC Website.

7.7.7 Each Amendment Report shall be addressed and furnished to the Authority and none of the facts, opinions or statements contained in such Amendment Report may be relied upon by any other person.

## 7.8 **[Urgent Code Amendments<sup>11</sup>**

7.8.1 Any Party may:

- (a) recommend to the Committee that a proposal should be treated as an Urgent Amendment Proposal and a suggested timetable in relation to same in accordance with this paragraph 7.8; or
- (b) request of the Committee that a meeting or meetings be convened (including meetings by telephone conference call, where appropriate) in such manner and as such notice as the Committee considers appropriate.

7.8.2 Each party shall be deemed to have consented to the convening of any meeting under paragraph [7.8.1] for the purposes of paragraph [6.3], in the manner and on the notice determined by the Committee.

7.8.3 The Committee shall determine the time by which, in its opinion, a decision of the Committee is required in relation to such matter under this paragraph [7.8], having regard to the degree of urgency in all the circumstances.

7.8.4 If the Committee agrees that such proposal should be treated as an Urgent Amendment Proposal (pursuant to a meeting of the Committee or otherwise), the Committee shall forthwith consult the Authority as to whether such Proposed Amendment should be treated as an Urgent Amendment Proposal and, if so, as to the procedure and timetable which should apply in respect thereof.

7.8.5 The Committee shall:

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<sup>11</sup> The process for Urgent Code Amendments requires further consideration in light of draft STC Licence Condition B12, which does not presently provide for this expedited process.



- (a) not treat any Proposed Amendment as an Urgent Amendment Proposal except with the prior consent of the Authority;
- (b) comply with the procedure and timetable in respect of any Urgent Amendment Proposal approved by the Authority; and
- (c) comply with any instruction of the Authority issued in respect of any of the matters on which the Authority is consulted pursuant to paragraph 7.8.4.

7.8.6 For the purposes of this paragraph 7.8, the procedure and timetable in respect of an Urgent Amendment Proposal may (with the approval of the Authority pursuant to paragraph 7.8.5) deviate from all or part of the Amendment Procedures or follow any other procedure or timetable approved by the Authority.

7.8.7 The Amendment Report in respect of an Urgent Amendment Proposal shall include a statement as to why the Committee believe that such Amendment Proposal should be treated as an Urgent Amendment Proposal and the extent to which the procedure [to be] followed deviates from the Amendment Procedures.

7.8.8 Each Party and the Committee Secretary shall take all reasonable steps to ensure that an Urgent Amendment Proposal is considered, evaluated and (subject to the approval of the Authority) implemented as soon as reasonably practicable, having regard to the urgency of the matter and, for the avoidance of doubt, an Urgent Amendment Proposal may (subject to the approval of the Authority) result in an amendment to the Code being made on the day on which such proposal is submitted.]

## 7.9 **Implementation**

7.9.1 The Parties shall be responsible for implementing any Approved Amendment in accordance with this paragraph 7.10.

7.9.2 [The Committee shall make such amendments to Code Subsidiary Documents and/or adopt such new Code Subsidiary Documents as may be necessary to give full and timely effect to an Approved Amendment by the Implementation Date.]

7.9.3 In relation to Approved Amendments:

- (a) NGC shall use its reasonable endeavours to implement changes made to the [Grid Code, BSC or CUSC[, or other specified documents]]in order to give full and timely effect to an amendment to the Code by the Implementation Date; and

- (b) each Party shall do what is required to those of its systems and processes which support the operation of the Code as may be necessary in order to give effect to an amendment to the Code by the Implementation Date; and
- (c) each Party must keep the Committee informed of any matter that may affect the Implementation Date.

7.8.5 Without prejudice to the obligations of the Parties under this paragraph 6, any Party may request that the Implementation Date be extended with the prior approval of, or at the discretion of, the Authority.

7.8.6 A Party shall apply to the Authority for an extension of the Implementation Date if it becomes aware of any circumstances that are likely to cause a delay in the implementation of an Approved Amendment.

## 7.9 Confidentiality

7.9.1 Subject to this section [7.11], any representations submitted by a person pursuant to the Amendment Procedures shall be made publicly available save as expressly and reasonably requested by such person by notice in writing to the [other Parties].

7.9.2 The Parties shall not be liable for any accidental publication of a representation which is the subject of a request made under paragraph 7.11.1.

7.9.3 For the avoidance of doubt, all representations (whether or not marked confidential) shall be sent to the Authority.

7.9.4 Where any provision of this paragraph 7 provides for data, information or reports to be published or made available to Parties and/or other persons, the Committee shall exclude therefrom any matters in respect of which the Authority issues a notice to the [Committee Secretary] for the purposes of this paragraph 7.11.4.

**[SECTION C: TRANSMISSION SERVICES AND OPERATIONS]**

**[Part One:] Provision of Transmission Services**

**1. Introduction**

*[To be inserted]*

**2. Transmission Services**

2.1 In accordance with the remainder of this section [●], each Transmission Owner shall provide transmission services to NGC consisting of:

2.1.1 making available those parts of its Transmission System which are intended for the purpose of conveying, and affecting the flow of, electricity, so that such parts are capable of doing so and are fit for that purpose;

2.1.2 a means of enabling NGC to configure those parts of that Transmission Owner's Transmission System made available to it and, consistent with such means, giving effect to any direction from NGC as to configuring or the configuration of that Transmission System;

2.1.3 a means of enabling NGC to obtain information in relation to that Transmission Owner's Transmission System which is needed by NGC to enable it to co-ordinate and direct the flow of electricity onto and over the GB Transmission System and, consistent with such means, providing information to NGC; and

2.1.4 such other transmission services as may be specified elsewhere in this Code from time to time,

(together here referred to as "**Transmission Services**").

2.2 NGC shall have the right to make use of the Transmission Services provided to it in discharging its obligations under its Licence.

**3. Services Specification**

3.1 Each Transmission Owner and NGC shall agree a separate form of specification for each Transmission Owner to include the information that shall be provided by the Transmission Owner under paragraph 3.2 below (here referred to as "**Services Specification**")<sup>1</sup>.

3.2 Following agreement regarding the form of its Services Specification pursuant to paragraph 3.1 (failing which, the matter shall be referred as a Dispute to the Authority under this Code), a Transmission Owner shall:

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<sup>1</sup> Transitional provisions will pick up the position from day one.

- 3.2.1 complete its Services Specification including, without limitation, information regarding the parameters within and levels to which its Transmission Services have been planned to be (in accordance with section [**cross reference to planning section**]), and therefore will normally be capable of being, provided to NGC. Such information shall include, without limitation, information regarding the Transmission Owner's [Protection Systems<sup>2</sup>] and any technical limits that would normally apply to the provision of its Transmission Services (such technical limits here referred to as "**Normal Capability Levels**"); and
- 3.2.2 submit a copy of its Services Specification to NGC [(on such date as shall be agreed between NGC and the Transmission Owner)];
- 3.3 Each Transmission Owner shall keep its Services Specification under review at all times and, as an output of the transmission planning process pursuant to section [**cross-reference to Transmission Planning section**], forthwith update and submit to NGC any amendments thereto, save that, any changes to the form of the Services Specification must first be agreed with NGC (with any failure to so agree to be referred as a Dispute to the Authority under this Code).
- 3.4 Notwithstanding the obligations to submit to NGC a Services Specification under this section 3, a Transmission Owner shall provide to NGC such other information as is reasonably requested by NGC in order to support the full and effective enjoyment of the rights of NGC pursuant to paragraph 2.
4. **Transmission Services Levels**
- 4.1 Each Transmission Owner shall ensure, pursuant to paragraph 2, that its Transmission Services are provided to NGC in accordance, where relevant, with its Services Specification including to any Normal Capability Levels, except, and only to the extent, that it is not reasonably practicable for a Transmission Owner to do so in accordance with Good Industry Practice.
- 4.2 The technical limits to which Transmission Services are provided to NGC at any given time in accordance with paragraph 4.1, (being the Normal Capability Levels or other technical limits for those Transmission Services as last notified to NGC under paragraphs 4.3, 4.5, 4.6 and 4.7) shall be referred to as the "**Operational Capability Levels**".
- 4.3 Notwithstanding its obligations under paragraph 4.1, a Transmission Owner shall monitor, in accordance with Good Industry Practice, the provision of its Transmission Services, and, if and when it becomes aware:
- 4.3.1 that Transmission Services are not being provided in accordance with the Services Specification including, where relevant, to any applicable Normal Capability Levels, (here referred to as a "**Services Reduction**"); or

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<sup>2</sup> Definition to follow.

4.3.2 of a risk materially beyond the normal level of risk of an imminent Services Reduction (here referred to as a "**Services Reduction Risk**"),

then unless the provision of the Transmission Service in question is reduced or is to be reduced in accordance with an Outage contained in an [Outage Plan,] the Transmission Owner shall, as a matter of urgency, notify NGC to such effect [(including by way of [Alarm] in accordance with section [**cross reference to Code Subsidiary Document on alarms**])].

4.4 As a part of or otherwise at the same time as a notice to NGC under section 4.3 unless it is not reasonably practicable to do so (in which case a Transmission Owner shall do so as soon as reasonably practicable thereafter), a Transmission Owner shall notify NGC of:

4.4.1 in the case of a Services Reduction Risk, and where so requested by NGC, relevant data or information for the relevant Transmission Services including the technical limits that apply given the reduction from the Normal Capability Levels;

4.4.2 the reasons for the Services Reduction (or, where relevant, a Services Reduction Risk);

4.4.3 additional relevant information including the likely duration of the Services Reduction (or, where relevant, a Services Reduction Risk);

4.4.4 where relevant, its proposal for, as appropriate:

(i) enabling the Transmission Services to be provided in accordance with their Services Specification (and to their Normal Capability Levels where applicable); or

(ii) removing, mitigating or otherwise dealing with a Services Reduction Risk,

including, where necessary and appropriate, a proposal to amend the Services Specification under paragraph 3.3 or other proposal (referred to as "**Services Restoration Proposal**");

4.4.5 any consequential impact on any Services Restoration Proposal and other relevant information in accordance with Good Industry Practice; and

4.4.6 [any other information required pursuant to [**Code Subsidiary Document if required**]].

4.5 For the avoidance of doubt, nothing in this [Part One] shall prevent a Transmission Owner from providing Transmission Services over and above their Normal Capability Levels. In any such event the Transmission Owner shall ensure that NGC is notified of any technical limits that shall apply to such Transmission Services.

## 5. **Agreement of Services Restoration Proposals**

- 5.1 On or as soon as reasonably practicable after notification by the Transmission Owner of a Services Reduction (or, where relevant, Services Reduction Risk) pursuant to paragraph 4.3, NGC and the relevant Transmission Owner shall meet (including by telephone) to discuss the Services Reduction (or, where relevant, Services Reduction Risk) and, in particular, any Services Restoration Proposals made under paragraph 4.4.
- 5.2 Except in a case where a Services Reduction has become the subject of a proposed amendment to the Services Specification in accordance with paragraph [●], if the Parties are unable to reach agreement on any Services Restoration Proposal within a reasonable period, a Transmission Owner shall give effect to its Services Restoration Proposal subject to NGC's right to raise a dispute in accordance with paragraph 5.3.
- 5.3 NGC may raise a dispute in relation to a Services Restoration Proposal pursuant to paragraph 5.2 and in accordance with paragraph 8 (referred to as "**Services Restoration Dispute**"), but may only do so on the grounds that the Services Restoration Proposal would or does materially adversely affect NGC's ability to develop and maintain an efficient, co-ordinated and economical system of electricity transmission in Great Britain.

## 6. **Configuration on NGC's instructions**

- 6.1 Pursuant to its obligations under paragraph [2.1.1(b)], a Transmission Owner shall configure its Transmission System as so directed by NGC.
- 6.2 A Transmission Owner shall not configure its Transmission System except:
  - 6.2.1 on direction from NGC under paragraph 6.1; or
  - 6.2.2 where such parts of the Transmission System are on Outage and have been so released to the Transmission Owner under section [cross-reference to Service Outages section]; or
  - 6.2.3 for safety purposes in accordance with [**cross reference to section in STC or Code Subsidiary Document**].

## 7. **NGC Obligations**

- 7.1 In undertaking the co-ordination, direction and configuration of the GB Transmission System, NGC shall take all reasonably practicable steps to determine, and shall so far as reasonably practicable ensure that the GB Transmission System is not operated in excess of:
  - 7.1.1 relevant Operational Capability Levels; and
  - 7.1.2 such [lower/other] levels as NGC considers necessary and safe in accordance with Good Industry Practice.
- 7.2 In the event that NGC shall at any time become aware pursuant to paragraph 7.1 that the relevant Operating Capability Levels or other limitations have been exceeded, then NGC shall:

- (i) so inform the relevant Transmission Owner as soon as practicable; and
- (ii) without prejudice to any other rights and remedies arising hereunder, identify, carry out, and/or, where appropriate, direct the Transmission Owner to carry out, such actions as are necessary to take to try to ensure that such event shall not re-occur.

**8. Services Restoration Dispute<sup>3</sup>**

***Licensees are referred to the mini-consultation on Disputes under the STC, published on 10/10/03.***

- 8.1 Where NGC raises a Services Restoration Dispute under paragraph [5.3] it must do so by notice in writing giving details of the Dispute and served on the Relevant Transmission Owner with a copy to the Authority. A representative of each of NGC and the Transmission Owner concerned (referred to as "**Dispute Parties**"), who has authority to resolve the Services Restoration Dispute, shall meet (including by teleconference) [within 10 Business Days] of the date of such notice (or within such longer period as may be agreed) and use their best endeavours to seek to resolve it.
- 8.2 If the Dispute Parties are unable to resolve the Services Restoration Dispute [within 10 Business Days (or within such longer period as they may agree within that initial 10 Business Day period)] of the meeting or discussion referred to in paragraph 6.1, the Services Restoration Dispute shall, at the option of any of the Dispute Parties, be referred to the Authority for determination.

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<sup>3</sup> This section will feed into the general disputes section under the STC/

[FOR INSERTION IN SECTION C: TRANSMISSION SERVICES AND OPERATIONS]

PART TWO: TRANSMISSION OUTAGES PLANNING<sup>1</sup>

1.1 Outages Proposal

1.1.1 On or before [*specify date*] of each calendar year, each Transmission Owner shall submit to NGC a proposed timetable of Outages for the following calendar year including, without limitation, in respect of each proposed Outage:

- (a) the proposed start and finish dates and times for each Outage;
- (b) details of the Operational Capability Levels which the Transmission Owner anticipates will apply to the Transmission Services whilst they are the subject of the Outage;
- (c) any associated configuration of the Transmission Owner's Transmission System that will be required from NGC in order to give effect to the Outage; and
- (d) such other information as may be required pursuant to [*Code Subsidiary Document*].]

(here referred to as an "**Outages Proposal**")<sup>2</sup>.

1.1.2 The timetable referred to in paragraph 1.1.1 shall include an indication of the priority affixed to each Outage in relation to the other Outages proposed therein and details of the Transmission Owner's flexibility margins and priorities in respect of all Outage (for example, alternative dates upon which they could be taken, or the potential for movement of other Outage dates or times) and shall specify the Return to Service Time for the Transmission Services the subject of each specific Outage ("**Flexibility Parameters**").

In preparing its Outages Proposal, each Party shall discuss and exchange any such information regarding its proposals with another Party to the extent that such information could have a material effect on (i) in the case where the other Party is a Transmission Owner,

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<sup>1</sup> To be reviewed in relation to outages which are not outages of HV equipment

<sup>2</sup> 'Boilerplate' section to include provision requiring reasonable endeavours to ensure that all information provided from one Party to another is accurate and complete and submitted in good faith



that Transmission Owner's Outages proposals for the same calendar year and (ii) where the other Party is NGC, NGC's planned outages for the same calendar year.

## 1.2 Preliminary Outages Plan

1.2.1 Within [●] [weeks] of the date specified in paragraph [1.1.1], NGC shall, after having duly considered (including consideration of any Flexibility Parameters) each Outages Proposal and only excluded such Outages in its reasonable opinion as cannot be accommodated on the dates or at the times requested therein, compile a preliminary plan of Outages for the following calendar year ("**Preliminary Outages Plan**").

1.2.2 In compiling the Preliminary Outages Plan, NGC may discuss relevant parts of its proposed Preliminary Outages Plan, and relevant information on its own planned outages, with affected Transmission Owners.

1.2.3 Promptly, upon completion of the Preliminary Outages Plan, NGC shall issue to each Transmission Owner such parts of the Preliminary Outages Plan as cover Outages of that Transmission Owner's Transmission System, together with (as and where relevant):

- (a) an indication of those Outages contained in that Transmission Owner's Outages Proposal that have been excluded; and
- (b) suggested alternatives to enable the accommodation of any Outages falling under paragraph (a) above in the Preliminary Outages Plan.

1.2.4 On issue of the Preliminary Outages Plan pursuant to paragraph [1.2.3]:

- (a) a Party may request a change to the Preliminary Outages Plan pursuant and subject to paragraph [1.4]; and
- (b) a Transmission Owner shall provide to NGC any amendments or additional information to the information provided under paragraphs [1.1.1 (b) to (e)] above in relation to any of its Outages contained in the Preliminary Outages Plan.]

## 1.3 Initial Outages Plan

1.3.1 [On or before [*specify timeline*],] NGC shall compile an Initial Outages Plan being a reissue of the Preliminary Outages Plan amended (if required) pursuant to paragraph [1.4] or to take account of any determination of an Outages Dispute in

respect of the Preliminary Outages Plan pursuant to paragraph 1.7 and including any conditions stipulated by NGC (here referred to as "**Initial Outages Plan**").

- 1.3.2 Any outstanding Outages Planning Dispute in respect of the Preliminary Outages Plan pursuant to paragraph [1.4] shall not prevent NGC from compiling the Initial Outages Plan under paragraph [1.3.1] pending determination of such Outages Planning Dispute, save that, where a determination is made after such issue, NGC shall if necessary amend the Initial Outages Plan accordingly.
- 1.3.3 Promptly upon completion of the Initial Outages Plan or an amendment to same subject to paragraphs [1.3.2], [1.3.6], [1.3.7] or [1.4], NGC shall issue (or reissue as the case may be) to each Transmission Owner such parts of the Initial Outages Plan as cover Outages of that Transmission Owner's Transmission System.
- 1.3.4 Subject to paragraph [1.3.5], each Party shall ensure that the Initial Outages Plan is kept under review at all times and, as soon as a Party becomes aware that a change is required to the scheduled dates or times for an Outage as contained in the Initial Outages Plan (other than a cancellation which shall be dealt with under paragraphs [1.3.6] or [1.3.7] as relevant) or it requires a further Outage, it shall request a change under paragraph [1.4].
- 1.3.5 The obligation set out in paragraph 1.3.4 above shall apply to the review by NGC of the Initial Outages Plan as a whole and by Transmission Owners only in respect of such parts of the Initial Outages Plan as have been disclosed to them under paragraph [1.3.3].
- 1.3.6 [Each Transmission Owner shall [at all times up to the ending of the Outage and reinstatement of the relevant Equipment] keep under review the information provided to NGC under paragraphs [1.1.1 (b) to (e) and updated under paragraph [X]] above and notify NGC of any amendments or additional information in relation to same.]

#### 1.4 **Outages Change Process**

- 1.4.1 Where a change to the scheduled dates or times for, or cancellation of, Outages contained in the Preliminary Outages Plan or the Initial Outages Plan is requested by Transmission Owner pursuant to paragraphs [1.2] and [1.3] (including the movement or addition of an Outage), it shall promptly notify NGC.
- 1.4.2 Pursuant to a notification under paragraph [1.4.1] or where NGC requests a change to the scheduled dates or times for, or cancellation of, Outages contained in the Preliminary Outages Plan or the Initial Outages Plan, NGC shall promptly arrange a

meeting (including by telephone or as otherwise agreed between the relevant Parties under this paragraph [1.4.2]) with all Transmission Owners whose [Transmission System] would be materially affected by the requested change, in order to discuss and agree amendments to the Preliminary Outages Plan or Initial Outages Plan (as relevant) in order to accommodate such change or cancellation.

- 1.4.3 Where an agreement is reached pursuant to paragraph [1.4.2], NGC shall update the Preliminary Outages Plan or Initial Outages Plan (as appropriate) to reflect the agreed amendments accordingly.
- 1.4.4 When the relevant Parties fail to reach agreement pursuant to paragraph [1.4.2] NGC may retain or update the Preliminary Outages Plan or Initial Outages Plan (as appropriate) as it shall see fit PROVIDED THAT the relevant Transmission Owner(s) shall nonetheless have the right to raise a dispute on the relevant change or cancellation pursuant to the provisions in paragraph 1.7, on the grounds only that the Preliminary Outages Plan or the Initial Outages Plan if not amended would materially adversely affect that Party's ability to develop and maintain an efficient and economical system of electricity transmission in Great Britain. Any such dispute shall be raised within ● days of NGC having issued the Preliminary Outages Plan or Initial Outages Plan (as appropriate) to the Transmission Owners.
- 1.4.5 Nothing in this section [●] shall prevent a Transmission Owner from exercising its right to cancel a planned Outage.

## 1.5 Implementation of Outages

- 1.5.1 [Not less than [●] before the scheduled start date for an Outage contained in the Initial Outages Plan:
  - (a) NGC shall discuss and agree with the Transmission Owner on whose Transmission System the Outage will occur the process for and configuration of the Transmission Owner's Transmission System that will need to be undertaken [by NGC and by the Transmission Owner] in order both to commence and to cease the Outage in accordance with the Initial Outages Plan ("**Outage Implementation Process**") in accordance with [**Code Subsidiary Document**] [and Relevant Standards];
  - (b) the Transmission Owners shall duly comply with any conditions stipulated by NGC in or with the Initial Outages Plan; and
  - (c) the Transmission Owner on whose Transmission System any Outage will occur shall notify NGC of the Operational Capability Levels that will apply to

such parts of the Transmission Owner's Transmission System as are affected by the Outage for the duration of the Outage (or confirm that the Operational Capability Levels notified to NGC before such date shall remain unchanged) in accordance with [**Code Subsidiary Document**]

1.5.2 NGC and the Transmission Owner on whose Transmission System the Outage will occur will undertake such actions as are required of them under and in accordance with the Outage Implementation Process.

1.5.3 Where, during the course of an Outage, either Party under paragraph [1.5.1] becomes aware of any matter that will affect its ability to meet its obligations under and pursuant to the Outages Implementation Process, it shall forthwith notify the other Party and the relevant Parties shall use their reasonable endeavours to resolve the issue, save that, where such matter requires a change to the Initial Outages Plan that will materially affect the Transmission System of another Transmission Owner, then the Parties shall follow the Outages Change Process.

#### 1.6 **Return to Service during an Outage**

1.6.1 In any case where NGC shall so request by notice in writing to a Transmission Owner, whether or not expiry of the planned period of the Outage shall be imminent such Transmission Owner shall discontinue an Outage within the relevant Return to Service Time as notified to NGC PROVIDED THAT;

- (a) NCG shall consult with the relevant Transmission Owner before issuing any such notice;
- (b) the relevant Transmission Owner shall have the right to raise a dispute on the requested discontinuance in accordance with paragraph 1.7 [on operational grounds only], within days of the date of such notification by NGC; and
- (c) in the interim, before and whilst any such dispute is dealt with under paragraph 1.7, the relevant Transmission Owner shall take all necessary steps to bring about the discontinuance.

#### 1.7 **Outages Planning Disputes<sup>3</sup>**

1.7.1 A STC Party seeking to raise an Outages Planning Dispute under paragraph [1.2.6] [1.4.4] 1.5.5 [must do so within the period specified the relevant paragraph , by

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<sup>3</sup> This dispute resolution mechanism is based loosely on that contained in Part 7.3.1 CUSC in respect of charging disputes.

notice in writing<sup>4</sup> giving details of the dispute and served on the other Parties [and the Authority]. A representative of NGC and each Transmission Owner concerned, who has authority to resolve the Outages Planning Dispute shall meet (including by teleconference) [within 10 Business Days] of the date of such notice (or within such longer period as may be agreed) and use their best endeavours to seek to resolve it.

- 1.7.2 If the Dispute Parties are unable to resolve the Outages Planning Dispute [within 10 Business Days] (or within such longer period as they may agree within that initial [10 Business Day period]) of the meeting or discussion referred to in paragraph [1.7.1], the Outages Planning Dispute shall, at the option of any of the Parties, be referred to the Authority for determination.

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<sup>4</sup> Consideration may need to be had to procedures to determine the manner and form in which submissions are made to the Authority.

## TESTING TRANSMISSION OWNER TRANSMISSION SYSTEMS

### 1. Testing

1.1 Where requested by a Transmission Owner, and as reasonably practicable, NGC shall [co-operate] with that Transmission Owner [and such other Transmission Owners as is necessary], in the carrying out of Tests on the [*Transmission Owner's Transmission System* or such parts thereof].<sup>1</sup>

1.2 For the purposes of this section [●]:

**"Tests"**

means tests involving simulating conditions on the controlled application of irregular, unusual or extreme conditions on the [Transmission System] or any part of the [Transmission System, or any other tests of a minor nature], but which do not include commissioning or decommissioning tests]<sup>2</sup>.

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<sup>1</sup> Further consideration to be had as to whether tests on other communications links, systems and processes relevant to the operation of the Transmission System might be required.

<sup>2</sup> Definition is adapted from that contained in the Grid Code.

**30/09/03 – Ofgem/DTI are to review the CUSC text set out below to take account of text in the forthcoming consultation document on the CUSC under BETTA.**

### **Requirement to enter into Interface Agreement**

#### **[FOR INCLUSION IN THE CUSC:**

##### **1. Interface Agreement**

- 1.1 NGC shall [as soon as reasonably practicable [and in any event not later than signature]] of a Bilateral Connection Agreement with a User pursuant to the CUSC, notify such Transmission Owner(s) as to the Connection Site(s) and New Connection Site(s) identified in that Bilateral Connection Agreement, and of the User's obligation under paragraph [●] in relation to that Bilateral Connection Agreement.
- 1.2 The User undertakes to enter into an Interface Agreement with relevant Transmission Owner(s) in a form to be agreed between them but based substantially on the form set out in Schedule [●] as appropriate in relation to Connection Site(s) and New Connection Site(s) where Interface Agreement(s) is/are required pursuant to the applicable Bilateral Connection Agreement or otherwise<sup>1</sup>.
- 1.3 Where the User is unable to reach agreement with the relevant Transmission Owner regarding the provisions to be contained in an Interface Agreement pursuant to paragraph [●], the User shall use its best endeavours to agree on any matters so as to conclude that Interface Agreement, failing which the User shall promptly refer the matter for determination by the Authority at the Authority's discretion (unless the Transmission Owner has already made such referral pursuant to its equivalent obligations under the STC).

***[Definitions remain as per CUSC. Definitions of Transmission Owner and STC also required]***

#### **PROVISION FOR INCLUSION IN STC:**

##### **1. Interface Agreement**

- 1.1 NGC shall [as soon as reasonably practicable [and in any event not later than signature]] of a Bilateral Connection Agreement with a User pursuant to the CUSC, notify the relevant Transmission Owner of the requirement to enter into an Interface Agreement pursuant to

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<sup>1</sup> Based on the existing CUSC wording at 2.11.

paragraph [●] [and of any other Information that may be required by the Transmission Owner in order for the Transmission Owner to discharge its obligations under paragraph [●]]<sup>2</sup>.

- 1.2 Each Transmission Owner undertakes to enter into an Interface Agreement with relevant User(s) in a form to be agreed between them but based substantially on the form set out in Schedule [●] as appropriate where Interface Agreement(s) is/are [required pursuant to the applicable Bilateral Connection Agreement entered into by the User pursuant to the CUSC or otherwise and notified to the Transmission Owner in writing by NGC under paragraph [●]].
- 1.3 Where a Transmission Owner is unable to reach agreement with the relevant User regarding the provisions to be contained in an Interface Agreement pursuant to paragraph [●], the Transmission Owner shall use its best endeavours to agree on any matters so as to conclude that Interface Agreement, failing which the Transmission Owner shall promptly refer the matter for determination by the Authority at the Authority's discretion (unless the User has already done so pursuant to its equivalent obligations under the CUSC).

For the purposes of this section [●]:

<b>["Bilateral Connection Agreement"</b>	means an agreement of that name entered into by NGC and a User pursuant to the CUSC;
<b>["Information"</b>	includes any documents, accounts, estimates, returns, records or reports and data in written, verbal or electronic form and information in any form or medium whatsoever but does not include any such items or information as are in the public domain] <sup>3</sup>
<b>"Interface Agreement"</b>	means an agreement entered into pursuant to paragraph [●];

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<sup>2</sup> It is assumed for the present that TOs will not receive a copy of the Bilateral Connection Agreement.

<sup>3</sup> This is the definition used in the current draft "Provision of Information" text.



## CUSC BACK OFF PROVISIONS

***The following covers back-off of provisions 1-11 of the CUSC. Further back-off will be required in respect of the exhibits and schedules. Definitions are included at the end of this section.***

***Note that the following text is based on the June 2003 consultation draft of the CUSC and is subject to review accordingly.***

***It is anticipated that the following sections will be inserted in the Transmission Planning section of the STC.***

### **1. Transmission Owner Obligations<sup>1</sup>**

Each Transmission Owner agrees with NGC to make available, plan, develop, operate and maintain its Transmission System in accordance with its [Transmission Licence] [subject to any Derogations from time to time].

[Note: Language will depend on manner in which equivalent licence obligations are expressed. Also need to consider impact of limitations and exclusions of TOs' obligations in licences]

### **2. [Principles of Ownership]<sup>2</sup>**

***Further consideration on TO/TO and TO/SO ownership boundaries is required.***

2.1 For the purpose of planning [the][a] [Transmission System] pursuant to section [X] of this Code [and subject to any [Transfer Scheme]<sup>3</sup> or any other agreement between NGC and a User<sup>4</sup>] division of ownership in relation to Plant and Apparatus located between a Transmission Owner's Transmission System and a User's Equipment] shall be at the electrical boundary, such boundary to be determined in accordance with the following principles:

2.1.1 in relation to Plant and Apparatus located between the Transmission System and a [Power Station], the electrical boundary is at the busbar clamp on the busbar side of the busbar isolators on [Generators] and [Power Station] transformer circuits;

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<sup>1</sup> Equivalent to Paragraph 6.2 CUSC

<sup>2</sup> This backs off section 2.12.1 CUSC setting out the boundary of ownership between TO and User assets. It is acknowledged that the STC may also need to specify the boundary of ownership that resides between TOs (initially it is felt that the default position would be geographical as per their licensed area) and between a TO and the Transmission System. Further consideration of these two interfaces is required.

<sup>3</sup> Query relevance. TBD.

<sup>4</sup> Note the protection incorporated in paragraph 2.3 that avoids the need to specify individual agreements here.

- [2.1.2 in relation to Plant and Apparatus located between the Transmission System and a [Power Station] [and forming part of the Transmission System] but designed for a voltage of 132KV or below, the electrical boundary is at the busbar clamp on the busbar side of the busbar isolators on [Generators] and [Power Station] transformer circuits;]
- 2.1.3 save as specified in paragraph [2.1.4] below, in relation to Plant and Apparatus located between the Transmission System and a [Distribution System], the electrical boundary is at the busbar clamp on the busbar side of the [Distribution System] voltage busbar selector isolator(s) of the Transmission System circuit or if a conventional busbar does not exist, an equivalent isolator. If no isolator exists and agreed bolted connection at or adjacent to the tee point shall be deemed to be an isolator for these purposes;
- 2.1.4 in relation to Plant and Apparatus located between the Transmission System and a [Distribution System] and forming a part of the Transmission System but designed for a voltage of 132KV or below, the electrical boundary is at the busbar clamp on the busbar side of the busbar selector isolator on the [Distribution System] circuit or, if a conventional busbar does not exist, an equivalent isolator. If no isolator exists, an agreed bolted connection at or adjacent to the tee point shall be deemed to be an isolator for these purposes;
- 2.1.5 in relation to Plant and Apparatus located between the Transmission System and the system of a [Non-Embedded Customer], the electrical boundary is at the clamp on the circuit breaker side of the cable disconnections at the [Non-Embedded Customer's] sub-station;
- [2.1.6 in relation to Plant and Apparatus located between the Transmission System and the system of a Non-Embedded Customer [and forming part of the Transmission System] but designed for a voltage of 132KV or below, the electrical boundary is at the clamp on the circuit breaker side of the cable disconnections at the [Non-Embedded Customer's] sub-station; and]
- 2.1.7 in the case of a metal clad switchgear bay the electrical boundary will be the equivalent of those specified in this paragraph [2.1] save that:
- (a) for rack out switchgear, the electrical boundary will be at the busbar shutters;
  - (b) for SF6 switchgear, the electrical boundary will be at the gas zone separators on the busbar side of the busbar selection devices.]

2.2 For the avoidance of doubt nothing in this paragraph [1] shall effect any transfer of ownership in any Plant and Apparatus.

3. **Commissioning and on-load testing<sup>5</sup>**

3.1 Transmission Owners shall, where requested by NGC, assist with the commissioning and on-load testing of a User's Equipment or equipment for which a User is responsible<sup>6</sup>.

3.2 NGC shall pay [reasonable charges] to such Transmission Owner in respect of any assistance provided pursuant to paragraph [3.1]<sup>7</sup>.

4. **[Derogated Plant<sup>8</sup>**

4.1 Transmission Owners shall, where requested by NGC, carry out such works as are necessary to ensure that each of its [Derogated Plant and Apparatus]<sup>9</sup> is brought up to the Required Standard applicable to it no later than the Back-Stop Date provided for in the relevant Derogation.<sup>10]</sup>

5. **[Interpretation**

5.1 For the purposes of this section [●]:

***Note that the following definitions are based on those contained in the draft annex to the current CUSC consultation and will need to be reviewed as against advances in STC definitions. As can be seen, there are a large number of interdependent definitions – further discussion will be required as to whether we want to maintain such a close connection between the two documents, or whether we would be happy with more general wording that does not trace across the obligations to the letter under the STC.***

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<sup>5</sup> This provision backs-off section 3.2.5 CUSC (3.2.6 in draft annex to CUSC consultation). At the STEG meeting on 2<sup>nd</sup> July it was suggested that this provision may well be caught in the IP processes being developed by one of the STEG groups. The provision is therefore only included for the present pending further outputs from this workstream. Where it is determined that a specific back-off is required, then this may well be better placed in the investment planning section of the STC.

<sup>6</sup> Query how health and safety/access to premises issues will be dealt with in this event. TBD.

<sup>7</sup> To consider further how the TOs should be remunerated for this activity under the STC. In the CUSC these form a part of the "NGC Charges".

<sup>8</sup> Back-off of section 6.3.4 CUSC.

<sup>9</sup> Further consideration to be had as to whether "Transmission Assets" is wide enough.

<sup>10</sup> Ofgem is currently considering its position on this paragraph in particular and it is possible that this will be removed.

<b>"Apparatus"</b>	means all equipment in which electrical conductors are used, supported or of which they may form a part;
<b>["Authorised Electricity Operator"</b>	means a person who is authorised to generate, participate in transmission, distribute or supply electricity and shall include any person who has made an application to be so authorised which application has not been refused and any person transferring electricity to or from or across Great Britain or any part thereof or to or from across an interconnector which has not been refused; <b><i>this is based on the current G,D,S wording but is currently under review in the transmission licensing workstream</i></b> ]
<b>"Back-Stop Date"</b>	means in relation to a [Derogated Transmission Asset,] the date by which it is to attain its Required Standard, as specified in or pursuant to the relevant Derogation;
<b>"Connection Site"</b>	<b><i>[TBD – CUSC definition refers to locations more particular described in the relevant bilateral agreement between NGC and User pursuant to the CUSC that will not be entered into by the TO]</i></b>
<b>"CUSC"</b>	means the Connection and Use of System Code required to be in place pursuant to the Transmission Licence Conditions, as from time to time modified;
<b>"CUSC Framework Agreement"</b>	has the same meaning as contained in the Transmission Licences;
<b>"CUSC Implementation Date"</b>	means 00.01 on the 18 September 2001;
<b>"Customer"</b>	means a person to whom electrical power is provided (whether or not he is the provider of such electrical power) other than power to meet Station Demand of that person;
<b>["Derogation"</b>	means a direction issued by the Authority relieving a Transmission Owner from the obligation under its

Licence to comply with such parts of the STC as may be specified in such direction and "Derogated" shall be construed accordingly;]

**["Derogated Plant and Apparatus"** means a Transmission Asset which is the subject of a Derogation;]

**"Distribution Code"** means the distribution code(s) drawn up pursuant to [Distribution Licences] as from time to time revised in accordance with such licences **"Distribution Licence"** means a licence issued under section 6(1)(c) of the Act;

**["Distribution System"** means the system consisting (wholly or mainly) of electric lines owned or operated by an authorised distributor and used for distribution of electricity from grid supply points or generation sets or other entry points to the points of delivery to Customers or [Authorised Electricity Operators or NGC]<sup>11</sup> if the Transmission System and includes any [remote transmission assets (owned by NGC within England and Wales) [in accordance with this Code] operated by such distributor any electrical plan, meters and metering equipment owned or operated by such distributor in connection with the distribution of electricity, but shall not include any part of the Transmission System] – ***this is based on the current G,D,S wording which is currently under review***];

**"Generating Unit"** means unless otherwise provided in the Grid Code any [Apparatus] which produces electricity;

**"Generator"** means a person who generates electricity under the Act;

**"Non-Embedded Customer"** means a Customer except for a Public Distribution System Operator receiving electricity direct from the

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<sup>11</sup> Currently being considered in the Transmission Licensing workstream.

Transmission System irrespective of from who it is supplied;

**"Power Station"**

means an installation comprising one or more Generating Units (even where sited separately) owned and/or controlled by the same Generator, which may reasonably be considered as being managed as one Power Station;

**"Public Distribution System**

**Operator"**

means a holder of a Distribution Licence who was holder, or is a successor to a company which was the holder of a Public Electricity Supply Licence relating to distribution activities in England and/or Wales on the CUSC Implementation Date;

**"Public Electricity Supply**

**Licence"**

means a licence issued under section 6(1)(c) of the Act prior to the coming into force of section 30 of the Utilities Act 2000;

**"Required Standard"**

means in relation to a [Derogated Transmission Asset], the respective standard required of that [Transmission Asset] as specified in or pursuant to the relevant Derogation;

**"Station Demand"**

means in respect of any generating station and Generator, that consumption of electricity (excluding any supply to any Customer of the relevant Generator who is neither such Generator nor a member of a qualifying group of which such Generator is a part) from the Transmission System or a Distribution System at premises on the same site as such generating station, with premises being treated as on the same site as each other if they are:

- (i) the same premises;
- (ii) immediately adjoining each other;

(iii) separated from each other only by road, railway or watercourse or by other premises (other than a pipeline, electric line or similar structure) occupied by the consumer in question or by any other person who together with that consumer forms a qualifying group; and for the purpose of this definition "generating station" and "qualifying group" shall have the meanings given those expressions when used in the Electricity (Class Exemptions from the Requirement for a Licence) Order 1990;

["Transfer Date"

means "24.00" hours on 30<sup>th</sup> March 1990;]

["Transfer Scheme"

means schemes made under sections 65 and 66 of the Act and effected on the Transfer Date;]<sup>12</sup>

"User"

means a person who is a party to the CUSC Framework Agreement other than NGC;

**For further consideration:**

**The following contains a note of those CUSC provisions that are currently under review with respect to the back-off needed for reference purposes only.**

- Section 4 CUSC – extent to which it will be necessary for the TOs to make assumptions about the level of services provided by the user to the GBSO in order that the TOs can be assured of meeting the planning aspects of relevant standards. Licensees were requested to consider this further at a recent STEG meeting and their thoughts on this would be welcomed.
- Sections 6.7.3 and 6.7.7 CUSC. The licensees thoughts on what may be required here would be welcomed.
- Section 9.6 CUSC regarding the permitting of transfers of electricity onto or off the Transmission System. It is not felt that any specific back-off is required in the STC since TOs will be constrained by way of their licence not to enter into an agreement with a person other than in accordance with the STC for the transfer of electricity and the limitations on TOs. Limits are also imposed on TOs

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<sup>12</sup> These definitions unlikely to be applicable now. TBD necessity of retaining reference to transfer of property of area board and generating board.

via the operational availability of assets provision of the STC that mean that a specific back-off is not felt to be necessary.



## BLACK START<sup>1</sup>

### 1. Black Start

- 1.1 The Parties shall have in place and comply with a Code Subsidiary Document setting out the information and assistance required from Transmission Owners so that NGC can implement a Black Start<sup>2</sup>.
- 1.2 In the event of a Total Shutdown or Partial Shutdown, NGC will, as soon as reasonably practical, inform Transmission Users (or, in the case of a Partial Shutdown, Transmission Owners which in NGC's reasonable opinion need to be informed) that a Total Shutdown, or, as the case may be, a Partial Shutdown, exists and that NGC intends to implement a Black Start.
- 1.3 For the purposes of this section [●]:

***All definitions are based on those contained in the Grid Code and therefore subject to review.***

**"Black Start"** means the process necessary for a recovery from a Total Shutdown or Partial Shutdown;

**"External Interconnections"** means apparatus for the transmission of electricity to or from the Transmission System into or out of an [External System]. For the avoidance of doubt, External Interconnection may comprise several circuits opening in parallel;

**"Partial Shutdown"** means the same as a Total Shutdown except that all generation has ceased in a separate part of [the Transmission System] and there is no electricity supply from [External Interconnections] or other parts of [the Transmission System] to that part of [the Transmission System] and, therefore that part of [the Transmission System] is shutdown, with the result that it is not possible for that part of [the

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<sup>1</sup> This provision is based on clause OC9.4.6 of the Grid Code.

<sup>2</sup> Directions required in the implementation of Black Start may be given to TOs by NGC pursuant to the section of the STC requiring TOs to comply with NGC directions to reconfigure the Transmission System.

Transmission System] to begin to function again without NGC's directions relating to Black Start;

**"Total Shutdown"**

means the situation existing when all generation has ceased and there is no electricity supply from [External Interconnections] and, therefore, [the Transmission System] has shutdown with the result that it is not possible for [the Transmission System] to begin to function again without NGC's directions relation to Black Start.

## REMOVAL OF FUSES

**Note:** *This provision only deals with an aspect of de-energisation. The assumption is that energisation action generally will be covered in normal configuration - hence the SO will have the right to instruct the TO to de-energise as a consequence of its right to direct configuration.*

### 1. Removal of Fuses

1.1 On notification<sup>1</sup> from NGC, a Transmission Owner shall promptly take such steps as are required according to NGC's instructions in order to:

(a) remove fuses associated with the flow of electricity to or from the Transmission Owner's Transmission System<sup>2</sup> or through [Code Party] User Equipment<sup>3</sup> [at the specified points]; or

(b) reinstate fuses removed under sub-paragraph (a).

1.2 For the purposes of this paragraph [●]:

**"Code Party Equipment"** has the meaning as set out in Section [● cross-reference to CUSC Back-Off provision definitions].

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<sup>1</sup> Further consideration to be had with regard to the manner in which communications/notices and instructions should be made in the STC generally.

<sup>2</sup> Distribution systems not referred to here, not being relevant to STC

<sup>3</sup> This clause is based on the definition of "De-energisation" in the CUSC. However note that the BSC definition is more specific since it relates to such action being taken at the "Boundary Point or System Connection Points (or the Plant or Apparatus connected to any System at such point)".

## Transmission Planning

### 1.1 The Production of Transmission Plans

1.1.1 Each Transmission Owner shall produce in accordance with this section [•], a plan in relation to its Transmission Owner Services<sup>1</sup> made available to NGC pursuant to **[cross-reference to operational availability of assets provisions]** to cover the next seven financial years, specifying for each year, in such level of detail as is reasonable at that given time in accordance with **[sub-code •]**<sup>2</sup>:

- (i) a brief description of the Transmission Owner Services to be made available to NGC under paragraph [1.1] of section **[cross reference to operational availability section]** (referred to as "**Planned Transmission Owner Services**");
- (ii) a technical specification including Normal Capability Levels<sup>3</sup> (where relevant) in the form set out in the Availability Specification<sup>4</sup> required pursuant to section **[reference to operational availability section]** for those Planned Transmission Owner Services falling under (i) and existing Transmission Owner Services;
- [(iii) an indication of the works required in respect of Transmission Outages agreed pursuant to section [•]<sup>5</sup> or otherwise required in relation to Planned Transmission Owner Services, [including following an Availability Change under section **[reference to operational availability of assets section]** (referred to as the "**Planned Works**");]
- (iv) [to the extent that Transmission Owners have information available to them,] an indication of the [material] impact of an installation or removal of Planned Transmission Owner Services on [Users and other Transmission Owners] and [the] [its] Transmission System] pursuant to the Planned Works;

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<sup>1</sup> See Operational Availability of Transmission Assets section for defined term.

<sup>2</sup> It is acknowledged that the detail of the information provided will vary depending upon the timescale in which it is being provided. The intention is that sufficient information will be provided in each timescale such that the affected parties can satisfy themselves that the proposals are reasonable given the other information they have about the future state of the transmission system.

<sup>3</sup> See Operational Availability of Transmission Assets section for defined term.

<sup>4</sup> See Operational Availability of Transmission Assets section for defined term.

<sup>5</sup> Reference to the Transmission Outage Planning section and definition.

- [(v) an indication of the impact that the Planned Works will have on the Operational Capability Levels<sup>6</sup> of the Transmission Owner Services; and
- (vi) a brief description of any other [intended] changes to its Transmission Owner Services [and its Transmission System] as may have an impact on its obligations to do such things as are necessary to enable NGC to [co-ordinate, direct and configure] the Transmission System pursuant to section **[cross-reference to para 1 of operational availability of assets section]**.

(referred to as "**Transmission Asset Plan**")<sup>7</sup>.

## **1.2 Joint and Bilateral Development of Transmission Planning**

- 1.2.1 N.B: This section 1.2.1 is intended to capture those things which need to be determined by the Parties up front before the standard transmission asset plan planning stages or any discussions under 1.2.2 can be progressed.

In establishing the basis for development of a Transmission Plan, the Parties shall in advance agree the:

- 1.2.1.1 formulation of joint planning assumptions for the information to be contained in Transmission Plans *[insert description/scope]* (referred to as "Planning Assumptions"); and
- 1.2.1.2 arrangements for co-ordination between the Parties in order to develop Transmission Plans.

**[:** In formulating the Planning Assumptions, the Parties shall have due regard to their own statutory duties and Transmission Licence Conditions and the statutory duties and Transmission Licence Conditions of the other Parties].

- 1.2.2 Subject always to section 1.2.1 above, the duties of confidentiality on the Parties under section **[cross reference to general confidentiality/information exchange provisions in the code]**, the Parties shall thereafter meet to consider, having due regard to their own statutory duties and Transmission Licence Conditions and the statutory duties and Transmission Licence Conditions of the other Parties and the

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<sup>6</sup> See Operational Availability of Transmission Assets section for defined term.

<sup>7</sup> The Seven-Year Statement will be dealt with elsewhere in the STC and via a Licence Condition on the SO with a back-off condition on the TO.

Planning Assumptions, matters relevant to the formulation by each Transmission Owner of their Transmission Plan, including without limitation:

- 1.2.2.1 co-ordination and interactions between the Transmission Plans of each Transmission Owner and any amendment thereto;
- 1.2.2.2 any alternative options raised by Transmission Owners in respect of their own Transmission Plan; and
- 1.2.2.3 agreement of any amendments to the Planning Assumptions.

### **1.3 Transmission Planning Data and Exchange**

- 1.3.1 On or before week [28] of each calendar year, NGC shall submit to each of the Transmission Owners such categories of information as it has received from Users pursuant to [Parts 1 and 2 of the Appendix] to the Planning Code within the Grid Code, and such other information that the Transmission Owner reasonably requires for the development of its Transmission Plan [as agreed in advance between the relevant Transmission Owner and NGC]<sup>8</sup>.
- 1.3.2 Each Transmission Owner shall submit to NGC (at such times and with such frequency as is agreed in advance between the relevant Transmission Owner and NGC) such data and information regarding the Planned Transmission Owner Services and the Planned Works or otherwise as shall be reasonably required by NGC in order for NGC to review Transmission Asset Plans produced pursuant to paragraphs [1.4] and [1.5] respectively and to participate in any discussions pursuant to paragraph [1.2].

### **1.4 Preliminary Transmission Asset Plan**

- 1.4.1 On or before [•], in each financial year, each Transmission Owner shall, taking into account discussions pursuant to paragraph [1.2.2] and having due regard to [the Planning Assumptions] and its own statutory duties and Transmission Licence Conditions and the statutory duties and Transmission Licence Conditions of the other Parties, develop and issue to NGC, and to the other Transmission Owners as appropriate, a preliminary Transmission Plan (referred to as "**Preliminary Transmission Plan**").

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<sup>8</sup> It is acknowledged that only information relating to the relevant TO will be so provided, and shall be limited to what a Transmission Owner reasonably wants and requires. Provision will be made elsewhere in the STC relating to exchange of confidentiality more generally.

1.4.2 Notwithstanding the opportunity to raise a dispute under paragraph [1.4.3] below, a Party may submit suggestions and requests for amendments in respect of its Preliminary Transmission Plan to the relevant Transmission Owner by way of discussions pursuant to paragraph [1.2.2] [or otherwise as agreed between the relevant Parties].

**1.4.3** A Party shall have a period of [●] weeks from receipt of a Preliminary Transmission Plan in which it may raise a dispute in accordance with paragraph [●] (referred to as "**Transmission Plan Dispute**"), but may only do so on the grounds that the given Preliminary Asset Plan [is inconsistent with or] materially adversely affects the ability of that Party to develop and maintain an efficient, co-ordinated and economical system of electricity transmission in Great Britain [or the Planning Assumptions – **These should be consistent with GG so remove – in which case needed in 1.2.1?**].

## **1.5 Initial Transmission Plan [~~–need to confirm use of "Initial"~~]**

1.5.1 On or before [●], in each financial year, each Transmission Owner shall develop and issue to all Parties [and the Authority] a [baseline (**need to: consider whether reference to this term here is still of some use**)] Transmission Plan (referred to as "**Initial Transmission Plan**") [in accordance with procedure [●]], [taking into account the [the Planning Assumptions], the outcome of any Transmission Planning Dispute pursuant to paragraph [1.4.3] above (if any), discussions had pursuant to paragraph [1.2.2], and having due regard to its own statutory duties and Transmission Licence Conditions, and the statutory duties and Transmission Licence Conditions of the other Parties.

1.5.2 Any Transmission Planning Dispute raised pursuant to paragraph [1.4.3] above shall not prevent a Transmission Owner from issuing their Initial Transmission Plan under paragraph [1.5.1] pending determination of such Transmission Planning Dispute under section [1.7] provided that the Transmission Owner shall amend its Initial Transmission Plan and shall reissue it to the Parties as soon as practicable upon such determination.

1.5.3 Within a period of [●] weeks from receipt of an Initial Transmission Plan, a Party may raise a Transmission Plan Dispute, but may only do so on the grounds that the Initial Transmission Plan [is inconsistent with or] materially adversely affects the ability of that Party to develop and maintain an efficient, co-ordinated and

economical system of electricity transmission in Great Britain][or the Planning Assumptions – **See comment above**].

## **1.6 Review and Update of Initial Transmission Plans**

- 1.6.1 Each Transmission Owner shall ensure that its Initial Transmission Plan is kept under review at all times and, as soon as it becomes aware of the need for an amendment to its Initial Transmission Plan (including by way of notification from NGC to that effect), shall notify the Parties in writing of the need for such amendment (referred to as "**Transmission Plan Change Proposal**").
- 1.6.2 The Parties, having due regard to the discharge of their own statutory duties and Transmission Licence Conditions and the statutory duties and Transmission Licence Conditions of the other Parties], shall co-ordinate by way of discussions pursuant to paragraph [1.2.2] in order to enable the accommodation of a Transmission Plan Change Proposal.
- 1.6.3 Within a period of [•] weeks<sup>9</sup> from receipt of a Transmission Plan Change Request, a Transmission Planning Dispute may be raised, but only on the grounds that a Party considers that the accommodation of the Transmission Asset Plan Change Proposal [is inconsistent with or] materially adversely affects the ability of that Party to develop and maintain an efficient, co-ordinated and economical system of electricity transmission in Great Britain.
- 1.6.4 Notwithstanding the right to raise a Transmission Plan Dispute under paragraph [1.6.3], a Party may raise a Transmission Plan Dispute on the grounds that a Transmission Owner has failed to make a Transmission Plan Change Proposal as required pursuant to paragraph [1.6.1].
- 1.6.5 Where no Transmission Plan Dispute has been raised within the timeframe set out in paragraph [1.6.3], the Transmission Owner may amend and reissue its Initial Transmission Plan accordingly to reflect the Transmission Plan Change Proposal.

## **1.7 Transmission Planning Dispute<sup>10</sup>**

- 1.7.1 A Party seeking to raise a Transmission Planning Dispute under paragraphs [1.4.3], [1.6.3] or [1.6.4] must do so [within **consider need for time limits**], by notice in

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<sup>9</sup> Further consideration is to be had as to the appropriateness of time limits for disputes.

<sup>10</sup> This dispute mechanism is based loosely on that contained in part 7.3.1 CUSC in respect of charging disputes.



writing<sup>11</sup> giving details of the dispute and served on the other Parties [and the Authority]. A representative of NGC and each of the Transmission Owners concerned, who has authority to resolve the Transmission Planning Dispute, shall meet (including by teleconference) [within 10 Business Days<sup>12</sup>] of the date of such notice (or within such longer period as may be agreed) and use their best endeavours to seek to resolve it.

- 1.7.2 If the Parties are unable to resolve the Transmission Planning Dispute within [10 Business Days] (or within such longer period as they may agree within that initial [10 Business Day period]) of the meeting or discussion referred to in paragraph [1.7.1], the Transmission Planning Dispute shall, at the option of any of the Parties, be referred to the Authority for determination.

***[It is recognised that provisions contained in the Transmission Outages section may have a consequential impact here, and that provision may be required to deal with this. Further consideration is also to be had as to how this section will feed into the Operational Availability of Assets section.]***

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<sup>11</sup> Consideration may need to be had to procedures to determine the manner and form in which submissions are made to the Authority.

<sup>12</sup> Further consideration is to be had on the appropriateness of the time limits included in dispute resolution provisions.

## 1. SEVEN YEAR STATEMENT

### 1.1 Preparation of Seven Year Statement

- 1.1.1 NGC shall when seeking the approval of the Authority for a form of seven year statement pursuant to [condition [●] of] its Licence Conditions<sup>1</sup> ("**Seven Year Statement**"), consult with each Transmission Owner and take into account any concerns that a Transmission Owner may have regarding changes to the costs it would incur to its [Transmission Business] by way of complying with its obligations under clause 1.1.2 as a consequence of a change in the form of Seven Year Statement.
- 1.1.2 NGC shall agree with each Transmission Owner a programme of works required of that Transmission Owner in order to support NGC in NGC's preparation of a Seven Year Statement ("**Programme of Works**") and that Transmission Owner shall then carry out such activities as are specified therein. In the event that NGC and a Transmission Owner are unable to agree a Programme of Works then, subject to its right to raise a dispute under paragraph [1.1.4], the Transmission Owner shall carry out such Programme of Works as NGC may specify.
- 1.1.3 NGC shall provide each Transmission Owner with such parts of the initial draft text of the Seven Year Statement that it prepares which are of relevance to that Transmission Owner and liaise with them in order to agree amendments to the initial draft text of the Seven Year Statement following receipt of any responses that the Transmission Owner may provide to NGC in accordance with [sub-code [●]<sup>2</sup>]. In the event that NGC and a Transmission Owner are unable to agree amendments to the initial draft text of the Seven Year Statement under this paragraph [1.1.3] then, subject to the Transmission Owner's right to raise a dispute under paragraph [1.1.4], NGC's proposals regarding such amendments shall prevail.
- 1.1.4 Where Parties fail to reach an agreement pursuant to paragraphs [1.1.2] or [1.1.3], a Transmission Owner may raise a dispute under paragraph [1.2], but may only do so on the grounds that [any resulting decision taken by NGC materially adversely affects the ability of that Transmission Owner to develop and maintain an efficient,

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<sup>1</sup> Ofgem/DTI is not currently planning to make any substantial changes to NGC's licence condition in relation to the SYS but it should be noted that this STC provision will need to be reviewed in the light of any changes to the licences.

<sup>2</sup> Sub-code to set out time limits for submissions etc.

co-ordinated and economical system of electricity transmission in Great Britain] ("**Seven Year Statement Dispute**").

## 1.2 **Seven Year Statement Dispute**

- 1.2.1 A Transmission Owner seeking to raise a Seven Year Statement Dispute under paragraph [1.1.4] must do so [within ***consider need for time limits***<sup>3</sup>], by notice in writing giving details of the dispute and served on NGC [and the Authority]. A representative of NGC and the Transmission Owner concerned, who has authority to resolve the Seven Year Statement Dispute, shall meet (including by teleconference) [within 10 Business Days] of the date of such notice (or within such longer period as may be agreed) and use their best endeavours to seek to resolve it.
- 1.2.2 If the Parties are unable to resolve the Seven Year Statement Dispute within [10 Business Days] (or within such longer period as they may agree within that initial [10 Business Day period]) of the meeting or discussion referred to in paragraph [1.2.1], the Seven Year Statement Dispute shall, at the option of either of the Parties concerned, be referred to the Authority for determination.

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<sup>3</sup> Ofgem specifically requests licensees' comments as to whether time limits are appropriate.

## Payments and Billing

### 1. TO Charges

- 1.1 Each Transmission Owner shall invoice NGC for and NGC shall pay to each Transmission Owner TO Charges in accordance with the provisions of this section [●].<sup>1</sup>
- 1.2 The TO Charges shall comprise the following:
- 1.2.1 charges for provision of Transmission Services, other than those services referred to in Part [●] of Schedule [●] (referred to as "**TO General System Charges**"); and
  - 1.2.2 charges specified in Part [●] of Schedule [●] (referred to as "**TO Site-Specific Charges**").
- 1.3 Each Transmission Owner shall determine its TO General System Charges in accordance with Part [●] of Schedule [●].
- 1.4 Each Transmission Owner shall determine its TO Site-Specific Charges in accordance with Part [●] of Schedule [●].

### 2. Invoicing and Payment

- 2.1 Each Transmission Owner will invoice NGC for TO Charges, due under the Code, in the following manner:
- 2.1.1 in the case of recurrent monthly charges the Transmission Owner shall despatch an invoice on or before the 15th day of the month for the charges due in relation to that month;
  - 2.1.2 unless otherwise specified in the Code, where charges are payable other than monthly, the Transmission Owner shall despatch an invoice not less than 30 days prior to the due date for payment.
- 2.2 NGC shall pay TO Charges due to NGC under the Code, in the following manner:
- 2.2.1 in the case of recurrent monthly charges on the 15th day of the month in which the Transmission Owner's invoice therefor was despatched (if despatched on the first

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<sup>1</sup> Note that further consideration to be given to the appropriate review provisions to apply (eg. equivalent to 2.15 and 3.13 of the CUSC).

day of that month) or, in all other cases, on the 15th day following the day that the Transmission Owner's invoice therefor was despatched unless, in any such case, the said date is not a Business Day in which case payment shall be made on the next Business Day;

2.2.2 unless otherwise specified in the Code where charges are payable other than monthly within 30 days of the date of NGC's invoice therefor.

2.3 All payments of TO Charges under this section [●] shall be made by the variable direct debit method, or such other form of bankers automated payment as shall be approved by the relevant Transmission Owner, to the account number, bank and branch specified by notice in writing from each Transmission Owner to NGC from time to time.

2.4 All sums payable by one Party to the other pursuant to this Code, whether of charges, interest or otherwise shall (except to the extent otherwise required by law) be paid in full, free and clear of and without deduction set off or deferment in respect of sums the subject of any disputes or claims whatsoever save for sums the subject of a final award or judgement (after exhaustion of all appeals if this opportunity is taken) or which by agreement between those Parties may be so deducted or set-off.

2.5 All TO Charges under this section [●] are exclusive of VAT which shall be added to such charges, if applicable.

2.6 Each Transmission Owner shall provide such bank account information as NGC reasonably requires from time to time in order to process payments from NGC to the Transmission Owner made in accordance with this section [●].

3. ***[Metering and Data Exchange Requirements]***

4. **[Disputes<sup>2</sup>**

4.1 If NGC disputes any amount shown in an invoice or statement as payable by it in respect of any TO Charges, then NGC shall nevertheless pay the amount shown in full and may not withhold payment of such amount or any part thereof, but without prejudice to NGC's rights subsequently to dispute such invoice or statement subject to and in accordance with applicable provisions of this Code<sup>3</sup>.

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<sup>2</sup> Please note that the operation of dispute clauses within the STC is still under discussion. It is intended that there will be a general dispute resolution clause, and acknowledged that the provisions included here will need to be reviewed in the light of this.

<sup>3</sup> This is based on BSC, Section D, 6.3.1

- 4.2 [Where a dispute arises pursuant to paragraph [4.1], a representative of each of the parties concerned who has authority to resolve the dispute shall meet (including agreement by telephone) within [10 Business Days] of a request by either party (or within such longer period as may be agreed, acting reasonably) and seek to resolve it. If the parties to the dispute are unable to resolve it within [10 Business Days] of the meeting (or within such longer period as they may agree within that initial [10 Business Day] period, both parties acting reasonably as to the length of the period), then the parties' obligations under this paragraph to undertake such discussions shall no longer apply in relation to that dispute<sup>4</sup>].
- 4.3 Disputes relating to an alleged error in the accuracy or calculation of amounts invoiced in respect of TO Charges shall be referred by either party to an Expert in accordance with paragraph [*insert reference to general provision dealing with expert/procedures*]. For the avoidance of doubt, paragraph [4.2] above shall not apply in respect of disputes falling under this paragraph [4.3].
- 4.4 Subject to paragraph [4.2] above, all disputes in relation to TO Charges, other than those falling under paragraph [4.3] above (including but not limited to those relating to the composition, amount or method of payment of TO Charges), shall be referred by either party to the Authority for determination in accordance with [*insert reference to general dispute resolution clause here*].
- 4.5 Where the Expert or the Authority establishes, or it is determined, that:
- 4.5.1 any error has been made in the determination of the amounts payable by any party in respect of a TO Charge (whether such error resulted in over-payments or in under-payment by any such party) pursuant to paragraph []; or
  - 4.5.2 that any other amendment is required following determination of a dispute under paragraph [\*],

the Transmission Owner will make such adjustments as are determined or directed by the Expert or the Authority respectively to be relevant in respect of the TO Charges next (following such establishment or determination) [to be] payable in accordance with this Code by or to such Party or Parties, as will ensure that the correct amounts have been so paid<sup>5</sup>.

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<sup>4</sup> This is based on CUSC, Section 7.3.1, also see 7.4.1.

<sup>5</sup> This is adapted from BSC, Section D, 6.3., amended to reflect the suggested separation in charging dispute resolution processes.

4.6 No amount of interest shall be included in any adjustment under paragraph [•] unless otherwise ordered in any award of the Expert<sup>6</sup> [or the Authority].

4.7 Nothing in this section [•] shall be construed as preventing the Transmission Owner from withdrawing and replacing (with the same due date for payment) any invoice or other statement, before the due date for payment, by agreement with the party concerned, where the Transmission Owner is aware of any error in such invoice or statement.<sup>7</sup>

**5. Interest on late payment**

5.1 If any amount payable in respect of TO Charges is not paid on or before the due dates set out in paragraphs [•], [•] and [•] respectively, NGC shall pay interest, after as well as before judgment, at the Default Interest Rate<sup>8</sup>, on the unpaid amount from the due date until the day on which payment is made<sup>9</sup>.

***[Insert further clauses relating to failure to pay, emergency funding, reconciliations?]***

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<sup>6</sup> This is based on BSC, Section D, 6.3.4.

<sup>7</sup> This is based on BSC, Section D, 6.3.5.

<sup>8</sup> Defined as: "in relation to an Amount in Default, the Base Rate at the [due date] plus 2 per cent per annum".

Amount in Default is "all or any part of the amount due and payable from NGC to the Transmission Asset Owner which is not remitted to the relevant account in accordance with paragraph [•] and at any time thereafter, together with interest payable by NGC and less any amounts paid or recovered in respect of thereof at that time".

<sup>9</sup> This is based on BSC, Section D, 6.4.1.

## PROVISION OF INFORMATION

### 1. Provision of Information<sup>1</sup>

1.1 Pursuant to their respective rights and obligations under this Code and without prejudice to section [***cross reference to general confidentiality section and/or further information/data transfer sections***<sup>2</sup>]:

1.1.1 Transmission Owners shall not [knowingly] provide or otherwise disclose Information to other Transmission Owners or to any Subsidiaries, contractors or professional advisers of such Transmission Owners [or (subject to paragraph [1.2]), to any other person]<sup>3</sup>; and

1.1.2 NGC shall not [knowingly] provide or otherwise disclose Information to Transmission Owners or to any Subsidiaries, contractors or professional advisers of such Transmission Owners [or to any other person<sup>4</sup>],

except where specifically required or entitled to do so under this Code.

1.2 Nothing in paragraph 1.1.1 shall restrict the rights and obligations on Transmission Owners to provide information to NGC pursuant to this Code<sup>5</sup>.

### 2. Interpretation

2.1 For the purposes of this section [•]:

**"Information"** [includes any documents, accounts, estimates, returns, records or reports and data in written, verbal or electronic form and information in any form or medium whatsoever, but

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<sup>1</sup> Further consideration is required as to the CUSC back-off provisions that are needed to ensure consistency with the obligations in the CUSC.

<sup>2</sup> It may well be that following the drafting of these provisions and the work currently being undertaken by the STEG DGs, this general prohibition will not be required.

<sup>3</sup> As with other provisions of the STC, this will need to be revisited in order to establish how this effects provision of data to NGC in its capacity as TO.

<sup>4</sup> It will be necessary to specify in the STC/sub-code where NGC has a right to pass information received from TOs onto users under the STC.

<sup>5</sup> See footnote 3.



does not include any such items or information that are in the public domain;]

**"Subsidiary(ies)"**

means a subsidiary within the meanings of sections 736, 736A and 736B of the Companies Act 1985.

## DISPUTES

### 1. Introduction

- 1.1 This section sets out how Disputes under this Code are to be dealt with.
- 1.2 Subject to any contrary provision of the Act, any Transmission Licence and the Electricity Supply Regulations 1988 or any enactment or re-enactment thereof, and the rights, powers, duties and obligations of the Authority or the Secretary of State under the Act or Transmission Licence or otherwise howsoever, any Dispute or difference between the STC Parties shall be resolved as provided in the applicable section of this Code and this section [●].
- 1.3 For the purposes of this section [●]:

**"Dispute"** means as between the Parties: (a) a failure to reach agreement; or (b) a dispute as to proper performance or observance of this Code;

**"Dispute Parties"** means the Parties who are party to the Dispute;

**"Dispute Party Representative"** means the representative of a relevant Dispute Party who has proper authority to agree or settle the Dispute in question; and

**"Regulatory Interest"** means [●].

### 2. Referrals to Expert

- 2.1 Where Disputes are referred to an Expert pursuant to any provisions of this Code, the Dispute Parties shall procure that the Expert shall act as an expert and not as an arbitrator and shall be required to decide those matters referred to or reserved to him under this Code by reference to Good Industry Practice using his skill, experience and knowledge and with regard to such other matters as the Expert in his sole discretion considers appropriate.
- 2.2 Referral of any Dispute for resolution by an Expert under this Code pursuant to this paragraph [●] shall not preclude subsequent referral of such Dispute for resolution by the Authority where this is specifically provided for elsewhere in this Code. In the absence of any such referral, the Expert's decision shall be final and binding.
- 2.3 Subject as provided in any section of this Code stipulating referral of any Dispute to an Expert, the Expert shall use his best endeavours to give his decision upon the matter before him as soon as possible following its referral to him.

- 2.4 Unless otherwise provided in any section of this Code stipulating referral of any Dispute to an Expert, the Parties to a Dispute referred to an Expert under this paragraph [●] shall share equally the fees and expenses of the Expert.
- 2.5 For the purposes of this paragraph [●] "**Expert**" shall mean: *[under review]*.

### 3. **Referrals to the Authority**

- 3.1 Where a Dispute arises under this Code that is designated for referral to the Authority, the Dispute Party Representatives shall first meet (including by telephone) within [10 Business Days] of a request by either Dispute Party (or within such longer period as may be agreed by the Dispute Parties, acting reasonably) and seek to resolve it. If the Dispute Party Representatives are unable to resolve the Dispute within [10] Business Days of the meeting (or within such longer period as they may agree within that initial 10 Business Day period, both Dispute Parties acting reasonably as to the length of the period), then the Dispute Parties' obligations under this paragraph [●] to undertake such discussion shall no longer apply in relation to that Dispute. Either Dispute Party may then refer the Dispute to the Authority.
- 3.2 *[Detail of Authority process for determination to follow]*
- 3.3 The Authority's determination of a Dispute shall be final and binding.
- 3.4 It is expected that, in most cases, the Authority's determination of a Dispute will set out the effect of the determination in terms of any actions or other steps that the Dispute Parties should take. [To the extent that there is a Dispute between the Dispute Parties over the implementation of any such determination by the Authority (an "**Implementation Dispute**"), then any such Dispute Party may, subject again to the obligation to hold initial discussions in the same terms as under paragraph [●], refer the Implementation Dispute back to the Authority for determination].

### 4. **Intervention in Disputes**

- 4.1 Where, in pursuing an arbitration or Expert determination under the Code, it becomes apparent to any of the Dispute Parties that the Dispute concerns or includes a matter of Regulatory Interest [that Dispute Party shall, by justification in writing, request the Authority in its absolute discretion to take over and determine the Dispute or, where practicable, to determine the specific matter of Regulatory Interest].

4.2 If a Dispute required to be referred to the Authority pursuant to paragraph [●] above, contains issues which are entirely discrete from and can be determined without reference to issues of [Regulatory Interest] (the "**Discrete Issues**"), then resolution of the Discrete Issues may [subject to the approval of the Authority] continue in accordance with the relevant process under paragraphs [●] or [●] provided that if there are no Discrete Issues, the resolution of the Dispute shall be suspended until after determination by the Authority or otherwise as the Authority may direct.

## 5. **Referrals to Arbitration**

5.1 Where a Dispute arises under this Code that is designated for referral to arbitration and in all other Disputes unless otherwise specified in this Code, where a Dispute arises, the Dispute Party Representatives to such Dispute shall meet (including by telephone) within [10 Business Days] of a request by either Dispute Party (or within such longer periods as may be agreed by the Dispute Parties, acting reasonably) and seek to resolve it. If the Dispute Party Representatives are unable to resolve the Dispute within [10 Business Days] of the meeting (or within such longer period as they may agree within that initial [10 Business Day] period, both Dispute Parties acting reasonably as to the length of the period), then the Dispute Parties' obligations under this paragraph [●] to undertake such discussion shall no longer apply in relation to that Dispute. Either Dispute Party may then refer the Dispute to arbitration pursuant to the rules of the Electricity Arbitration Association in force from time to time.

5.2 *[Detail of arbitration provisions to follow]*

## **JURISDICTION AND GOVERNING LAW<sup>1</sup>**

### **1. JURISDICTION**

- 1.1 Subject to and without prejudice to section [**reference to disputes section**], the Parties irrevocably agree that the courts of England [and Wales]<sup>2</sup> are to have exclusive jurisdiction to settle any disputes which may arise out of or in connection with this Code and that accordingly any claim or action ("**Proceedings**") arising out of or in connection with this Code may be brought in such courts.
- 1.2 Each Party irrevocably waives any objection which it may have now or hereafter to the laying of the venue of any Proceedings in any such court as is referred to in this paragraph [ ] and any claim that any such Proceedings have been brought in an inconvenient forum and further irrevocably agrees that judgement in any Proceedings brought in the English [and Welsh] courts shall be conclusive and binding upon such Party and may be enforced in the courts of any jurisdiction.
- 1.3 [Each Party which is not incorporated in any part of England and Wales agrees that if it does not have, or shall cease to have a place of business in England and Wales, it will promptly appoint, and shall at all times maintain, a person in England and Wales irrevocably to accept service of process on its behalf in any Proceedings in England [and Wales].]<sup>3</sup>

### **2. GOVERNING LAW**

- 2.1 This Code shall be governed by and construed in accordance with English law save that, for the avoidance of doubt, the principle of *lex situs* shall apply in respect of immovable property to the effect that the law governing the place in which such immovable property is located shall apply for the purposes of this paragraph [●]<sup>4</sup>.

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<sup>1</sup> The approach taken in this draft mirrors the wording used in the CUSC and the policy decision agreed in recent STC meetings.

<sup>2</sup> Although the CUSC does not refer to Wales, it is the usual practice to do so and indeed the CUSC consultation paper refers to England and Wales in this respect.

<sup>3</sup> Policy to be confirmed regarding service of documents. This issue was not raised in the CUSC consultation regarding jurisdiction and governing law.

<sup>4</sup> It has been agreed that, although the principle of *lex situs* will apply as a matter of course in respect of immovable property and therefore it is not strictly necessary to include this in the provision, it is considered appropriate from a political and policy perspective to do so for clarification.

## LIMITATION OF LIABILITY

### Limitation of Liability

- 1.1 Subject to [paragraphs [•] and the provisions of Code Subsidiary Documents] and save where any provision of the Code or any Code Subsidiary Document provides for an indemnity, each Party agrees and acknowledges that no Party (the "**Party Liable**") nor any of its officers, employees or agents shall be liable to any of the other Parties not its officers, employees or agents (the "**Affected Party**") for loss arising from any breach of the Code or any Code Subsidiary Document, other than for loss directly resulting from such breach incurred by the Affected Party in respect of:
- 1.1.1 physical damage to the property of the Affected Party or its or their respective officers, employees or agents; and/or
  - 1.1.2 the liability of any such Affected Party to any other person including, but not limited to, any Code Party, its officers, employees or agents, for loss in respect of physical damage to the property of that or any other person,
- and which loss was at the date hereof reasonably foreseeable as not unlikely to occur in the ordinary course of events from such breach PROVIDED THAT with respect to paragraph 1.1.2 the Affected Party's right to claim for such loss shall be subject to the duty of the other person (referred to in paragraph 1.1.2) to mitigate such loss according to general law.
- 1.2 For the avoidance of doubt, nothing in this provision shall be taken to affect any duty of the Party Affected to mitigate its relevant loss or damage according to general law.
- 1.3 Nothing in this paragraph [1] or elsewhere in the Code shall exclude or limit the liability of the Party Liable or a Code Party or restrict the ability of an Affected Party to claim in respect of death or personal injury resulting from the negligence of the Party Liable or any of its officers, employees or agents or of any Code Party or any of its officers, employees or agents and the Party Liable shall indemnify and keep indemnified each of the other Parties, its officers, employees or agents from and against all such liability and any loss or liability which any such other Party may suffer or incur by reason of any claim on account of death or personal injury resulting from the negligence of the Party Liable or any of its officers, employees or agents.
- 1.4 In consideration of the rights conferred upon each of them under the Code, the right of any of the Transmission Owners to claim in negligence, other tort, or otherwise howsoever against a Code Party or any of that Code Party's officers, employees or agents in respect of any act or omission of such Code Party or any of its officers, employees or agents in relation to

obligations in or under any Code Framework Agreement is hereby excluded and each Transmission Owner agrees to waive its right to pursue any such claim.<sup>1</sup>

- 1.5 Subject and without prejudice to the provisions in paragraph 1.1, NGC accepts liability to a Transmission Owner for any loss arising from any act or omission of a Code Party or any of its officers, employees or agents under a Code Framework Agreement to the extent that the rights of the Transmission Owner to claim in respect of such act or omission directly from that Code Party are excluded and waived under paragraph 1.4.
- 1.6 Subject and without prejudice to the provisions in paragraphs 1.1 [and save where any provision of the Code provides for an indemnity<sup>2</sup>], neither the Party Liable nor any of its officers, employees or agents shall in any circumstances whatsoever be liable in relation to the Code or its obligations in the Code, to any of the other Parties for:
- 1.6.1 any loss of profit, loss of revenue, loss of use, loss of contract or loss of goodwill; or
  - 1.6.2 any indirect or consequential loss; or
  - 1.6.3 loss resulting from the liability of any other Party to any other person howsoever and whensoever arising, save as provided in sub-paragraphs [•].
- 1.7 The rights and remedies provided by the Code to the Parties are exclusive and not cumulative and exclude and are in place of all substantive (but not procedural) rights or remedies express or implied and provided by common law or statute in respect of the subject matter of the Code, including, without limitation, any rights any Party may possess in tort which shall include actions brought in negligence and/or nuisance. Accordingly, each of the Parties hereby waives to the fullest extent possible all such rights and remedies provided by common law or statute, and releases a Party which is liable to another (or others), its officers, employees and agents to the same extent from all duties, liabilities, responsibilities or obligations provided by common law or statute in respect of the matters dealt with in the Code and undertakes not to enforce any of the same except as expressly provided herein.
- 1.8 Save as otherwise expressly provided in the Code, this paragraph [1], insofar as it excludes or limits liability, shall override any other provision in the Code provided that nothing in this paragraph [1] shall exclude or restrict or otherwise prejudice or affect any of:

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<sup>1</sup> Please refer to the Notes attached at the end of these draft provisions for a discussion of Ofgem's current view in relation to potential liability arising between TO's and third parties, including Code Parties.

<sup>2</sup> to be checked in due course: whether STC contains any indemnities

- 1.8.1 the rights, powers, duties and obligations of any Party which are conferred or created by the Act, the Licence, [or] the Regulations; or
- 1.8.2 the rights, powers, duties and obligations of the Authority or the Secretary of State under the Act, any Licence or otherwise howsoever.
- 1.9 Each of the paragraphs of this paragraph [1] shall:
- 1.9.1 be construed as a separate and several contract term, and if one or more of such paragraphs is held to be invalid, unlawful or otherwise unenforceable the other or others of such paragraphs shall remain in full force and effect and shall continue to bind the Parties; and
- 1.9.2 survive termination of the Code and/or the STC Framework Agreement.
- 1.10 Each Party acknowledges and agrees that each of the other Parties holds the benefit of paragraphs 1.1 and 1.2 and 1.3 and 1.4 above for itself and as trustee and agent for its officers, employees and agents.
- 1.11 Each Party acknowledges and agrees that the provisions of this paragraph 1 have been the subject of discussion and negotiation and are fair and reasonable having regard to the circumstances [as at the Code Effective Date].
- 1.12 For the avoidance of doubt, nothing in this Paragraph 1 shall prevent or restrict any Party enforcing any obligation (including suing for a debt) owed to it under or pursuant to the Code.
- 2. Third Party Rights**
- 2.1 Subject to paragraphs [2.2] and [2.3] below, a Code Party, its officers, employees or agents may rely upon and enforce the terms of paragraph [1.4], against a Party.
- 2.2 The third party rights referred to in paragraph [2.1] (and any other terms of the Code which provide that a third party may in his own right enforce a term of the Code) may only be enforced by the relevant third party subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999 and all other relevant terms of this Code.
- 2.3 Notwithstanding any other provision of the Code (including without limitation Paragraph [2.1]), the Parties may (pursuant to Section [*reference to parties and participation section*]) amend the Code without the consent of a third party and accordingly, section 2(1) of the Contracts (Rights of Third Parties) Act 1999 shall not apply.
- 2.4 Except as provided in Paragraph [2.1] (or insofar as this Code otherwise expressly provides that a third party may in his own right enforce a term of the Code), a person who is not a Party



has no right under the Contracts (Rights of Third Parties) Act 1999 to rely upon or enforce any term of the Code but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

### 3. **Interpretation**

3.1 For the purposes of this provision:

3.1.1 "Code Party" means a party to or under any Code Framework Agreement, other than NGC.

3.1.2 "Code Framework Agreement" means, as the context admits or requires, any of the CUSC, CUSC Framework Agreement, Grid Code, BSC, BSC Framework Agreement and any associated or subsidiary documents.

## NOTE

1. *Ofgem recognises that situations could just possibly arise where a Transmission Owner has mistakenly or wrongly informed NGC of something, or NGC improperly directs a Transmission Owner. Ofgem proposes that the risks inherent in such possibilities should be protected against by mutual indemnities as between NGC and each Transmission Owner.*
2. *Paragraph 1.4 is part and parcel of the objective to ensure that the lines of responsibility as between NGC, other CUSC parties and Transmission Owners are firmly confined to NGC and other CUSC parties on the one hand, and NGC and Transmission Owners on the other, with no legal recourse possible directly between CUSC parties (excluding NGC) and Transmission Owners. In the view of Ofgem and its advisers there are two potential options for approaching this issue:*
  - (1) *The STC should contain, as here (in paragraph 1.4), a provision excluding the right for Transmission Owners to claim in negligence against CUSC parties (other than NGC). This would be matched by a corresponding exclusion in the CUSC of the right for CUSC parties (other than NGC) to claim in negligence against Transmission Owners. In order to ensure that the Transmission Owners are able to recover losses arising out of the negligence of CUSC parties, NGC would accept liability for the conduct of CUSC parties (clause 1.5). An equivalent of this clause is not necessary in the CUSC because NGC is already liable to CUSC parties for the conduct of its sub-contractors (section 6.14) and this would be clarified to expressly include the activities of Transmission Owners.*
  - (2) *The liability limitations in the CUSC (section 6.12) would be extended beyond the parties, their "officers, employees and agents" to expressly include Transmission Owners. By the same token, the CUSC would confer the legal benefit of such limitations on the Transmission Owners, even though not parties to the CUSC, by suitable legal drafting (viz Contract (Rights of Third Parties) Act). (Similarly the STC would have to confer the benefit of its equivalent liability limitations on CUSC parties generally.) Under these arrangements the strict lines of responsibility (NGC -v- User, TO -v- NGC) would be broken: CUSC parties would be able to pursue Transmission Owners, and Transmission Owners to pursue CUSC parties, for negligent acts or omissions, though limited to loss for physical damage.*