

Provisions for the transition to the GB CUSC, the GB Grid Code and GB connection and use of system agreements under BETTA;

including associated licence conditions for NGC and for generation, distribution and supply licensees;

changes to the CUSC Framework Agreement; and

transitional drafting for the GB CUSC and GB Grid Code

Ofgem/DTI consultation

July 2004

Summary

This document is the consultation on the legal provisions necessary to put in place offers or agreements for connection and use of system for the GB transmission system that will take effect from BETTA go-live and to transition to the Connection and Use of System Code (CUSC) and the Grid Code to apply across GB on the implementation of the British Electricity Trading and Transmission Arrangements (BETTA), which are planned to be introduced in April 2005¹. Ofgem/DTI have published² near final legal text for the enduring CUSC to apply across GB (referred to in this document as the GB CUSC) and a third consultation on the enduring Grid Code³ to apply across GB (referred to in this document as the GB Grid Code).

In this document:

- ◆ Ofgem/DTI describe the approach to the transition to the GB CUSC and GB Grid Code
- ◆ Ofgem/DTI consider the requirements necessary to enable participants to prepare to comply with the licence and other obligations which they will face at BETTA go-live that relate to the GB CUSC and GB Grid Code
- ◆ Ofgem/DTI consider those elements of the GB CUSC and GB Grid Code which will need to be adjusted during the transitional⁴ period
- ◆ Ofgem/DTI consider the requirements necessary to enable the putting in place of offers or agreements for connection to or use of the GB transmission system from BETTA go-live
- ◆ Ofgem/DTI propose legal drafting for associated licence conditions for National Grid Company plc ("NGC") in respect of the GB CUSC the GB Grid Code and putting in place offers or agreements for connection to or

¹ Subject to Royal Assent to the Energy Bill in July 2004.

² "The Connection and Use of System Code under BETTA, Ofgem/DTI conclusions and publication of near final legal text for the GB CUSC", April 2004, Ofgem 91/04

³ "The Grid Code under BETTA, Ofgem/DTI conclusions and second consultation on the text of a GB Grid Code and conclusions on change management between the STC and each of the GB CUSC, GB BSC and GB Grid Code", April 2004, Ofgem 99/04

⁴ The transitional period is the period between the day on which the BSC is given effect GB-wide and the day on which BETTA goes live.

use of the GB transmission system and for generation, distribution and supply licensees, and

- ◆ legal text for the transition to the GB CUSC and GB Grid Code is published.

This document comprises a single volume, with legal drafting in the appendices.

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1. Rationale

- 1.1. The rationale for the British Electricity Trading and Transmission Arrangements (BETTA) reforms is set out in a consultation paper of December 2001⁵ ('the December 2001 consultation paper') and a report of May 2002⁶ ('the May 2002 report'). These reforms are planned to be introduced in April 2005⁷.
- 1.2. Since May 2002, Ofgem/DTI have published a number of consultation and conclusions documents on BETTA and its component parts. Copies of these papers and non-confidential responses to them can be found on the Ofgem website⁸.
- 1.3. On 30 January 2003 the DTI published a draft of the Electricity (Trading and Transmission) Bill (the E(TT) Bill) together with a Regulatory Impact Assessment (RIA), which explains the purpose and impact as well as the expected costs and benefits of the proposed primary legislation to enable the BETTA reforms. The E(TT) provisions of that draft Bill have now been incorporated into the Energy Bill which has now completed its committee stage in the Commons.
- 1.4. At the end of April and early in May 2004, Ofgem/DTI published near final text for enduring transmission licences⁹; for enduring generation, distribution and supply licences¹⁰ and for the enduring provisions of the SO-TO Code¹¹ (STC),

⁵ 'The Development of British Electricity Trading and Transmission Arrangements (BETTA): A consultation paper', Ofgem, December 2001. Ofgem 74/01.

⁶ 'The Development of British Electricity Trading and Transmission Arrangements (BETTA): Report on consultation and next steps' Ofgem/DTI, May 2002. Ofgem 38/02.

⁷ Subject to Royal Assent to the Energy Bill in July 2004.

⁸ www.ofgem.gov.uk (see "BETTA publications").

⁹ "Publication of near final transmission licences", 15 April 2004, Ofgem 82/04

¹⁰ "Publication of 'near final' changes to electricity generation, distribution and supply licence conditions under BETTA", 30 April 2004, Ofgem 93/04

¹¹ "The SO-TO Code under BETTA: Ofgem/DTI summary of responses and conclusion on the June 2003 document and subsequent mini consultations, and further consultation on the draft legal text; proposals for CUSC changes in relation to limitation of liability; and matters relating to the timescales for processing new connection applications", April 2004, Ofgem 90/04

the GB Connection and Use of System Code¹² (CUSC), the GB Grid Code¹³ and the GB Balancing and Settlement Code (BSC)¹⁴.

- 1.5. Ofgem/DTI have recently published a document¹⁵ on the approach to the transition to BETTA. That document described the approach being adopted to the development of transitional legal drafting for the elements of the legal framework for the transition to BETTA. The purpose of this document is to explain the approach being adopted to put in place the agreements for connection to or use of the GB transmission system and to the transition of the CUSC to the GB CUSC and NGC's Grid Code to the GB Grid Code. Contained within this document is proposed legal text necessary to achieve those transitions and further to enable participants to undertake the necessary activities to prepare for the implementation of BETTA.

¹² "The Connection and Use of System Code under BETTA, Ofgem/DTI conclusions and publication of near final legal text for the GB CUSC", April 2004, Ofgem 91/04

¹³ "The Grid Code under BETTA, Ofgem/DTI conclusions and second consultation on the text of a GB Grid Code and conclusions on change management between the STC and each of the GB CUSC, GB BSC and GB Grid Code", April 2004, Ofgem 99/04

¹⁴ "The Balancing and Settlement Code (BSC) under BETTA, Ofgem/DTI conclusions and publication of near final legal text for the GB BSC", April 2004, Ofgem 92/04

¹⁵ "Legal arrangements for the transition to and implementation of the British Electricity Trading and Transmission Arrangements, Ofgem/DTI Statement of approach", May 2004, Ofgem 137/04

2. Timetable

- 2.1. As described in the May 2002 report, the BETTA project plan is based upon an implementation date (in this document called the BETTA go-live date) of April 2005¹⁶.
- 2.2. The proposed timetable and process for establishing the necessary provisions for the transition to the GB CUSC and GB Grid Code and for putting in place offers or agreements for connection to or use of the GB transmission system is as follows:
- ◆ this document explains Ofgem/DTI's approach to the transition to the GB CUSC and GB Grid Code and NGC's approach to putting in place offers or agreements for connection to or use of the GB transmission system and appendices incorporate the proposed legal text to effect this
 - ◆ respondents are requested to provide their views on these proposals by Friday 23 July 2004
 - ◆ since the version of the CUSC which was used as the basis for the near final GB CUSC published on 30 April 2004, the Authority has approved a number of amendments to the CUSC. Generally, in relation to amendments considered by the Authority since the publication of the near final legal text, Ofgem has consulted on the question of whether such an amendment should be included within the GB CUSC, however there are a few approved modifications for which this was not done. In respect of those amendments, Ofgem/DTI intend to issue a mini-consultation on the question of the incorporation of such amendments into the GB CUSC, and
 - ◆ it is anticipated that legal text for enduring and transitional changes to the CUSC and Grid Code will be published by the middle of August 2004. At the same time Ofgem/DTI will publish pre-designation text for

¹⁶ This date is subject to the Energy Bill receiving Royal Assent in July 2004.

all other elements of the BETTA enduring legal framework (all electricity licences, STC, and GB BSC).

2.3. Parties are free to provide their views on anything in this document. Any responses should be provided by Friday 23 July 2004 and any necessary changes as a result of such responses will be reflected in the designation version of the legal text for the CUSC, the Grid Code and for the relevant licence conditions. All responses will normally be published on the Ofgem website and held electronically in Ofgem's Research and Information Centre unless there are good reasons why they must remain confidential. Respondents should try to put any confidential material in appendices to their responses. Ofgem prefers to receive responses in an electronic form so they can easily be placed on the Ofgem website.

2.4. Any responses should be sent by Friday 23 July 2004 to:

David Halldearn
BETTA Project
Office of Gas and Electricity Markets (Ofgem)
9 Millbank
London
SW1P 3GE
Fax: 020 7901 7479

2.5. Please e-mail any responses to BETTA.consultationresponse@ofgem.gov.uk marked "Response to GB CUSC & Grid Code transition". Any consultation responses will be forwarded to the DTI.

2.6. If you wish to discuss any aspect of this document, please contact Simon Street, e-mail simon.street@ofgem.gov.uk telephone 020 7901 7057 or Owain Service email owain.service@dti.gsi.gov.uk at the DTI on 020 7215 2779.

3. Approach to transition to BETTA

- 3.1. Ofgem/DTI's approach to the transition of BETTA has been explained in a recently published document¹⁷ (referred to in this paper as the approach to transition document). The approach to transition document explained the structure of the overall legal framework for transition to BETTA and stated that some elements of that legal framework would be incorporated into the GB codes, while others would be provided for in transitional licence conditions.
- 3.2. This document considers those elements of the legal framework necessary for the putting in place of offers or agreements for connection to or use of the GB transmission system and to effect the transition of the CUSC and NGC's Grid Code from the point in time when they are given GB scope to the time when they come fully into effect GB-wide. The former time (it will be at the beginning of a particular day) is referred to as BETTA "go-active" and the latter (which will be at the beginning of a later day) is known as BETTA "go-live". The period between these two dates is referred to as the "transition period".
- 3.3. In previous Ofgem/DTI BETTA documents it has become normal practice to refer to the GB codes as the "GB BSC", the "GB CUSC" and the "GB Grid Code". In this paper that convention is maintained although, as has been mentioned in previous consultations on the CUSC and on the Grid Code under BETTA, it is intended to put the GB CUSC and the GB Grid Code in place as changes to the then existing CUSC and NGC's Grid Code respectively. This means that the GB documents will not be new documents, they will be based on the existing CUSC and NGC Grid Code, each of which will be amended to give them a scope of, and application across, GB rather than of England and Wales. Other enduring¹⁸ and transitional changes will also be made to both codes. The enduring changes to the CUSC were set out in the near final legal

¹⁷ "Legal arrangements for the transition to and implementation of the British Electricity Trading and Transmission Arrangements, Ofgem/DTI Statement of approach", June 2004, Ofgem 137/04

¹⁸ Enduring changes are those which will continue in effect beyond BETTA go live rather than being intended only to effect the transition to go-live as for transitional changes.

text for the GB CUSC published on 30 April 2004¹⁹ and those for the GB Grid Code in the third consultation published on 7 May 2004²⁰.

- 3.4. In this document the GB CUSC and the GB Grid Code are considered together because it is the GB CUSC which gives contractual force to the GB Grid Code.
- 3.5. The CUSC has four main elements:
- ◆ the Framework Agreement, to which all CUSC parties accede and which gives contractual force to the CUSC itself and to the Grid Code
 - ◆ the Code itself consisting of Sections 1 to 12, and Schedules 1, 2 and 3, and
 - ◆ the standard forms of bilateral agreements to apply between users and NGC and other such documents in Exhibits A to O.
- 3.6. The CUSC Framework Agreement which obliges all parties to comply with the CUSC (and through the CUSC with the Grid Code), has within it no process for changing the agreement itself. This means that, unless external means of making changes to the framework agreement exist, it could only be changed with the agreement of every party to the framework agreement. This is not the case with the CUSC itself which contains (in Section 8) the procedures for amending the code. Similarly, the Grid Code contains provisions for the review of the Grid Code in the General Conditions of the Grid Code.

Powers under the Energy Act

- 3.7. The Electricity Trading and Transmission provisions of the Energy Bill (which are referred to in this paper as the E(TT) provisions) can be found in Chapter 1 or Part 3 of the current draft of the Energy Bill. The E(TT) provisions contain amongst other things, amendments to the Electricity Act 1989 and provide

¹⁹ Volume 2 of "The Balancing and Settlement Code (BSC) under BETTA, Ofgem/DTI Conclusions and publication of near final legal text for the GB BSC", April 2004, Ofgem 92/04.

²⁰ "The Grid Code under BETTA, Ofgem/DTI conclusions and second consultation on the text of a GB Grid Code and conclusions on change management between the STC and each of the GB CUSC, GB BSC and GB Grid Code", April 2004, Ofgem 99/04

powers to the Secretary of State. The powers which are important to the transition to the GB CUSC and GB Grid Code are the power to make a licensing scheme (described in the Energy Bill as “Conversion of existing transmission licences”) and the power to modify licence conditions. In general terms, it is the intention that a licensing scheme will be made which will treat the three existing transmission licences as being granted in accordance with the new prohibition on participation in transmission; will introduce an area of GB into the term of the licences and will put in place new standard licence conditions (SLCs) including those related to the CUSC and the Grid Code. It is intended that these CUSC and Grid Code licence conditions (SLC C10 and C14) will be switched on in NGC’s licence at go-active but their operation will be modified by transitional CUSC and Grid Code licence conditions until BETTA go-live.

Licensing scheme

- 3.8. Clause 131 (“Conversion of existing transmission licences”) of the Energy Bill gives effect to Schedule 17 which makes provisions for the Secretary of State to make a Licensing Scheme. Such a scheme will provide for each transmission licence to which it relates to have effect as a licence granted under the amended prohibition on transmission (to become a prohibition on participation in transmission). It will also enable the Secretary of State to amend the provisions of any code or agreement which is relevant to the conditions of an existing transmission licence to the extent necessary or expedient in consequence of anything in the licensing scheme.
- 3.9. It is intended to use this latter provision of the Licensing Scheme to make the necessary changes to the CUSC Framework Agreement. These changes are described in chapter 4. In addition, as described above, the Licensing Scheme will be used to put in place Standard Licence Conditions for transmission licences, including SLCs for the CUSC and the Grid Code.

Power to modify licence conditions

- 3.10. Clause 127 (“Power to modify licence conditions”) of the Energy Bill gives the Secretary of State the power to make changes to the licence conditions of any category of electricity licence granted under section 6 of the Electricity Act

1989. It is intended to use this power together with the power to make a licensing scheme mentioned above to do a number of things to give effect to the transition to the GB CUSC and GB Grid Code:

- ◆ the CUSC and Grid Code licence conditions which will take effect in NGC's²¹ transmission licence from go-active will give GB scope to the CUSC and to the Grid Code
- ◆ the same licence conditions will require NGC to modify the CUSC and the Grid Code as directed by the Secretary of State to give effect to a set of changes designated by the Secretary of State. Such changes to the CUSC and the Grid Code would make both enduring and transitional changes in the CUSC text to form the GB CUSC and to NGC's Grid Code to form the GB Grid Code
- ◆ the CUSC and Grid Code licence conditions will also be subject to transitional changes to allow the Authority to make changes to the codes under limited circumstances during the transition period
- ◆ all generation, distribution and supply licensees will be required to accede to (where they have not already done so) and to comply with the CUSC and the Grid Code in relation to their activities in Great Britain (previously these licence condition related only to their activities in England & Wales). Because the CUSC will remain in place, although it's scope and application will have changed, parties who have already acceded to the CUSC will not need to do so again, and
- ◆ various transitional licence conditions are proposed to be put in place to provide for the timely implementation of BETTA. The majority of these transitional licence conditions will be consulted upon elsewhere but because the transitional provisions in the GB CUSC are concerned substantially with the putting in place GB connection or use of system agreements with the GB system operator in readiness for BETTA, this

²¹ Note that NGC will not be granted a new licence; its existing licence will be amended, with a GB scope, in the light of the change in the Electricity Act prohibition of transmission to one of prohibiting the participation in transmission, as explained in the Ofgem/DTI document on the transition of BETTA.

document considers transitional licence conditions concerned with obligations on NGC and on other licensees in relation to such agreements.

- 3.11. It should be noted that licensees, other than the transmission owner transmission licensees, will be required to accede to and to comply with the CUSC in relation to the activities that they undertake in Great Britain from the point in time when their revised CUSC licence conditions come into effect which is planned to be the same time that the CUSC gains GB scope. At that point in time only the governance and amendment provisions of the CUSC will apply across GB and thus to all licensees in GB.
- 3.12. Similarly, it is intended that the Grid Code should gain GB scope from the same point in time but the application of the provisions of the GB Grid Code will be limited until BETTA go-live. It should also be noted that it is expected that the Scottish Grid Code (and the Scottish Grid Code Review Panel) will remain in place until BETTA go-live, although it is possible that some provisions of that code will need to be switched off before BETTA go-live. The detail of such matters is still under consideration.

4. The legal elements of transition

- 4.1. This chapter considers the elements of, and the legal processes required to effect, the transition to the GB CUSC and the GB Grid Code. It also considers the processes to be followed to put in place of agreements and offers for connection to or use of the GB transmission system. Ofgem/DTI currently intend that the CUSC and the Grid Code should be given GB scope as soon possible after the powers to effect this are available. Such extension of scope will put the governance of the codes on a GB basis; that is, it will enable the GB CUSC Amendments Panel and the GB Grid Code Review Panel to give consideration not only to matters that affect England and Wales currently but also to matters that will effects the GB market after BETTA go-live.
- 4.2. There are several legal processes by which provisions required to be in effect in the GB codes between go-active and go-live can be switched on or off. The changes to the codes which are designated by the Secretary of State will be incorporated into the codes when the necessary notice is issued, however, like other changes which are made to the codes in England and Wales at present, the changes can come into effect at another time. For any provision that is in effect in a code, it's effect can be nullified (switched off) or modified by transitional legal drafting in the code. Ofgem/DTI plan to use a combination of these approaches to achieve the required effective drafting in the GB CUSC and GB Grid Code during the transition period.
- 4.3. For the GB CUSC, it is intended that the majority of the enduring GB changes will not be brought into effect until BETTA go-live. This because it will be necessary for NGC to continue to make offers in response to applications for connection to or use of their transmission system throughout the transition period. Most of the GB CUSC changes are definitional and would affect the offers made by NGC and would therefore have to be nullified by transitional drafting. Such drafting would be relatively complex and unclear in intent.
- 4.4. The position is more difficult for the GB Grid Code. It is very likely that it will be necessary to introduce some of the provisions of the GB Grid Code (possibly in a modified form) before BETTA go-live. However, at present the detailed

analysis to determine what obligations and rights need to be put in place under the GB Grid Code in the lead up to BETTA go-live has not been completed. This leaves two options for handling the GB Grid Code changes. They could be designated with an effective date of go-active and transitional legal drafting introduced to disable all the necessary provisions immediately. Such transitional legal drafting would then be amended later as it became clear what detailed provisions needed to be switched on at what point in time. Alternatively, the GB Grid Code changes could be designated with an effective date of "BETTA go-live or such earlier date as the Authority may determine". This would enable the necessary provisions to be switched on before go-live when the requirements have been identified. If this latter approach was to be followed, it is likely that transitional drafting would have to be introduced to amend the GB provisions as they were brought into effect. Ofgem/DTI therefore believe that it is simpler to introduce the majority of the GB changes to the Grid Code at go-active and then to disable them with transitional drafting until needed.

The CUSC and Grid Code licence conditions

- 4.5. The existing SLC (C7F) in NGC's licence (which requires the licensee to prepare a CUSC) will be replaced by a new enduring SLC (C10). SLC 10 requires the licensee to give effect to the changes to the CUSC (both transitional and enduring) designated by the Secretary of State. The new Grid Code licence condition (SLC C14) will contain similar provisions in relation to changes to the Grid Code which are designated by the Secretary of State. In addition, both these licence conditions will have to cater for the unusual state of the CUSC and the Grid Code during the transition period. During that period, the CUSC and the Grid Code will be in full effect and operational for England and Wales in the same way that they were prior to go-active. However some of the CUSC and the Grid Code (governance and modification provisions in particular) will be in effect GB-wide during the transition period and all of the CUSC and the Grid Code will come into effect GB-wide at BETTA go-live. However, the BETTA go-live date will not be certain at go-active. Changes to codes are assessed against the then current version of the code concerned. This means that when the respective panels are assessing changes to the CUSC and the Grid Code the

then current versions of the codes will be the GB documents (albeit with certain provisions not coming into effect until BETTA go-live).

4.6. In addition, Ofgem/DTI believe it is necessary for the Authority to have the ability, between BETTA go-active and go-live, to make certain changes to the GB CUSC and GB Grid Code. Some of the changes that will need to be made are the addition of those transitional provisions which cannot be introduced at go-active because they relate to areas of transition where the detailed requirements are not yet known. In particular, transitional provisions will be required to support the transition of GB Grid Code provisions in the lead up to BETTA go-live as well as the provisions to effect the cut-over from the England and Wales and separate Scottish arrangements to the GB arrangements in the hours and days immediately before BETTA go-live. In addition, Ofgem/DTI believe it is necessary for the Authority to be able to make changes to the GB CUSC and GB Grid Code under the following circumstances:

- ◆ to take account of matters that emerge from testing and trialling of computer systems and processes and/or to correct any inconsistencies between the systems and processes provided for in the CUSC, Grid Code, STC and BSC
- ◆ to correct any errors or omissions or inconsistencies in the GB CUSC and GB Grid Code in relation to BETTA
- ◆ to make technical refinement to clarify or enhance the CUSC and Grid Code to facilitate the implementation of BETTA and which do not significantly and adversely affect the interests of parties
- ◆ to make such changes as are necessary or expedient to ensure that BETTA can commence on the BETTA go-live date
- ◆ to make changes to the GB CUSC and the GB Grid Code that are consequent upon changes that need to be made to the STC or BSC
- ◆ to make minor and consequential changes as a result of any of the above changes, or
- ◆ to make any other changes with the consent of the Secretary of State.

- 4.7. Provisions to enable change in these circumstances where it is necessary or expedient for the purpose of implementing BETTA, have been included in the transitional CUSC and Grid Code licence condition to be included in NGC's transmission licence.
- 4.8. The proposed transitional CUSC licence condition is shown in appendix 1 and the proposed transitional Grid Code licence condition is shown in appendix 2. Each is shown change marked against the enduring SLC C10 and C14 respectively.

The Scottish Grid Code licence condition

- 4.9. As mentioned in 3.12 above, it is expected that the Scottish Grid Code will remain in effect until BETTA go-live. Given that the SLCs for electricity transmission licences under BETTA will be introduced at BETTA go-active, Ofgem/DTI consider that it will be necessary to introduce a new transitional licence condition on the Scottish transmission licensees in relation to the Scottish grid code during the transitional period. This additional licence condition is required as, from BETTA go-active, existing licence condition SLC B7 (Licensee's Grid Code) which applies to all transmission licensees will be replaced with SLC C14 which will only apply to the GB system operator. In addition, the Scottish transmission licensees are also subject to additional licence obligations setting out supplementary provisions for the Scottish Grid Code and obliging the licensee to comply with the other grid codes that may be in place. These licence obligations have been included in this transitional licence condition rather than as separate conditions.
- 4.10. However, it is likely that it will be appropriate to amend some of the provisions of the code prior to BETTA go-live, both to ensure that those who are obliged to comply with the Scottish Grid Code are not subjected to obligations to do things which will be unnecessary or inappropriate and to effect the necessary transfers of data, in the lead up to BETTA go-live.
- 4.11. These matters are still under consideration but Ofgem/DTI believe that it is necessary to enable the Authority to make changes to the Scottish Grid Code during the transition period to relieve parties of obligations which are

inappropriate given the plans for BETTA go-live. An amended Scottish Grid Code licence condition, providing for such powers for the Authority is shown in appendix 3.

- 4.12. Changes have also been made (to existing SLC B7) to reflect that the Scottish Grid Code is already in place and therefore the obligation is to keep in place (and review etc) the licensee's grid code that is in place immediately prior to BETTA go-active.

Transitional licence conditions for connection and use of system

- 4.13. The principal objectives of the transitional connection and use of system licence condition that is to be imposed upon NGC is to ensure that, by BETTA go-live those who are already connected to a transmission licensee's system or who have entered into an agreement for connection to or use of a licensee's transmission system have an agreement with NGC (in its capacity as proposed GB system operator) for access to and/or use of the GB transmission system. Such parties fall into two groups: those who already have an agreement with NGC, in the form prescribed by the CUSC, and those who have private bilateral contracts with SP Transmission Limited (SPTL) or Scottish Hydro Electric Transmission Limited (SHETL). The licence condition seeks to ensure that those who have contracts with NGC agree the necessary changes to those contracts with NGC and those who have contracts with SPTL or SHETL enter into new contracts with NGC. In each case NGC will have to provide details of the proposed agreements or modifications to existing agreements.
- 4.14. Ofgem/DTI believe that it is necessary to put in place transitional licence conditions to ensure that this process works effectively and to ensure that the necessary contracts are in place and ready to come into effect at BETTA go-live. The proposed licence conditions are shown in appendix 4. There are two basic conditions: one on NGC requiring them to make the necessary offers in a timely manner and one for generation, distribution and supply licensees, obliging them to enter into the necessary new or amended agreements. However, where

parties are unable to agree the terms of the agreements, provision exists for the referral of disputes to the Authority for determination.

- 4.15. It is obviously important to set down the principles that NGC should apply in making offers for connection to or use of the GB transmission system and the draft licence condition which is set out in appendix 4 seeks to do this. From BETTA go-live NGC will, in response to applications for connection to or use of the GB transmission system, be required to make offers that are consistent with its licence obligations and the terms and conditions set down in the CUSC. In the transitional period, it is necessary to ensure that the offers that NGC makes to existing users and existing applicants for connection to and use of the GB transmission system reflect, to the extent relevant, the principles that would apply had such offers been made at or after BETTA go-live. Drafting has been included in the transitional licence condition for NGC that requires this. In addition a marker has been included in the draft transitional licence condition that the offers made by NGC in the transitional period will have to comply with any principles set down in NGC's licence regarding the allocation of rights to access the GB transmission system.
- 4.16. In response to a request from Ofgem/DTI, NGC have recently consulted upon the options available for allocating rights for access to the GB transmission system from BETTA go-live. NGC have provided Ofgem/DTI with a summary of responses to that consultation and will soon be providing a technical report setting out quantitative analysis of the implications of different options. Following receipt of that report, Ofgem/DTI will consider what obligations should be placed on NGC in the transition period. Such obligations would inform the offers that NGC makes for connection to or use of the GB transmission system. It should be recognised that the process set out below for putting in place GB connection and use of system agreements and the associated draft transitional licence condition do not anticipate any particular outcome from the present consultation process on the provision of rights for access to the GB transmission system. Once a conclusion has been reached on that process, it may be necessary to make some detailed changes to the process for putting in place offers or agreements for connection to or use of the GB transmission system and the associated transitional licence conditions.

4.17. In drafting NGC's transitional licence condition it was necessary to consider the process that would have to be followed in the transitional period to put in place agreements or offers for connection to and use of the GB transmission system which would take effect from BETTA go-live. This has resulted in a transitional licence condition which is based around the elements of the existing "Requirement to offer terms" electricity transmission licence condition but with differences to reflect the circumstances that will apply during the transition period. The key differences in process that need to be addressed in the drafting of the transitional licence condition are:

- ◆ during the transition period no party will be able to apply directly to NGC for connection to or use of the GB transmission system. This will only take place from BETTA go-live. Instead parties will continue to apply to SPT, SHETL or NGC (depending on where they wish to connect) because the existing "requirements to offer terms" licence conditions will continue in force until BETTA go-live (or shortly before it) for each transmission licensee
- ◆ existing users are already connected to or using the separate transmission systems which will, under BETTA, become the GB transmission system
- ◆ other users, although not yet connected to or using any transmission system, may have an agreement for connection to or use of such a system
- ◆ yet other users may have received offers for connection to one of the transmission licensee's systems, and
- ◆ some parties may have applied to a transmission licensee for connection to or use of their transmission system but have not yet received an offer from that transmission licensee.

The proposed transitional licence condition on NGC obliges NGC to make offers, to those with whom they have no existing contract and to make modification offers to existing users of its England and Wales system.

- 4.18. The overall approach reflected in the draft licence condition is based upon NGC's plans for this process which have been discussed in the Transition and Implementation Group. The planned approach is to complete the process of provision and negotiation of offers to those who are already connected to a transmission system or have connection agreements (including an accepted offer) in place before offering terms for connection to people who have applied to one of the transmission licensees for connection but have not yet accepted an offer. NGC plan to complete the first stage of the process by about the end of 2004. This means that all those with agreements to connect or use an existing transmission system will have offers issued for connection to or use of the GB transmission system by early in 2005. NGC will then issuing offers for connection to or use of the GB transmission system to other categories of users and those who have applied for connection to or use of any of the transmission licensees' systems but do not yet have an agreement in place, from the start of 2005.
- 4.19. At the end of the negotiation process with those users who are already connected to a transmission system or who have an agreement in place for connection or use of a transmission system, Ofgem/DTI believe that it is necessary for such "existing users" to have a reasonable period to consider the offer that NGC has made. However, it is also important both that GB contracts should be in effect for all existing users at BETTA go-live and that such contracts should be in place prior to the time at which a decision will be taken on the BETTA go-live date. Ofgem/DTI believe it is right therefore that existing users who are licensees should be obliged to agree an offer or to dispute it within a month of the formal offer date and that the latest date for the formal offer should be 1 February 2005 (based on the planned BETTA go-live date of 1 April 2005). This means that by 1 March 2005 it will be clear what contracts have been agreed and which are being disputed. For those being disputed, Ofgem/DTI believe that, in order that, to the extent possible, there is a proper contractual basis for the provision of connection and use of system services to such existing users from BETTA go-live, licensees should be obliged to enter into contracts shortly prior to BETTA go-live pending the outcome of a determination by the Authority on the matters being disputed.

- 4.20. It should be noted that it is also intended that non-licensees should be able to refer disputes on offers received to the Authority for determination.
- 4.21. In addition to the transitional licence condition in NGC's licence, Ofgem/DTI believe that it is necessary to place a condition in the licences of generation, distribution and supply licensees, requiring them, where and to the extent that they are existing users of any transmission system, to enter into agreements (or amendments to agreements) in respect of any existing connections to a transmission system or agreements to connect to or use a transmission system. In addition generation, distribution and supply licensees need to be obliged to enter into agreements shortly prior to BETTA go-live pending an Authority determination on any matters under dispute.
- 4.22. The legal drafting for the transitional licence condition for NGC and for those for generation, distribution and supply licensees is shown in appendix 4.

Obligations to comply with the CUSC and Grid Code

- 4.23. In order that parties in Scotland should be subject to the necessary obligations to prepare for the time when the CUSC and Grid Code comes fully into effect GB-wide (ie BETTA go-live) in a manner in alignment with the requirements of the GB CUSC and GB Grid Code, it is necessary that they should become parties to the GB CUSC as soon as it comes into effect (i.e. go-active) and should be obliged to comply with the GB Grid Code (albeit in an amended form as some parts will not yet have been switched on, may be switched off) from the same point in time. It is therefore intended that all generation, distribution and supply licensees should be subject to licence conditions requiring them to be a party to the CUSC Framework Agreement, to comply with the CUSC and to comply with the Grid Code. The recent consultation on changes to generation, distribution and supply licences²² proposed such enduring licence conditions. It is proposed that these enduring licence conditions should be given effect from the same day that NGC's new CUSC and Grid Code licence conditions take effect in its licence (BETTA go-active), currently planned for 1st September 2004.

²² "Publication of 'near final' changes to electricity generation, distribution and supply licence conditions
Transition to GB CUSC & Grid Code 22 July 2004
Ofgem/DTI

- 4.24. The generation licence conditions are shown in appendix 5; the distribution licence conditions are shown in appendix 6 and the supply licence conditions are shown in appendix 7.
- 4.25. In order to comply with these licence conditions, any licensee who is not already a CUSC party will have to accede to the CUSC. Such accession is not an immediate process. However, since there is a relatively small number of licensees who are not already CUSC parties, Ofgem/DTI believe it is appropriate to make prior arrangements so that accession documents can be signed ahead of time to come into effect when the licence conditions become effective. Ofgem/DTI have asked NGC to make arrangements with the relevant licensees to achieve this.

The CUSC Framework Agreement

- 4.26. As mentioned in chapter 3, it is intended to use the power for the Secretary of State to make a Licensing Scheme under clause 131 (“Conversion of existing transmission licences”) of the Energy Bill, to make the necessary changes to the CUSC Framework Agreement. There are three areas where changes need to be made:
- ◆ the reference to NGC’s Transmission System needs to be changed to a reference to the GB Transmission System
 - ◆ the legal jurisdiction in the agreement needs to be changed to allow for the use of Scottish courts as well as those of England and Wales, and
 - ◆ the address for the service of notices needs to be changed to allow for addresses in Scotland as well as in England and Wales.
- 4.27. Appendix 8 shows a copy of the CUSC Framework Agreement, change marked to show the changes that it is intended that the Secretary of State should make by way of the licensing scheme.

The CUSC Amendments Panel

- 4.28. In the conclusions on the establishment of GB panels²³, Ofgem/DTI concluded that GB panels should be put in place from the first panel meeting following the date on which the code concerned has GB scope.
- 4.29. NGC have commenced an election process to identify the elected members and alternate members for the GB CUSC Amendments Panel. As stated in Ofgem/DTI's conclusions on the establishment of GB panels, once that process is complete, and NGC have provided a report on the process to Ofgem/DTI, the Authority will issue a notice to NGC stating the names of the newly elected members and alternates for the GB CUSC Amendments Panel. Legal drafting to accommodate the installation of these panel members is included in the proposed transitional Section 12 of the GB CUSC, shown in appendix 9 of this document.

The Grid Code Review Panel

- 4.30. As mentioned above, in their conclusions on the establishment of GB panels, Ofgem/DTI concluded that GB panels should be put in place from the first panel meeting following the date on which the code concerned has GB scope. It was further concluded that that the existing Grid Code Review Panels should be asked to identify individuals to represent the groups for whom seats are allocated on the GB Grid Code Review Panel (GCRP), and that legal drafting would be put in place to deem that the notification of those individuals to the GB GCRP Chairman had occurred 21 days before the first meeting of the GB GCRP.
- 4.31. Each of the Grid Code Review Panels has been asked by the Ofgem representative to consider such nominations and the requisite legal drafting is included in the transitional section for the GB Grid Code shown in appendix 10 of this document.

²³ "Establishing GB panels for the CUSC, the Grid Code and the BSC under BETTA, Ofgem/DTI conclusions", May 2004, 95/04

5. Transitional provisions

- 5.1. This chapter describes the requirements for transitional provisions that have been identified for the GB CUSC and GB Grid Code and outlines the legal drafting used to put such requirements in place. Chapters 6 and 7 describe the detailed drafting that has been put in place.
- 5.2. Transition drafting for the GB CUSC and for the GB Grid Code is included in the relevant code itself. For the GB CUSC a new section (Section 12 – BETTA transition issues) has been introduced and for the GB Grid Code a new section (GC 14 – BETTA transition issues) has been introduced within the General Conditions of the GB Grid Code.
- 5.3. The requirements identified here and the legal drafting that follows from them result from detailed analysis undertaken by NGC. Some of this analysis is complete. However in a number of areas, it has not yet been possible to identify the detail of the requirements necessary to effect the transition to and implementation of the GB CUSC and Grid Code. This is particularly the case for things that have to take place in the run up to BETTA go-live. A number of such areas (“uncompleted requirements for transition”) are identified in this chapter. In addition, there are some areas where the detail of how the enduring arrangements under BETTA should operate have not yet been finalised. These areas (“uncompleted enduring requirements”) are also identified in this chapter. In respect of such areas, Ofgem/DTI intend that they should be treated in the following manner.
- 5.4. The transition sections of the GB CUSC or the GB Grid Code as appropriate will describe areas of uncompleted transitional requirements and will place an obligation on NGC to develop detailed requirements for such areas and to consult interested parties upon the requirements and the legal drafting for the GB CUSC or GB Grid Code to deliver such requirements. Such legal drafting will, subject to the approval of the Authority, be added to the relevant section of the GB CUSC or GB Grid Code and, as a result, parties will be obliged to comply with those additional requirements. The transitional provisions contained in CUSC (C10) and Grid Code (C14) licence conditions in NGC’s

licence (see appendices 1 and 2) give the Authority the power to make changes to the GB CUSC and to the GB Grid Code under such circumstances. Once NGC has produced and consulted upon legal drafting to the satisfaction of the Authority, the Authority will issue a notice to NGC requiring the GB CUSC or GB Grid Code to be so amended.

- 5.5. For any areas of uncompleted enduring requirements consultation will be undertaken by Ofgem/DTI.

Application of the CUSC and Grid Code

- 5.6. As mentioned in paragraphs 4.4 and 4.5, most of the enduring provisions of the GB CUSC are not likely to be brought into effect until BETTA go-live in order that the GB CUSC may apply appropriately to any application for connection to NGC's transmission system during the transition period. In contrast it is intended that most of the GB Grid Code provisions shall be brought into effect at go-active. It will therefore be necessary to disable certain GB Grid Code provisions from go-active until the time when they need to be brought into effect.

Disabling certain GB Grid Code provisions until go-live

- 5.7. As mentioned above, it is intended that the provisions for the transition to the GB Grid Code should be set down in section 14 of the General Conditions of the GB Grid Code (GC 14).
- 5.8. The detailed analysis of the stages in the transition of the GB Grid Code has not yet been completed. It is therefore impossible to identify with clarity any dates between go-active and go-live where specific GB Grid Code provisions will need to be brought into effect. As described in chapter 4, Ofgem/DTI are therefore taking the approach that any GB Grid Code provisions that may be needed to be implemented before go-live should be brought into effect at go-active and disabled by transitional provisions in the GB Grid Code until they are needed. Because it is likely that some provisions of the GB Grid Code will need to be implemented before go-live and because it is not yet clear all of the

provisions for which that is the case, it is planned to implement most the GB Grid Code provisions at go-active.

- 5.9. The extent to which it would be appropriate for the GB Grid Code to apply to users in Scotland during the transition period would appear to be limited in light of the obligations to which those users will be subject under the existing Scottish Grid Code. Ofgem/DTI therefore consider that the GB Code should be disapplied in respect of users in Scotland during the transition period except to the extent that specific transition requirements are identified to ensure that the GB Grid Code is in a fully operational form at BETTA go-live. As with the CUSC, users in England and Wales will be required to comply with all of the GB Grid Code as if the GB transmission system were restricted to England and Wales and users in Scotland will only be required to comply with certain GB Grid Code provisions specifically identified in GC 14. However, Scottish users will also be obliged to continue to comply with the Scottish Grid Code until BETTA go-live.

GB CUSC and Grid Code provisions for transition

- 5.10. The provisions for transition to the GB CUSC are set out in the new Section 12 of the GB CUSC. The provisions for transition to the GB Grid Code are set out in the new GC 14 of the GB Grid Code. The requirements for transition and broadly how they may be given effect are described below.

Amendments process

- 5.11. All parties to the CUSC from go-active are able to participate in the GB CUSC amendments process. Similarly, all the members of the newly establish GB Grid Code Review Panel will be able to participate (to the extent envisaged in the Code) in the review of, and consideration of proposed changes to, the GB Grid Code. However Ofgem/DTI consider that the GB CUSC and GB Grid Code amendments process should not apply to the transition provisions of the GB CUSC and the GB Grid Code. The process for amending these provisions is instead contained within the CUSC and Grid Code licence conditions shown in appendices 1 and 2. Thus the only ways in which such transition provisions may be amended during the transition period is through the power provided to

the Authority under the transitional CUSC and Grid Code licence conditions as described in paragraph 5.4 or through the Secretary of State exercising again her powers under clause 127 (“Power to modify licence conditions”) of the Energy Bill to make further licence condition changes to introduce further code changes.

Changes to bilateral agreements with users in England and Wales

- 5.12. The existing agreements between CUSC users in England and Wales and NGC relate to NGC’s transmission system. By BETTA go-live it will be necessary for these agreements to have been modified to become agreements in relation to the GB transmission system. The extent of such modifications will depend upon the detail of the individual agreements and the outcome of the consultation on the arrangements for access to the GB transmission system discussed in chapter 4. However, all agreements have a number of (mainly definitional) provisions which will need to be amended with effect from BETTA go-live.
- 5.13. Ofgem/DTI therefore propose that NGC should be obliged to propose appropriate modifications to their agreements to all England and Wales users.

Putting in place bilateral agreements with users in Scotland

- 5.14. In order to prepare for the implementation of BETTA, users in Scotland will need to enter into discussions with NGC such that the necessary bilateral agreements called for by the GB CUSC are entered into by BETTA go-live. The enduring GB CUSC does not set down obligations covering the processes for entering into such agreements. As described in chapter 4, NGC will be obliged by a condition of its licence to offer terms for new connections and use of system and to enter into agreements based on those terms. The GB CUSC will contain arrangements that will reflect this licence obligation and which will apply to all parties to the GB CUSC. However, the CUSC makes no provision for the entering into of agreements by existing Scottish users in respect of services that are already being received under a different contract (with SPTL or SHETL) and in respect of a part of the GB transmission system (ie SPT or SHETL’s transmission system). The CUSC also expects all parties to be holders of

one or more bilateral agreements (including use of system offers and confirmation notices). It is therefore necessary for the GB CUSC both to allow for parties already receiving connection or use of system services (from another transmission licensee) but who have no bilateral agreements to accede to the GB CUSC, and to put in place the appropriate obligations upon such parties to enter into such bilateral agreements with NGC.

Agreement of offers

- 5.15. Ofgem/DTI believe that it is necessary to have a process which gives users both in Scotland and in England and Wales a reasonable period of time to consider the agreement or changes to agreements proposed by NGC and that, if users and NGC are unable to agree on the provisions of any agreement, both parties should have a right to seek a determination on the matter in dispute from the Authority. Following the determination by the Authority, both parties should be bound by that determination. Such provisions have been provided for in the transitional licence condition and proposed drafting for the transition section of the GB CUSC.
- 5.16. Further, Ofgem/DTI note that determination is not a process that can be reasonably subject to a timetable; it is necessary for the Authority to be able to give full and proper consideration to the matters before it. It is therefore possible that a determination on the terms of an agreement cannot be completed before BETTA go-live. Ofgem/DTI believe that, in respect of any connection which is energised at BETTA go-live there should be an agreement in place to provide both parties with a firm basis for their contractual relationship. This is an entirely different position from that for a party seeking connection, where the agreements are determined and in place ahead of energisation. Ofgem/DTI therefore propose that, for any agreement awaiting determination at BETTA go-live, the parties should be obliged to sign the agreement or the modification offer on the basis proposed by NGC, subject to subsequent alteration on the basis of the determination by the Authority. Legal drafting for the transition licence condition and the GB CUSC is provided in this document to give effect to that position.

Putting in place Scottish Interface Agreements

5.17. The GB CUSC requires that, where appropriate (ie where a party has assets on another party's land) users should enter into an Interface Agreement with NGC or, for connection sites in Scotland, with the relevant transmission licensee. As with the other bilateral agreements under the GB CUSC, such agreements are normally expected to be in place prior to the energisation of any part of the connection equipment. In order to ensure that such agreements are put in place by BETTA go-live, it is necessary to place obligations on users with energised connections in Scotland to enter into such agreements with the relevant party prior to BETTA go-live. The transition provisions of the GB CUSC give effect to such an obligation. The GB CUSC also obliges NGC to make the relevant transmission licensee aware of the user with whom it should be entering into an Interface Agreement. It will be necessary, in an appropriate part of the transition legal framework, to place an equivalent obligation on the relevant transmission licensee to enter into an Interface Agreement with any user made known to it by NGC. If parties are unable to agree the Interface Agreements they will be able to seek a determination from the Authority.

Provision of security cover

5.18. Under the GB CUSC parties entering into connection and/or use of system agreements with NGC and who do not meet the NGC credit rating will be required to deliver either a letter of credit or cash for credit cover. In respect of balancing services use of system (BSUoS) charges, broadly speaking, supplier users are required to deliver an amount that NGC anticipates the party would be typically be liable for over a 32 day period and generator users are required to deliver an amount that NGC anticipates the party would typically be liable over a 29 day period. In respect of demand related transmission network use of system (TNUoS), users are required to deliver a "reasonably considered" percentage of the amount, taking into account the security cover arrangements in the GB BSC, to be chargeable in the subsequent financial year.

5.19. From BETTA go-live, the enduring GB CUSC will require that all parties deliver credit cover in accordance with an amount notified to them. However, in order to derive a reasonable level of security in respect of demand related TNUoS,

NGC will require data from demand users in Scotland, the necessary data not having previously been made available to it. Ofgem/DTI therefore consider that the GB CUSC Section 12 should require users in Scotland during the transition period to provide a demand forecast for the Financial Year commencing at BETTA go-live. Ofgem/DTI also note that such data may be provided through the relevant transmission licensee, if the data has already been provided to them under the Scottish Grid Code but believe that the obligation on the user should reflect the user's ownership of its own forecasts.

Balancing services in Scotland

- 5.20. Ofgem/DTI believe that it is important that Scottish generators are enabled, as early as possible to participate in the processes for the tender for the provision of balancing services to the GB system operator. Such participation should be possible during the transition period in order that the resulting agreements can be in effect from BETTA go-live. Legal drafting is provided in appendix 9 to give effect to this.

Provision of data

- 5.21. In order to undertake the task of preparing bilateral agreements under the CUSC, NGC will require access to data relating to users in Scotland. Typically this would be data of the sort that would normally be provided by users pursuant to the relevant bilateral agreement currently in effect with SPT or SHETL or pursuant to the Scottish Grid Code. Ofgem/DTI consider that specific obligations relating to the transfer of this data during the transition period are necessary.
- 5.22. Ofgem/DTI believe that the GB CUSC and GB Grid Code transition provisions should require parties using the system in Scotland to provide necessary data to NGC and/or to enable transmission licensees in Scotland to provide necessary data to NGC so that the GB CUSC bilateral agreements can be produced and entered into prior to BETTA go-live. In addition Ofgem/DTI envisage that transition provisions should oblige users to verify, upon request from NGC, data that they may have previously provided and (if necessary) to verify data provided by transmission licensees in Scotland to NGC.

Confidentiality

- 5.23. The transmission licensees will be subject to various confidentiality obligations not least of which will be a special licence condition on transmission owners to treat any information relating to or deriving from the operation of their business as confidential. It should also be noted that users and transmission licensees in Scotland will continue to be subject to the confidentiality obligations in their existing bilateral agreements and the Scottish Grid Codes during the transition period. Therefore the extent to which each can ordinarily share data with NGC would appear to be limited. Further, information transfers between users in Scotland and NGC during the transition period would not appear to be covered by confidentiality obligations.
- 5.24. In light of these factors, Ofgem/DTI consider that in order for the necessary transfers of information to take place in order to support NGC's activities during the transition period and for these transfers to take place in accordance with standard industry confidentiality arrangements, the transition provisions of the GB CUSC and GB Grid Code should:
- ◆ require users in Scotland to enable²⁴ transmission owners to provide data to NGC necessary for the production of relevant bilateral agreements, and
 - ◆ require users and NGC to treat all information exchanged between themselves during the transition period as confidential by reference to the enduring CUSC confidentiality provisions.

GB Grid Code provisions for go-active

- 5.25. As explained in paragraph 5.8 the GB Code will only apply to users in Scotland in the transition period to the extent set out in GC 14. The objective of the GB Grid Code transition arrangements will be to enable NGC and users to be in a

²⁴ Ofgem/DTI note that a user enabling transmission owners to provide such information may require the user to provide the transmission owner with an undertaking that it will not enforce any confidentiality agreements between them.

position to satisfy their GB Grid Code requirements from BETTA go-live. In order to achieve this outcome NGC will require information and co-operation both from users and from transmission licensees in Scotland as set out below.

Provision of data

- 5.26. Ofgem/DTI consider that users should be required to provide NGC with data necessary for go live, such as that which would ordinarily be submitted under the Connection Conditions in relation to a new connection. Ofgem/DTI also consider that users should be obliged, upon request from NGC, to verify and confirm the accuracy of that data. Further, NGC needs the agreement of users in Scotland to have access to and to use their SCADA data in the transition period, which will be provided by the relevant transmission licensee.

Identification of documents

- 5.27. As part of the processes necessary to put in place the enduring framework of documents required under the GB Grid Code in Scotland, it is necessary for users and NGC to work together to identify what documents are required in respect of each Scottish site and to put such documentation in place. The requirements for documents will apply to (but not be limited to) Site Responsibility Schedules, Operations Diagrams and OC9 Desynchronised Island Procedures.

Uncompleted requirements for transition

- 5.28. In paragraph 3.5 above, Ofgem/DTI identified that a number of requirements for the transition to the GB CUSC and Grid Code were yet to be fully defined and laid out the process for dealing with such circumstances. Ofgem/DTI consider that the transition provisions should set out the areas that are known to be incomplete. For each of these areas, legal drafting has been included to oblige NGC to undertake the necessary work to complete the requirements and the necessary legal drafting for the GB CUSC and/or the GB Grid Code. Having consulted upon such work NGC will propose the change to the GB CUSC and/or the GB Grid Code to the Authority and, subject to the Authority's approval any subsequent direction will put the changes in place.

Enabling cut-over

- 5.29. In the same way that it is not yet possible to define the detailed requirements for testing, it is not yet possible to define the requirements for the cut-over from operation of the CUSC and the Grid Code only in England and Wales to GB-wide operation at BETTA go-live, in the last few days and hours before BETTA go-live. NGC have commenced analysis in this area but such work is not yet complete.

Uncompleted enduring requirements

- 5.30. There are some areas where the enduring legal framework is as yet incomplete. In some of these areas, Ofgem/DTI intend to consult on the requirements but in other areas, which may also impact upon the GB CUSC and the GB Grid Code, it is only the detailed mechanisms that remain to be resolved. The areas where further work is required are:

- ◆ Ofgem/DTI consideration of the position of large (as defined in the GB Grid Code) embedded generators
- ◆ the consideration of rights for access to the GB transmission system
- ◆ the provisions for black start in Scotland
- ◆ provisions for cascade hydro generators

- 5.31. Ofgem/DTI are intending to consult in the near future on proposals for the treatment of embedded exemptable large power stations under BETTA. Depending on the outcome of that consultation, it may be necessary to place a transitional obligation on such generators and/or associated obligations on the operators of the networks to which such generators are connected, to enter into agreements with NGC.

- 5.32. Such areas are identified in the transition provisions for the GB CUSC and for the GB Grid Code. The draft licence conditions shown in appendices 1 and 2 provide the ability for the Authority to approve any necessary change to the codes to give effect to address such matters.

6. Proposed draft text for the GB CUSC

- 6.1. Appendix 9 of this document contains draft legal text of a new section 12 for the GB CUSC designed to effect the transition to the GB CUSC under BETTA. Section 12 is intended to reflect the requirements discussed in chapters 4 and 5; a broad outline of the sub-sections of section 12 is provided below.

Introduction

- 6.2. Sub-section 12.1 provides a brief explanation of the role of Section 12 and various definitions such as E&W Users, Scottish Users and Transition Period that are necessary for and specific to the matters covered in section 12. Subsection 12.1 also sets out the obligation described in paragraph 5.29 above which requires NGC to identify areas of activity that will need to be subject to provisions in the GB CUSC but which will need to be developed between go-active and go-live.

GB CUSC Transition

- 6.3. Subsection 12.2 describes how the GB CUSC applies to E&W Users, Scottish Users and to NGC during the transition period. It then goes on to set down specific obligations relating to some of the more detailed CUSC transition matters. The following is a broad description of the intent of the provisions in sub-section 12.2.

General provisions

- 6.4. The provisions of sections 12.2.1 to 12.2.4 are intended to specify the overall scope of the application of the CUSC in respect of each group of parties during the transition period (Scottish users, E&W users and NGC).

Specific provisions

- 6.5. Section 12.2.6 is intended to put obligations on England and Wales users and on NGC to support the processes required to put in place the modified agreements for BETTA go-live for existing E&W users and for the development of GB offers for E&W applicants. Agreements between E&W users and NGC are

required to be agreed by 1 March 2005 or referred to the Authority for determination.

- 6.6. Section 12.2.7 is intended to put the necessary obligations on Scottish users and on NGC such that the necessary information is provided to NGC to enable draft agreements to be prepared in accordance with the GB CUSC and for such agreements to be agreed between the Scottish user and NGC or, if not agreed, to be submitted to the Authority for determination.

Interface Agreements

- 6.7. Section 12.2.8 is intended to place the necessary obligations on Scottish users to enter into Interface Agreements with the relevant transmission licensee.

Security

- 6.8. Sections 12.2.9 and 12.2.10 provide for the obligations on users to provide for security cover in respect of NGC's charges (as required in the GB CUSC) and, where necessary to provide data to enable such charges to be estimated for the purposes of credit cover.

Balancing services issues

- 6.9. Section 12.2.11 obliges NGC and Scottish users to enter into appropriate agreements for the provision of response and reactive services and enables Scottish users to participate in the six monthly tender process for the provision of ancillary services.

Verification of data

- 6.10. Section 12.2.12 is intended to provide for users verification, on request by NGC, of data that has been provided by a transmission licensee on their behalf.

Confidentiality

- 6.11. Section 12.2.13 is intended to ensure the confidentiality (in accordance with the CUSC) of information provided between users and NGC during the transition period.

Amendments/Panel

- 6.12. Section 12.2.14 is intended to put in place the individuals notified to NGC as those who were successful in the CUSC election process as CUSC Amendment Panel members and alternate members. The section also ensures that Scottish users participate in the amendment process from go-active. It also ensures that the normal amendment process cannot be used to amend the transition provisions during the transition period. Finally, the section disables the provisions of section 8.23.5 in respect of the CUSC changes designated by the Secretary of State and those changes directed by the Authority under the transitional provisions of the CUSC licence condition. Section 8.23.5 allows the Amendments Panel to consider CUSC amendments which have not progressed through their processes to determine whether there is an alternate amendment which would better fulfil the CUSC applicable objectives.

Other provisions

- 6.13. Section 12.2.15 is designed to ensure that the necessary CUSC provisions related to liability and to legal jurisdiction apply to all CUSC parties during the transition period.
- 6.14. Section 12.2.19 is designed to ensure that a party that has complied with the provisions of Section 12 of the GB CUSC during the transition period shall be deemed to have complied with the GB CUSC during that period.
- 6.15. The appendix of Section 12 lists those changes to the CUSC for which NGC is obliged to develop proposals including legal drafting and for which NGC's licence condition C10 will enable the Authority to approve proposed changes to the CUSC.

7. Proposed draft text for the GB Grid Code

- 7.1. Appendix 10 of this document contains draft legal text of a new section 14 within the General Conditions of the GB Grid Code (GC 14) which is designed to effect the transition to the GB Grid Code at BETTA go-live. GC 14 is intended to reflect the requirements discussed in chapters 4 and 5. A broad outline of the components of GC 14 is provided below.
- 7.2. GC 14 consists only of an introductory paragraph which refers directly to an appendix GC. A1 of the General Conditions which contains the detailed provisions for transition. GC. A1 contains the following sections.

Introduction

- 7.3. This section is intended to set out the general definitions which will be needed to specify how the GB Grid Code should apply during the transition period. It also lists (in GC. A1.11) those matters that potentially require changes to the GB Grid Code during the transition period.

GB Grid Code transition

- 7.4. This section is intended to limit the operation of the GB Grid Code from go-active so that it applies to E&W users as if all references to the GB transmission system were references to NGC's transmission system and to apply to Scottish users only to the extent specified in accordance with the appendix.
- 7.5. In addition the section is intended to place the necessary obligations on Scottish users in relation to the identification (with NGC) of the documents need to be put in place by go-live and to provide (or where necessary validate) the data required by NGC to effect the implementation of the GB Grid Code by BETTA go-live.
- 7.6. This section also contains the drafting necessary to put in place the members of the GB Grid Code Review Panel who have been notified to NGC by the Authority (based on those nominated by the Scottish GCRP and the England and Wales GCRP).

Cut-over

- 7.7. This section is largely designed to contain provision to be developed and consulted upon by NGC and, subject to approval by the Authority added to the GB Grid Code during the transition period.

Appendix 1 NGC's CUSC licence condition

Condition C10: Connection and Use of System Code (CUSC)

1. The licensee shall establish arrangements for connection and use of system in respect of matters other than those to which standard conditions C14 (Grid Code) and C5 (Use of system charging methodology) to C9 (Functions of the Authority) relate which are calculated to facilitate the achievement of the following objectives:

- (a) the efficient discharge by the licensee of the obligations imposed upon it under the Act and by this licence and, during the [transition period]²⁵ shall include the efficient discharge by the licensee of those obligations which it is known (or reasonably anticipated) during the [transition period] are to be imposed on the licensee by this licence after the expiry of the [transition period]; and
- (b) facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity,

and the licensee shall be taken to comply with this paragraph by having a document setting out the arrangements for connection and use of system designated by the Secretary of State for the purposes of this condition by the date this condition comes into effect and by modifying such document from time to time in accordance with the provisions of paragraphs 6, 7, 8 and 9 below.

Deleted: and

2. The licensee shall prepare a connection and use of system code ("CUSC") setting out:

- (a) the terms of the arrangements made in pursuance of paragraph 1;

²⁵ To be defined. It is anticipated that this period will commence on the date that BETTA "goes active" (currently anticipated to be 1 September 2004, subject to the Energy Bill receiving Royal Assent in July

(b) the procedures established in pursuance of paragraph 6; and

such other terms as are or may be appropriate for the purposes of the CUSC.

3. The licensee shall only enter into arrangements for connection and use of system which are in conformity with any relevant provisions of the CUSC.

4. The CUSC shall provide for:

(a) the licensee and each CUSC user to be contractually bound insofar as is applicable by the terms of the Grid Code from time to time in force;

(b) (i) the licensee and each CUSC user to enter into an agreement or agreements, supplemental to and in a form prescribed by the CUSC, setting out site specific details in respect of each site at which the CUSC user's electrical lines or electrical plant is connected to the licensee's transmission system or the GB transmission system, as appropriate;

(ii) each CUSC user to enter into an agreement or agreements with a transmission licensee (other than the licensee) supplemental to and in a form prescribed by the CUSC setting out site specific details in respect of each site at which the CUSC user's electrical lines or electrical plant is connected to that other licensee's transmission system or the GB transmission system, as appropriate;

(c) there to be referred to the Authority for determination such matters arising under the CUSC as may be specified in the CUSC; and

(d) a copy of the CUSC to be provided to any person requesting the same upon payment of an amount not exceeding the reasonable costs of making and providing such copy.

2004) and end on or around the BETTA go-live date (which it is currently anticipated will occur on 1 April 2005).

5. The provisions of paragraphs 4 and 10 shall not limit the matters which may be provided for in the CUSC.
6. The licensee shall establish and operate procedures for the modification of the CUSC (including procedures for modification of the modification procedures themselves), so as to better facilitate achievement of the applicable CUSC objectives, which procedures shall provide **(without prejudice to the procedures for modification provided for at paragraphs 7, 8 and 9 below)**
 - (a) for proposals for modification of the CUSC to be made by the licensee, CUSC users and such other persons and bodies as the CUSC may provide;
 - (b) where such a proposal is made:
 - (i) for bringing the proposal to the attention of CUSC parties and such other persons as may properly be considered to have an appropriate interest in it;
 - (ii) for proper consideration of any representations on the proposal;
 - (iii) for properly evaluating whether the proposed modification would better facilitate achieving the applicable CUSC objectives, provided that so far as any such evaluation requires information which is not generally available concerning the licensee, **the licensee's transmission system** or the GB transmission system, **as appropriate**, such evaluation shall be made on the basis of the licensee's proper assessment (which the licensee shall make available for these purposes) of the effect of the proposed modification on the matters referred to in paragraph 1(a) and (b);
 - (iv) for development of any alternative modification which may, as compared with the proposed modification, better facilitate achieving the applicable CUSC objectives;

- (v) for the preparation of a report:
- setting out the proposed modification and any alternative;
 - evaluating the proposed modification and any alternative;
 - assessing the extent to which the proposed modification or any alternative would better facilitate achieving the applicable CUSC objectives;
 - assessing the impact of the modification on the core industry documents and the changes expected to be required to such documents as a consequence of such modification;
 - setting out a timetable for implementation of the modification and any alternative, including the date with effect from which such modification (if made) is to take effect; and
- (vi) for the submission of the report to the Authority as soon after the proposal is made as is appropriate (taking into account the complexity, importance and urgency of the modification) for the proper execution and completion of the steps in sub-paragraphs (i) to (v); and
- (c) for the timetable (referred to in sub-paragraph (b)(v)) for implementation of any modification to be such as will enable the modification to take effect as soon as practicable after the Authority has directed such modification to be made, account being taken of the complexity, importance and urgency of the modification, and for that timetable to be extended with the consent of or as required by the Authority.

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7. (a) If a report has been submitted to the Authority pursuant to procedures described in paragraph 6(b)(vi), and the Authority is of the opinion that a modification set out in such report would, as compared with the then existing provisions of the CUSC and any alternative modifications set out in such report, better facilitate achieving the applicable CUSC objectives the Authority may direct the licensee to make that modification.

(b) The licensee shall, upon receipt by the licensee of a direction from the Secretary of State to do so, modify the CUSC so as to incorporate any changes to the CUSC designated by the Secretary of State on or before the *[insert appropriate date²⁶]*.

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(c) The licensee shall only modify the CUSC:

(i) in order to comply with any direction of the Secretary of State pursuant to sub-paragraph (b) or of the Authority pursuant to sub-paragraph (a) or paragraph 8 below; or

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(ii) with the consent of the Authority,

and it shall not have the power to modify the CUSC in any other circumstance; and the licensee shall furnish the Authority with a copy of any modification made.

(c) Only the licensee shall have the power to modify the CUSC.

8. The Authority may during the *[transition period]*, where it considers it to be necessary or expedient for the purposes of implementing *[BETTA]*²⁷ (and following such consultation with such persons, and in such manner, as the Authority deems appropriate) direct the licensee to modify the provisions of the CUSC in the following circumstances:

²⁶ It is anticipated that the date that will be referred to here will be close to the "go-active" date, which is currently anticipated to be 1 September 2004.

²⁷ To be defined broadly as the arrangements relating to the trading and transmission of electricity in Great Britain which are provided for in Chapter 1 of Part 4 of the Energy Bill.

- (a) to take account of any matters which emerge as a result of the testing and trialling of computer systems and processes required to support the arrangements set out in the CUSC and/or to ensure consistency between such systems and processes and the systems and processes provided for in the BSC, Grid Code and/or STC;
- (b) to correct any errors or omissions or to remove any inconsistencies in the CUSC, including the correction of any conflict between different provisions of the CUSC or the removal and correction of any inconsistency between different provisions of the CUSC or between any provision of the CUSC and any provision of this licence, the BSC, Grid Code and/or STC;
- (c) to make technical refinements to the drafting of the CUSC which serve to clarify or enhance the CUSC and/or the arrangements contemplated by the CUSC and do not significantly and adversely affect the interests of CUSC parties;
- (d) to make the changes required or appropriate for the purposes of reflecting in the CUSC the development of the matters identified for these purposes in Appendix 1 of Section 12 of the CUSC as at *[insert relevant date]*;
- (e) to make such changes as are necessary or expedient to ensure that [BETTA] can commence and take place on and from the [BETTA go-live date]²⁸;
- (f) to make changes to the provisions of the CUSC which are consequent upon changes being made to the BSC, the Grid Code or the STC pursuant to the equivalent provision to this of standard condition B12 (STC), C3 (BSC) and/or C14 (Grid Code);

²⁸ To be defined.
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- (g) to make any other minor incidental, consequential or supplementary changes resulting from any of the changes referred to in paragraphs (a) to (f); or
- (h) in any other circumstance, where the Secretary of State has consented to such direction being made.

9. Where the licensee is directed by the Secretary of State or the Authority to make a modification to the CUSC in accordance with paragraph 7(b) or paragraph 8 of this condition, the licensee shall forthwith:

- (a) serve a notice, signed by the licensee, of such modification on each CUSC party; and
- (b) place a copy of such notice on the licensee's website.

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10. A modification made in accordance with a direction from the Secretary of State or the Authority in accordance with paragraph 7(b) or paragraph 8 of this condition shall take effect from the time and date (if any) specified in such direction and in the absence of any such time or date shall take effect on and from 0000 hours on the day next following the date of service on the licensee.

11. The licensee shall prepare and publish a summary of the CUSC as modified or changed from time to time in such form and manner as the Authority may from time to time direct.

12. The licensee shall be a party to the CUSC Framework Agreement and shall comply with the CUSC.

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13. The CUSC Framework Agreement shall contain provisions:

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- (a) for admitting as an additional party to the CUSC Framework Agreement any person who accepts the terms and fulfils the conditions (each as specified in the CUSC) on which accession to the CUSC Framework Agreement is offered; and

(b) for referring for determination by the Authority any dispute which shall arise as to whether a person seeking to be admitted as a party to the CUSC Framework Agreement has fulfilled any accession conditions; and if the Authority determines that the person seeking accession had fulfilled all relevant standard conditions, for admitting such person to be a party to the CUSC Framework Agreement.

14. The Authority may issue a direction to the licensee to make such amendments to the agreement known as the Master Connection and Use of System Agreement ("MCUSA") and the supplemental agreements and ancillary services agreements (as defined or referred to in MCUSA) and any associated agreements derived from MCUSA as shall be stated as required to be made to amend them appropriately into the CUSC Framework Agreement, CUSC, bilateral agreements, construction agreements and associated agreements derived from CUSC so as to maintain continuity of contractual relationships.

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15. The licensee shall take all reasonable steps to secure and implement (consistently with the procedures applicable under or in relation to such documents), and shall not take any steps to prevent or unduly delay, changes to the core industry documents to which it is a party (or in relation to which it holds rights in respect of amendment), such changes being changes which are appropriate in order to give full and timely effect to and/or in consequence of any modification which has been made to the CUSC.

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16. For the avoidance of doubt, paragraph 14 is without prejudice to any rights of approval, veto or direction in respect of proposed changes to the documents referred to in paragraph 15, which the Authority may have.

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15. The licensee shall comply with any direction to the licensee made pursuant to this condition.

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16. In this condition:

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"applicable CUSC objectives" means:

- (a) in relation to a proposed modification of the modification procedures, the requirements of paragraph 6 (to the extent that they do not conflict with the objectives set out in paragraph 1);
and
- (b) in relation to any other proposed modification, the objectives set out in paragraph 1.

Appendix 2 NGC's Grid Code licence condition

Condition C14: Grid Code

1. The licensee shall in consultation with authorised electricity operators liable to be materially affected thereby prepare and at all times have in force and shall implement and comply (subject to paragraph 14) with the Grid Code.

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(a) covering all material technical aspects relating to connections to and the operation and use, during the transition period, of the licensee's transmission system and, thereafter, of the GB transmission system or (in so far as relevant to the operation and use of the licensee's transmission system or the GB transmission system, as appropriate) the operation of electric lines and electrical plant connected to the licensee's transmission system or the GB transmission system, as appropriate, or any distribution system of any authorised distributor and (without prejudice to the foregoing) making express provision as to the matters referred to in paragraph 5 below; and

(b) which is designed so as:

(i) to permit the development, maintenance and operation of an efficient, co-ordinated and economical system for the transmission of electricity;

(ii) to facilitate competition in the generation and supply of electricity (and without limiting the foregoing, to facilitate, during the transition period, the licensee's transmission system being made available and, thereafter, the GB transmission system being made available, in each case, to persons authorised to supply or generate electricity on terms which neither prevent nor restrict competition in the supply or generation of electricity); and

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(iii) subject to sub-paragraphs (i) and (ii), to promote the security and efficiency of the electricity generation, transmission and distribution systems in, during the transition period, England and Wales taken as a whole and, thereafter, in Great Britain taken as a whole.

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2. The Grid Code in force at the date this condition comes into force shall be sent to the Authority for its approval. Thereafter the licensee shall (in consultation with authorised electricity operators liable to be materially affected thereby) periodically review (including upon the request of the Authority) the Grid Code and its implementation. Following any such review, the licensee shall send to the Authority:

- (a) a report on the outcome of such review; and
- (b) any proposed revisions to the Grid Code from time to time as the licensee (having regard to the outcome of such review) reasonably thinks fit for the achievement of the objectives referred to in paragraph (b) of paragraph 1; and
- (c) any written representations or objections from authorised electricity operators liable to be materially affected thereby (including any proposals by such operators for revisions to the Grid Code not accepted by the licensee in the course of the review) arising during the consultation process and subsequently maintained.

3. Revisions to the Grid Code proposed by the licensee and sent to the Authority pursuant to paragraph 2 shall require to be approved by the Authority.

4. Without prejudice to paragraphs 6 and 7 below, and having regard to any written representations or objections referred to in sub-paragraph (c) of paragraph 2, and following such further consultation (if any) as the Authority may consider appropriate, the Authority may issue directions requiring the licensee to revise the Grid Code in such manner as may be specified in the directions, and the licensee shall forthwith comply with any such directions.

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5. The Grid Code shall include codes relating to the technical operation, during the transition period, of the licensee's transmission system and, thereafter, of the GB transmission system, including:

(a) connection conditions specifying the technical, design and operational criteria to be complied with by the licensee and by any person connected or seeking connection with the licensee's transmission system or the GB transmission system, as appropriate, or by any person authorised to generate who is connected with or seeks connection with the licensee's transmission system or any distribution system of any third party which is located in England and Wales or with the GB transmission system or any distribution system of any third party which is located in Great Britain, as appropriate.

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(b) an operating code specifying the conditions under which the licensee shall operate the licensee's transmission system and the GB transmission system and under which persons shall operate their plant and/or distribution systems in relation to the licensee's transmission system or the GB transmission system, as appropriate, in so far as necessary to protect the security and quality of supply and safe operation of the licensee's transmission system or the GB transmission system, as appropriate, under both normal and abnormal operating conditions;

(c) a planning code specifying the technical and design criteria and procedures to be applied in the planning and development of the licensee's transmission system and the GB transmission system and to be taken into account by persons connected or seeking connection with the licensee's transmission system or the GB transmission system, as appropriate, in the planning and development of their own plant and systems; and

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(d) procedures relating to the outage of generation sets and a balancing code specifying, among other matters, information to be submitted by

authorised electricity operators to the licensee for the purposes of, and the making of offers and bids in, the balancing mechanism, and the issuing of instructions by reference to such offers and bids.

6. The licensee shall, upon receipt by the licensee of a direction from the Secretary of State to do so, revise the Grid Code so as to incorporate any changes to the Grid Code designated by the Secretary of State on or before the *[insert appropriate date²⁹]*.
7. The Authority may during the *[transition period]*³⁰, where it considers it to be necessary or expedient for the purposes of implementing *[BETTA]*³¹ (and following such consultation with such persons, and in such manner, as the Authority deems appropriate) direct the licensee to revise the Grid Code, in such manner as may be specified in those directions, in the following circumstances:
 - (a) to take account of any matters which emerge as a result of the testing and trialling of computer systems and processes required to support the arrangements set out in the Grid Code and/or to ensure consistency between such systems and processes and the systems and processes provided for in the BSC, CUSC and/or STC;
 - (b) to correct any errors or omissions or to remove any inconsistencies in the Grid Code, including the correction of any conflict between different provisions of the Grid Code or the removal and correction of any inconsistency between different provisions of the Grid Code or between any provision of the Grid Code and any provision of this licence, the BSC, CUSC and/or STC;

²⁹ It is anticipated that the date that will be referred to here will be close to the "go-active" date, which is currently anticipated to be 1 September 2004.

³⁰ To be defined. . It is anticipated that this period will commence on the date that BETTA "goes active" (currently anticipated to be 1 September 2004, subject to the Energy Bill receiving Royal Assent in July 2004) and end on or around the BETTA go-live date (which it is currently anticipated will occur on 1 April 2005).

³¹ To be defined broadly as the arrangements relating to the trading and transmission of electricity in Great Britain which are provided for in Chapter 1 of Part 4 of the Energy Bill.
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- (c) to make technical refinements to the drafting of the Grid Code which serve to clarify or enhance the Grid Code and/or the arrangements contemplated by the Grid Code and do not significantly and adversely affect the interests of Grid Code parties;
- (d) to make the changes required or appropriate for the purposes of reflecting in the Grid Code the development of the matters identified for these purposes in *[insert cross reference to relevant section of the Grid Code]* as at *[insert relevant date]*;
- (e) to make such changes as are necessary or expedient to ensure that [BETTA] can commence and take place on and from the [BETTA go-live date]³²;
- (f) to make changes to the provisions of the Grid Code which are consequent upon changes being made to the BSC, CUSC or the STC pursuant to the equivalent provision to this of standard condition B12 (STC), C3 (BSC) and/or C10 (CUSC);
- (g) to make any other minor incidental, consequential or supplementary changes resulting from any of the changes referred to in paragraphs (a) to (f); or
- (h) in any other circumstance, where the Secretary of State has consented to such direction being made.

8. Where the licensee is directed by the Secretary of State or the Authority to make a revision to the Grid Code in accordance with paragraph 6 or paragraph 7 of this condition, the licensee shall forthwith:

- (a) serve a notice detailing such revision, such notice to be signed by the licensee, on each electricity licence holder and each CUSC party; and
- (b) place a copy of such notice on the licensee's website.

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³² To be defined.
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9. A revision made in accordance with a direction from the Secretary of State or the Authority in accordance with paragraph 6 or paragraph 7 of this condition shall take effect from the time and date (if any) specified in such direction and in the absence of any such time or date shall take effect on and from 0000 hours on the day next following the date of service on the licensee.

10. The licensee shall give or send a copy of the Grid Code (as from time to time revised) to the Authority.

11. The licensee shall (subject to paragraph 12) give or send a copy of the Grid Code (as from time to time revised) to any person requesting the same.

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12. The licensee may make a charge for any copy of the Grid Code (as from time to time revised) given or sent pursuant to paragraph 11, of an amount which will not exceed any amount specified for the time being for the purposes of this condition in directions issued by the Authority.

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13. In preparing, implementing and complying with the Grid Code (including in respect of the scheduling of maintenance of the licensee's transmission system or the GB transmission system), the licensee shall not unduly discriminate against or unduly prefer any person or class or classes of person in favour of or as against any person or class or classes of persons.

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14. The Authority may (following consultation with the licensee) issue directions relieving the licensee of its obligations to implement or comply with the Grid Code in respect of such parts of the licensee's transmission system or the GB transmission system, as appropriate, and/or to such extent as may be specified in the directions.

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15. In this condition, authorised electricity operator includes any person transferring electricity, during the transition period, to or from England and Wales across an interconnector and, thereafter, to or from Great Britain across an interconnector.

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Appendix 3 Scottish Grid Code licence condition

Transitional Condition ~~7~~.DX. [Licensee's ~~Grid Code~~/Scottish] grid code¹

1. The licensee shall in consultation with authorised electricity operators liable to be materially affected thereby prepare and at all times have in force and shall implement and comply (subject to paragraph ~~10~~13) with the ~~Grid Code to be known as the~~ licensee's ~~Grid Code~~ grid code:
 - (a) covering all material technical aspects relating to connections to and the operation and use of the licensee's transmission system or (in so far as relevant to the operation and use of the licensee's transmission system) the operation of electric lines and electrical plant connected to the licensee's transmission system or any distribution system of any authorised distributor and (without prejudice to the foregoing) making express provision as to the matters referred to in paragraph 5 below; and
 - (b) which is designed so as:
 - (i) to permit the development, maintenance and operation of an efficient, co-ordinated and economical system for the transmission of electricity;
 - (ii) to facilitate competition in the generation and supply of electricity (and without limiting the foregoing, to facilitate the licensee's transmission system being made available to persons authorised to supply or generate electricity on terms which neither prevent nor restrict competition in the supply or generation of electricity); and

¹ Based on current SLC B7 and incorporating at paragraphs 12 and 13 the provisions of current SLC B7A.
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- (iii) subject to sub-paragraphs (i) and (ii), to promote the security and efficiency of the electricity generation, transmission and distribution systems in ~~England and Wales or Scotland each taken as a whole.~~
2. The licensee's ~~Grid Code~~ grid code in force ~~at~~ immediately prior to the date this condition comes into force shall ~~be sent to the Authority for its approval~~ continue in force. Thereafter ~~the~~ licensee shall (in consultation with authorised electricity operators liable to be materially affected thereby) periodically review (including upon the request of the Authority) the licensee's ~~Grid Code~~ grid code and its implementation. Following any such review, the licensee shall send to the Authority:
- (a) a report on the outcome of such review; and
 - (b) any proposed revisions to the licensee's ~~Grid Code~~ grid code from time to time as the licensee (having regard to the outcome of such review) reasonably thinks fit for the achievement of the objectives referred to in paragraph (b) of paragraph 1; and
 - (c) any written representations or objections from authorised electricity operators liable to be materially affected thereby (including any proposals by such operators for revisions to the licensee's ~~Grid Code~~ grid code not accepted by the licensee in the course of the review) arising during the consultation process and subsequently maintained.
3. Revisions to the licensee's ~~Grid Code~~ grid code proposed by the licensee and sent to the Authority pursuant to paragraph 2 shall require to be approved by the Authority.
4. ~~Having~~ Without prejudice to paragraph 6, and having regard to any written representations or objections referred to in sub-paragraph (c) of paragraph 2, and following such further consultation (if any) as the Authority may consider appropriate, the Authority may issue directions requiring the licensee to revise

the licensee's ~~Grid Code~~ grid code in such manner as may be specified in the directions, and the licensee shall forthwith comply with any such directions.

5. The licensee's ~~Grid Code~~ grid code shall include codes relating to the technical operation of the licensee's transmission system, including:
- (a) connection conditions specifying the technical, design and operational criteria to be complied with by the licensee and by any person connected or seeking connection with the licensee's transmission system or by any person authorised to generate who is connected with or seeks connection with the licensee's transmission system or any transmission system or distribution system of any third party which is located in ~~Great Britain~~ Scotland;
 - (b) an operating code specifying the conditions under which the licensee shall operate the licensee's transmission system and under which persons shall operate their plant and/or distribution systems in relation to the licensee's transmission system, in so far as necessary to protect the security and quality of supply and safe operation of the licensee's transmission system under both normal and abnormal operating conditions; and
 - (c) a planning code specifying the technical and design criteria and procedures to be applied by the licensee in the planning and development of the licensee's transmission system and to be taken into account by persons connected or seeking connection with the licensee's transmission system in the planning and development of their own plant and systems.
6. [The](#) Authority may during the [transition period]², where it considers it to be necessary or expedient for the purposes of implementing [BETTA]³ (and following such consultation with such persons, and in such manner, as the

² To be defined.

³ To be defined broadly as the arrangements relating to the trading and transmission of electricity in Great Britain.

Authority deems appropriate) direct the licensee to revise the provisions of the licensee's grid code in the following circumstances:

- (a) to make such changes as are necessary or expedient to ensure that [BETTA]⁴ can commence and take place on and from the [go-live date]⁵;
- (b) to make any other minor incidental, consequential or supplementary changes resulting from any of the changes referred to in paragraph (a);
or
- (c) in any other circumstance, where the Secretary of State has consented to such direction being made.

7. Where the licensee is directed by the Authority to make a revision to the licensee's grid code in accordance with paragraph 6 of this condition, the licensee shall forthwith revise the licensee's grid code as directed and shall:

- (a) serve a notice, signed by the licensee, of such revision on each party to the licensee's grid code; and
- (b) place a copy of such notice on the licensee's website.

8. A revision made in accordance with a direction from the Authority in accordance with paragraph 6 of this condition shall take effect from the time and date (if any) specified in such direction and in the absence of any such time or date shall take effect on and from 00.00 hours on the day next following the date of service on the licensee.

~~6-9.~~ The licensee shall give or send a copy of the licensee's ~~Grid Code~~ grid code (as from time to time revised) to the Authority.

Britain which are provided for in Chapter 1 of Part 4 of the Energy Bill.

⁴ To be defined.

⁵ To be defined.

- ~~7~~-10. The licensee shall (subject to paragraph ~~8~~11) give or send a copy of the licensee's ~~Grid Code~~grid code (as from time to time revised) to any person requesting the same.
- ~~8~~-11. The licensee may make a charge for any copy of the licensee's ~~Grid Code~~grid code (as from time to time revised) given or sent pursuant to paragraph ~~7~~10 of an amount which will not exceed any amount specified for the time being for the purposes of this condition in directions issued by the Authority.
- ~~9~~-12. In preparing, implementing and complying with the licensee's ~~Grid Code~~grid code (including in respect of the scheduling of maintenance of the licensee's transmission system), the licensee shall not unduly discriminate against or unduly prefer any person or class or classes of person in favour of or as against any person or class or classes of persons.
- ~~10~~-13. The Authority may (following consultation with the licensee) issue directions relieving the licensee of its obligations to implement or comply with the licensee's ~~Grid Code~~grid code in respect of such parts of the licensee's transmission system and/or to such extent as may be specified in the directions.

~~Condition 7A. Compliance with Other Grid Codes~~^{14.33} The licensee shall comply with the provisions of ~~any other Grid Codes~~the Grid Code which the system operator is required to have in place pursuant to paragraph 1 of standard condition C14 (Grid Code) and any other licensee's grid code in so far as applicable to the licensee or licensee's transmission business.

- ~~2~~-15. The Authority may, following consultation with the transmission ~~company~~ licensee responsible for any other ~~Grid Code~~grid code and any other authorised electricity operators directly affected thereby, issue directions relieving the licensee of its obligation under paragraph ~~4~~14 in respect of such parts of such

³³ This text is taken from current SLC B7A.
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other ~~Grid Code~~ grid code and to such extent and subject to such conditions as may be specified in those directions³⁴.

³⁴ Paragraphs 14 and 15 are based on current SLC B7A (Compliance with Other Transmission Company Grid Codes) – although we note that the heading of the condition itself is Compliance with Other Grid Codes.

[Transitional Condition ~~D5~~DX. Supplementary ~~Grid Code Condition~~grid code condition for Scotland

1. In addition to the list of items referred to in paragraph 5 of [transitional] standard condition ~~7~~DX (Licensee's ~~Grid Code~~/Scottish grid code) which are to be included in the licensee's ~~Grid Code~~grid code, the licensee shall also include in the licensee's ~~Grid Code~~grid code procedures relating to outages of generation sets and a scheduling and despatch code specifying procedures for the scheduling and despatch of generating stations connected to the licensee's transmission system.
2. The licensee shall keep and maintain such records concerning its implementation and compliance with the licensee's ~~Grid Code~~grid code as are in the opinion of the Authority, sufficient to enable the Authority to assess whether the licensee is performing the obligation imposed upon it under paragraph ~~9~~12 of [transitional] standard condition ~~7~~DX (Licensee's ~~Grid Code~~/Scottish grid code) concerning these matters and the licensee shall furnish to the Authority such records (or such of these as the Authority may require) in such manner and at such times as the Authority may require.

Appendix 4 Transitional licence conditions for connection and use of system

TRANSITIONAL LICENCE CONDITIONS FOR CONNECTION AND USE OF SYSTEM

NOTES:

- 1. The provisions of these draft transitional connection and use of system licence conditions:**
 - (a) make no assumptions about the outcome of the current consideration of the allocation of GB transmission system access rights under BETTA. They may, therefore, need to be amended to take account of the outcome of that consideration;**
 - (b) will be without prejudice to transmission licensees' obligations to continue, throughout the transition period, to make offers for connection to or use of their transmission systems, such offers to take account of the future implementation of BETTA; and**
 - (c) will need to be amended to take account of the related transitional TO licence conditions once these have been settled.**

RELEVANT DEFINITIONS

- “applicant”** means either an existing other applicant or an existing Scottish applicant.
- “BETTA go-live date”** *[It is currently anticipated that the BETTA go-live date will be 1 April 2005. The actual BETTA go-live date will be signalled by the Secretary of State. This term will be defined by reference to the date which the Secretary of State signals as the BETTA go-live date].*
- “existing other applicant”** means, in respect of each application, either:
- (a) any authorised electricity operator in the case of an application for use of system; or
 - (b) any person in the case of an application for connection,
- who has made or who at any time during the transition period makes an application requesting an offer for connection to or use of the licensee’s transmission system but who has not, as at [1 January 2005], accepted any such offer provided that an authorised electricity operator or a person, as appropriate, shall not (or no longer) constitute, for the purposes of the relevant application, an existing other applicant where the period within which the relevant offer needs to be accepted has expired and the offer has not been accepted.

“existing other user”

means, in respect of each agreement, a person who, as at [1 January 2005], has an agreement with (or has accepted an offer from) the licensee for connection to or use of the licensee’s transmission system provided that any person who has an agreement with the licensee relating to connection to the licensee’s transmission system of the interconnection shall not, in respect of that agreement, constitute an existing other user for the purposes of this condition.

“existing Scottish applicant”

means, in respect of each application, either:

- (a) any authorised electricity operator in the case of an application for use of system; or**
- (b) any person in the case of an application for connection,**

who has made or who at any time during the transition period makes an application requesting an offer for connection to or use of a Scottish licensee’s transmission system but who has not, as at [1 January 2005], accepted any such offer provided that an authorised electricity operator or a person, as appropriate, shall not (or no longer) constitute an existing other applicant where the period within which the relevant offer needs to be accepted has expired and the offer has not been accepted.

“existing Scottish user”	means, in respect of each agreement, a person who, as at [1 January 2005], has an agreement with (or has accepted an offer from) a Scottish licensee for connection to or use of a Scottish licensee’s transmission system provided that any person who has an agreement with a Scottish licensee relating to connection to that Scottish licensee’s transmission system of the interconnection shall not, in respect of that agreement, constitute an existing Scottish user for the purposes of this condition.
“existing user”	means an existing Scottish user or an existing other user.
“interconnection”	<i>[the definition of “interconnection” - which relates to the Anglo-Scots interconnection and appears in the existing transmission licence will be included here]</i>
“licensee”	means the holder of a licence granted under the Act.
“relevant time”	for the purposes of this condition means the time at which the licensee makes an offer as required by paragraph 3 of this condition.
“Scottish licensee”	means the holder of a transmission licence at the date that this condition takes effect in the licensee’s licence, but shall not include the licensee.
“transition period”	means the period beginning on the date upon which this condition has effect in the

**licensee's licence and ending on the BETTA
go-live date.**

TRANSITIONAL LICENCE CONDITION FOR NGC

1. The principal objectives of this condition are to ensure that, to the extent possible, the licensee shall, in accordance with the requirements of this condition:
 - (a) have agreements governing connection to or use of the GB transmission system with all existing users by the BETTA go-live date; and
 - (b) make offers for connection to or use of the GB transmission system to all applicants in accordance with the timescales specified in paragraph 7 below,

each such agreement and offer, as appropriate, to take account of and be consistent with:

- (i) the licensee's obligations under this condition³⁵;
 - (ii) subject to (i), those obligations which it is, at the relevant time, known (or reasonably anticipated) are to be imposed on the licensee by this licence on and from the BETTA go-live date and which would, had the agreement been entered into or the offer been made after the BETTA go-live date, have applied to that agreement or offer, as appropriate; and
 - (iii) *[the GB access arrangements]*.
2. Without prejudice to its obligations under []³⁶, the licensee shall take such steps and do such things as are necessary or requisite and as are within its power to secure the achievement of the principal objectives described in paragraph 1 above³⁷.

³⁵ It may be necessary or appropriate to extend the scope of this to include other conditions of the licensee's licence which will apply during the transition period.

³⁶ Insert cross reference to the generic licence condition.

³⁷ Once the TO obligations have been developed, it is anticipated that an obligation to cooperate and Transition to GB CUSC & Grid Code 67 July 2004
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3. The licensee shall, in the manner provided for in Section 12 of the CUSC (save that, in the event of any conflict between the provisions of Section 12 of the CUSC and the provisions of this condition, the provisions of this condition shall prevail) and unless otherwise directed by the Authority:
- (a) offer to enter into agreements to connect to or use the GB transmission system with all existing Scottish users, which agreements shall comply and be consistent with the provisions of this condition;
 - (b) offer to amend existing agreements between it and existing other users for connection to or use of the licensee's transmission system such that those agreements will, with effect from the BETTA go-live date, become agreements for connection to or use of the GB transmission system and will otherwise be modified such that those agreements comply and are consistent with the provisions of this condition; and
 - (c) subject to paragraph 9 below, offer to enter into agreements to connect to or use the GB transmission system with all applicants, which agreements shall comply and be consistent with the provisions of this condition.
4. To enable the licensee to comply with paragraph 3 above, the licensee shall, unless otherwise directed by the Authority and, in the case of applicants, subject to paragraph 9 below, offer to enter into:
- (a) the CUSC Framework Agreement (where the relevant person is not already a party to such agreement); and
 - (b) to the extent appropriate, such other agreements as are provided for in the CUSC,
- with each existing Scottish user and each applicant.

5. Each offer which the licensee makes to an existing Scottish user or an existing Scottish applicant pursuant to paragraph 3 above shall:
- (a) *[reflect, to the extent appropriate, the TOs input to the offers which the licensee is to make pursuant to this condition]*; ³⁸
 - (b) take account of and be consistent with the licensee's obligations under this condition; ³⁹
 - (c) subject to (b), take account of and be consistent with those obligations which it is, at the relevant time, known (or reasonably anticipated) are to be imposed on the licensee by this licence on and from the BETTA go-live date and which would, had the offer been made after the BETTA go-live date, have applied to that offer;
 - (d) *[be consistent with the outcome of the GB transmission access consultation]*; and
 - (e) where that offer is for connection, make detailed provision regarding the connection charges to be paid to the licensee, such charges:
 - (i) to be presented in such a way as to be referable to the GB connection charging methodology (or, in respect of any offer made prior to 1 February 2005 or such later date as the Authority may direct for these purposes, the licensee's best estimate thereof) or any revision thereof;
 - (ii) to be set in conformity with the requirements of [paragraph 8 of standard condition C6 (Connection charging methodology) and (where relevant) paragraph 4] ⁴⁰; and

³⁸ If and to the extent appropriate, a transitional licence obligation will be imposed on Scottish licensees to provide certain support to the licensee for these purposes. The nature of this support (once defined) will be referred to here.

³⁹ It may be necessary or appropriate to extend the scope of this to include other conditions of the licensee's licence which will apply during the transition period.

⁴⁰ It may be necessary or appropriate to amend this sub-paragraph to ensure that it captures charges set in relation to works etc. undertaken for connection to a licensee's transmission system in the past (as well as Transition to GB CUSC & Grid Code

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- (iii) such further terms as are or may be appropriate for the purpose of the agreement, taking account, in the case of existing Scottish users, of any rights afforded to and any restrictions imposed upon the relevant person pursuant to any existing [connection agreement] or [use of system agreement, as appropriate] to the extent that the same have been notified to the licensee and the licensee is able [and willing] to continue to offer such rights or impose such restrictions, as appropriate.
6. Each offer which the licensee makes to an existing other user or an existing other applicant pursuant to paragraph 3 above shall:
- (a) *[reflect the TOs input to the offers which the licensee is to make pursuant to this condition]*; ⁴¹
 - (b) take account of and be consistent with the licensee's obligations under this condition⁴²;
 - (c) subject to (b), take account of and be consistent with those obligations which it is, at the relevant time, known (or reasonably anticipated) are to be imposed on the licensee by this licence on and from the BETTA go-live date and which would, had the offer been made after the BETTA go-live date, have applied to that offer;
 - (d) *[be consistent with the outcome of the GB transmission access consultation]*; and
 - (e) where that offer is for connection, and to the extent appropriate, make detailed provision regarding the connection charges to be paid to the licensee, such charges:

charges for connection to the GB transmission system).

⁴¹ It is envisaged that a licence obligation will be imposed on Scottish licensees to provide certain support as the licensee reasonably requires for these purposes. Once the nature of this input has been defined it will, to the extent appropriate, be referred to here.

⁴² It may be necessary or appropriate to extend the scope of this to include other conditions of the licensee's licence which will apply during the transition period.

- (i) to be presented in such a way as to be referable to the GB connection charging methodology (or, in respect of any offer made prior to 1 February 2005 or such later date as the Authority may direct for these purposes, the licensee's best estimate thereof) or any revision thereof;
- (ii) to be set in conformity with the requirements of [paragraph 8 of standard condition C6 (Connection charging methodology) and (where relevant) paragraph 4];⁴³;
- (iii) such further terms as are or may be appropriate for the purpose of the agreement, taking account, in the case of existing other users, of any rights afforded to and any restrictions imposed upon the relevant person pursuant to any existing [connection agreement] or [use of system agreement, as appropriate] and to the extent that the licensee is able [and willing] to continue to offer such rights or impose such restrictions, as appropriate.

7. The licensee shall make an offer in accordance with paragraph 3 above:

- (a) to each existing user as soon as reasonably practicable after the date upon which this condition takes effect in the licensee's licence and, in any event, by 1 February 2005 or such later date as the Authority may direct for these purposes;
- (b) to each existing other applicant as soon as reasonably practicable and in any event (except where the Authority consents to a longer period) within:
 - (i) 3 months of the later of (aa) the first day of the transition period and (bb) the earliest date upon which the licensee is in receipt of an application from that existing other applicant for

⁴³ It may be necessary or appropriate to amend this sub-paragraph to ensure that it captures charges set in relation to works etc. undertaken for connection to a licensee's transmission system in the past (as well as charges for connection to the GB transmission system).

connection to the licensee's transmission system containing all such information as the licensee may reasonably require for the purpose of formulating the terms of its offer; or

- (ii) 28 days of the later of (aa) the first day of the transition period and (bb) the earliest date upon which the licensee is in receipt of an application from that existing other applicant for use of the licensee's transmission system containing all such information as the licensee may reasonably require for the purpose of formulating the terms of its offer;
- (c) to each existing Scottish applicant as soon as reasonably practicable and in any event (except where the Authority consents to a longer period) within:
 - (i) 3 months of the later of (aa) [1 January 2005] and (bb) the earliest date upon which the licensee is in receipt of a notification from a Scottish licensee in accordance with standard condition []⁴⁴ that that Scottish licensee has received an application for connection containing all such information as that Scottish licensee reasonably requires for the purpose of formulating the terms of its offer to that existing Scottish applicant; or
 - (ii) 28 days of the later of (aa) [1 January 2005] and (bb) the earliest date upon which the licensee is in receipt of a notification from a Scottish licensee in accordance with standard condition []⁴⁵ that that Scottish licensee has received an application for use of system containing all such information as that Scottish licensee reasonably requires for the purpose of formulating the terms of its offer to that existing Scottish applicant.

⁴⁴ This condition will contain an obligation on TOs to pass on all relevant information to NGC.

⁴⁵ This condition will contain an obligation on TOs to pass on all relevant information to NGC.
Transition to GB CUSC & Grid Code

8. The licensee shall not be obliged pursuant to this condition to offer to enter or to enter into any agreement with any applicant if:
- (a) to do so would be likely to involve the licensee:
 - (i) in breach of its duties under section 9 of the Act;
 - (ii) in breach of any regulations made under section 29 of the Act or of any other enactment relating to safety or standards applicable in respect of the transmission business;
 - (iii) in breach of the Grid Code; or
 - (iv) in breach of the conditions; or
 - (b) the person to whom the offer is being made does not undertake to be bound insofar as applicable by the terms of the Grid Code or the CUSC from time to time in force; or
 - (c) in the case of offers for use of system, the person to whom the offer is being or is to be made ceases to be an authorised electricity operator; or
 - (d) another transmission licensee has notified the licensee that under [condition ...] it is not obliged to offer to enter or to enter into any agreement in response to the application or notification, as appropriate.
9. Each offer made by the licensee to:
- (a) an existing Scottish user or an existing other user pursuant to paragraph 3 above shall be open for acceptance for a minimum period of one month from the date that it is received by that existing Scottish user or existing other user, as appropriate; and
 - (b) an applicant pursuant to paragraph 3 above shall be open for acceptance for a minimum period of three months.

10. If the licensee and any applicant or existing user fail to agree upon the terms of an agreement based upon an offer made pursuant to this condition, the Authority may, pursuant to section 7(3)(c) of the Act and on application of the licensee, an applicant or an existing user, settle any terms in dispute in such manner as appears to the Authority to be reasonable.
11. Insofar as an applicant or an existing user wishes to proceed on the basis of an agreement as settled by the Authority pursuant to paragraph 10 above, the licensee shall forthwith enter into such agreement.
12. If the licensee has failed by 1 March 2005 (or such later date as the Authority may direct for these purposes) to enter into an agreement with an existing Scottish user who is also a licensee, or to agree changes to an existing agreement for connection to or use of system with an existing other user who is also a licensee, then, without prejudice to either party's right to refer the matters in dispute to the Authority for determination as provided at paragraph 10 above, the licensee shall, where no such reference has been made, apply to the Authority to settle any terms in dispute and the Authority shall be entitled to settle such terms in such manner as appears to the Authority to be reasonable.
13. Where the terms of an agreement are settled by the Authority pursuant to paragraph 12 above, the licensee shall forthwith enter into an agreement or amend an existing agreement, as appropriate, on the basis so settled.
14. Where the terms of an agreement which are to be settled by the Authority pursuant to paragraph 12 above have not been settled by the date which falls two weeks prior to the BETTA go-live date, the licensee shall forthwith enter into an agreement, or amend an existing agreement, on the basis of the terms of the licensee's offer to the relevant other licensee pending settlement of the terms of that agreement by the Authority. The Authority's determination of the terms of any such agreement may, where and to the extent appropriate, take account of and make appropriate adjustments to reflect the difference between the terms of that agreement as settled and the terms of that agreement

which applied during the period from BETTA go-live date to the date upon which the agreement as settled takes effect.

TRANSITIONAL LICENCE CONDITIONS FOR G, D AND S

1. The licensee shall:

- (a) save where it disputes the terms of the same, accept any offer made to it in its capacity as an existing user:
 - (i) to enter into an agreement for connection to or use of the GB transmission system made by the system operator in accordance with [*cross refer to relevant transitional condition*]; or
 - (ii) to amend any existing agreement between the licensee and the system operator for connection or use of system made by the system operator in accordance with [*cross refer to relevant transitional condition*]

in each case, within one calendar month of its receipt of the same;

- (b) where the terms of an agreement between it and the system operator are settled pursuant to paragraph 11 of [*cross refer to relevant transitional condition*], the licensee shall forthwith enter into the agreement with the system operator on the basis of the terms so settled; and
- (c) where the terms of any offer made pursuant to [*cross refer to relevant transitional condition*] are in dispute, and an application has been made to the Authority requesting that it settle the terms of the agreement which are in dispute, and where the terms of such agreement have not been settled by the date which falls two weeks prior to the BETTA go-live date, forthwith enter into an agreement with the system operator for connection to or use of the GB transmission system, or amend an existing agreement, on the basis of the terms offered by the system operator pending resolution of the terms of that agreement by the Authority in accordance with paragraph 11 of [*cross refer to relevant transitional condition*]. The Authority's

determination of the terms of any such agreement may, where and to the extent appropriate, take account of and make appropriate adjustments to reflect the difference between the terms of that agreement as settled and the terms of that agreement which applied during the period from BETTA go-live date to the date upon which the agreement as settled takes effect.

Appendix 5 Generation licence conditions

CONDITION 5. COMPLIANCE WITH THE GRID CODE

1. The licensee shall comply with the requirements of the Grid Code in so far as applicable to it.
2. The Authority may (following consultation with any transmission licensee likely to be affected) issue directions relieving the licensee of its obligation under paragraph 1 in respect of such parts of the Grid Code and to such extent and subject to such conditions as may be specified in those directions.

CONDITION 19. COMPLIANCE WITH CUSC

1. Insofar as the licensee shall construct or operate a generating station in Great Britain, the licensee shall be a party to the CUSC Framework Agreement and shall comply with the CUSC.
2. The licensee shall take all reasonable steps to secure and implement (consistently with the procedures applicable under or in relation to core industry documents to which it is a party (or in relation to which it holds rights in respect of amendment), as modified or replaced from time to time), and shall not take any steps to prevent or unduly delay, changes to the those documents, such changes being changes which are appropriate in order to give full and timely effect to and/or in consequence of any modification which has been made to the CUSC.
3. For the avoidance of doubt, paragraph 2 is without prejudice to any rights of approval, veto or direction in respect of proposed changes to the core industry documents which the Authority may have.

4. In this condition:

“core industry documents”

means those documents which:

- (a) in the Secretary of State’s opinion are central industry documents associated with the activities of the licensee and authorised electricity operators, the subject matter of which relates to or is connected with the CUSC or connection and use of system arrangements; and
- (b) have been so designated by the Secretary of State.

“CUSC”

means the connection and use of system code required to be in place pursuant to

the transmission licence granted to the system operator, as from time to time modified.

“CUSC Framework Agreement”

means the agreement of that title, in the form approved by the Secretary of State, by which the CUSC is made contractually binding between the parties to that agreement, as amended from time to time with the approval of the Secretary of State.

Appendix 6 Distribution licence conditions

CONDITION 15. COMPLIANCE WITH THE GRID CODE

1. The licensee shall comply with the requirements of the Grid Code in so far as applicable to it.
5. The Authority may (following consultation with any transmission licensee likely to be affected) issue directions relieving the licensee of its obligation under paragraph 1 in respect of such parts of the Grid Code and to such extent and subject to such conditions as may be specified in those directions.

CONDITION 19. COMPLIANCE WITH CUSC

1. Insofar as the licensee distributes or offers to distribute electricity to any premises situated in Great Britain, the licensee shall be a party to the CUSC Framework Agreement and shall comply with the CUSC.
2. The licensee shall take all reasonable steps to secure and implement (consistently with the procedures applicable under or in relation to core industry documents to which it is a party (or in relation to which it holds rights in respect of amendment), as modified or replaced from time to time), and shall not take any steps to prevent or unduly delay, changes to the those documents, such changes being changes which are appropriate in order to give full and timely effect to and/or in consequence of any modification which has been made to the CUSC.
6. For the avoidance of doubt, paragraph 2 is without prejudice to any rights of approval, veto or direction in respect of proposed changes to the core industry documents which the Authority may have.
7. In this condition:

“core industry documents” means those documents which:

- (a) in the Secretary of State's opinion are central industry documents associated with the activities of the licensee and authorised electricity operators, the subject matter of which relates to or is connected with the CUSC or connection and use of system arrangements; and
- (b) have been so designated by the Secretary of State.

"CUSC"

means the connection and use of system code required to be in place pursuant to the transmission licence granted to the system operator, as from time to time modified.

"CUSC Framework Agreement"

means the agreement of that title, in the form approved by the Secretary of State, by which the CUSC is made contractually binding between the parties to that agreement, as amended from time to time with the approval of the Secretary of State.

Appendix 7 Supply licence conditions

CONDITION 5. COMPLIANCE WITH THE GRID CODE

1. The licensee shall comply with the requirements of the Grid Code in so far as applicable to it.

8. The Authority may (following consultation with any transmission licensee likely to be affected) issue directions relieving the licensee of its obligation under paragraph 1 in respect of such parts of the Grid Code and to such extent and subject to such conditions as may be specified in those directions.

CONDITION 9. COMPLIANCE WITH CUSC

1. Insofar as the licensee shall supply or offer to supply electricity to any premises situated in Great Britain, the licensee shall be a party to the CUSC Framework Agreement and shall comply with the CUSC.
2. The licensee shall take all reasonable steps to secure and implement (consistently with the procedures applicable under or in relation to core industry documents to which it is a party (or in relation to which it holds rights in respect of amendment), as modified or replaced from time to time), and shall not take any steps to prevent or unduly delay, changes to the those documents, such changes being changes which are appropriate in order to give full and timely effect to and/or in consequence of any modification which has been made to the CUSC.
9. For the avoidance of doubt, paragraph 2 is without prejudice to any rights of approval, veto or direction in respect of proposed changes to the core industry documents which the Authority may have.

10. In this condition:

“core industry documents”

means those documents which:

- (a) in the Secretary of State’s opinion are central industry documents associated with the activities of the licensee and authorised electricity operators, the subject matter of which relates to or is connected with the CUSC or connection and use of system arrangements; and
- (b) have been so designated by the Secretary of State.

“CUSC”

means the connection and use of system code required to be in place pursuant to

the transmission licence granted to the system operator, as from time to time modified.

“CUSC Framework Agreement”

means the agreement of that title, in the form approved by the Secretary of State, by which the CUSC is made contractually binding between the parties to that agreement, as amended from time to time with the approval of the Secretary of State.

Appendix 8 CUSC Framework Agreement

- 8.1 The CUSC Framework Agreement change marked to show the changes that it is intended that the Secretary of State should make by way of the licensing scheme is shown below.

BROUGHT INTO EFFECT ON 18 SEPTEMBER 2001

BETWEEN THE PERSONS SET OUT IN SCHEDULE 1

**THE CONNECTION AND USE OF SYSTEM CODE
CUSC FRAMEWORK AGREEMENT**

CUSC FRAMEWORK AGREEMENT

This **CUSC Framework Agreement** is made on and with effect from 18 September 2001 between the persons whose names and principal offices are set out in the Schedule hereto.

WHEREAS:

- (A) Pursuant to and in accordance with the **Transmission Licence**, **NGC** is required to establish a Connection and Use of System Code and only enter into arrangements for connection and use of system which are in conformity with any relevant provisions of the **CUSC**.
- (B) Under the **Licences** and/or as required under the **Balancing and Settlement Code**, persons are required to be parties to the **CUSC Framework Agreement**, by which the **CUSC** is made contractually binding between the parties to that agreement, and to comply with the **CUSC**. Persons not licensed nor subject to the **Balancing and Settlement Code** and connecting to the **GB Transmission System** or who are **Embedded** and required pursuant to Paragraph 6.5 of the **CUSC** to have an agreement with **NGC** are also required to be parties to the **CUSC Framework Agreement** and comply with the **CUSC**.
- (C) Persons who were parties to the Master Connection and Use of System Agreement dated 30 March 1990 as at the **CUSC Implementation Date** migrated to become **Original Parties** to the **CUSC Framework Agreement**.
- (D) The persons listed in the Schedule are parties to the **CUSC Framework Agreement** for the purpose of giving effect to and binding themselves by the **CUSC**. Persons who enter into a **CUSC Accession Agreement** pursuant to this **CUSC Framework Agreement** are doing so for the purpose of binding themselves to the **CUSC**.

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NOW IT IS HEREBY AGREED as follows:

1. Interpretation

1.1 In the **CUSC Framework Agreement** (including the Recitals hereto):

" CUSC "	the document designated by the Secretary of State and adopted by NGC as the CUSC pursuant to the Transmission Licence as from time to time modified pursuant to the Transmission Licence ;
" CUSC Accession Agreement "	an agreement substantially in the form of Exhibit A to the CUSC as amended in accordance with the CUSC from time to time;
" CUSC Party "	subject as provided in paragraph 3, the Original Parties and each New Party ;

“CUSC Framework Agreement”	this agreement;
"Effective Date"	(a) with respect to each of the Original Parties , the date of the CUSC Framework Agreement ; and (b) with respect to any Party Applicant who is admitted as a New Party and (as respects such Party Applicant) the other Parties , the date of the relevant CUSC Accession Agreement ;
“New Party”	a person, other than an Original Party , who is admitted as a party to the CUSC Framework Agreement ;
“NGC”	The National Grid Company plc (registered number 2366977);
“Original Parties”	the persons whose names are set out in the Schedule hereto;
“Transmission Licence”	the licence granted to NGC pursuant to section 6(1)(b) of the Act , as modified from time to time.

Words and phrases not defined herein and defined in the **CUSC** shall have the meaning given to them in the **CUSC** unless the context requires otherwise.

2. New Parties

- 2.1 A person wishing to become a **CUSC Party** (the **“Party Applicant”**) may be admitted as a **New Party** subject to and in accordance with the provisions of the **CUSC** by execution and delivery of a **CUSC Accession Agreement** signed by such **Party Applicant** and **NGC**. Each **CUSC Party** hereby irrevocably and unconditionally authorises **NGC** to execute and deliver on behalf of such **CUSC Party** any **CUSC Accession Agreement** duly executed by a **Party Applicant**, and to thereby admit the **Party Applicant** as a **CUSC Party**.
- 2.2 Upon execution and delivery of a **CUSC Accession Agreement** by both **NGC** and the **Party Applicant** in accordance with Clause 2.1, the applicant shall become a **CUSC Party**.

3. Discontinuing Parties

A **CUSC Party** shall cease to be a **CUSC Party** in accordance with the terms of the **CUSC**, but without prejudice to any provision of the **CUSC** as to the continuance in force of any of its provisions as respects, or any rights, obligations and liabilities of, any such **CUSC Party** or (as respects such **CUSC Party**) any other **CUSC Party**.

4. **CUSC**

- 4.1 The **CUSC** is hereby given contractual effect between and made binding upon each **CUSC Party** with effect from the **Effective Date**.
- 4.2 With effect from the **Effective Date**, each **CUSC Party** undertakes to each other **CUSC Party** to comply with and to perform its obligations in accordance with and subject to the **CUSC**.

5. **Severance**

If any provision of the **CUSC Framework Agreement** is or becomes invalid, unenforceable or illegal or is declared to be invalid, unenforceable or illegal by any court of competent jurisdiction or by any other **Competent Authority** (as defined in the **CUSC**), such invalidity, unenforceability or illegality shall not prejudice or affect the remaining provisions of the **CUSC Framework Agreement**, which shall continue in full force and effect notwithstanding the same.

6. **Counterparts**

The **CUSC Framework Agreement** may be executed in any number of counterparts.

7. **Address for service**

If any **CUSC Party** is a company which is incorporated under the Companies Act 1985 (as amended) its address for service shall be its registered office

Any **CUSC Party** which is not a company incorporated under the Companies Act 1985 (as amended) shall provide to **NGC** an address in **Great Britain** for service of process on its behalf in any proceedings provided that if any such **CUSC Party** fails at any time to provide such address, such **CUSC Party** shall be deemed to have appointed **NGC** as its agent to accept service of process on its behalf until and unless such **CUSC Party** provides **NGC** with an alternative address in **Great Britain** for these purposes.

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Deleted: England or Wales

8. **Third Party Rights**

The parties hereby acknowledge and agree for the purposes of the Contracts (Rights of Third Parties) Act 1999 that no rights, powers or benefits are or shall be conferred on any person pursuant to this **CUSC Framework Agreement**, except for such rights, powers or benefits as are expressly conferred on the parties hereto subject to its terms.

9. Governing Law

This **CUSC Framework Agreement** shall be governed by and construed in accordance with the laws of England and Wales and the **CUSC Parties** hereby submit to the exclusive jurisdiction of the courts of England and Wales and [Scotland](#).

AS WITNESS the hands of the duly authorised representatives of the parties hereto the day and year first above written.

Appendix 9 GB CUSC Section 12 – BETTA transition issues

- 9.1 The following pages contain the proposed legal drafting for Section 12 – BETTA transition issues. There are no other provisions required in the GB CUSC. Further elements of this section to effect the transition to BETTA will be developed in accordance with the process described in chapter 5 above.

CUSC - SECTION 12

BETTA TRANSITION ISSUES

CONTENTS

- 12.1 Introduction
- 12.2 GB CUSC Transition
- 12.3 Cut-over

CUSC - SECTION 12

BETTA TRANSITION ISSUES

12.1 INTRODUCTION

12.1.1 This Section 12 deals with issues arising out of the transition associated with the designation of amendments to the **CUSC** by the **Secretary of State** in accordance with the provisions of the Energy Act 2004 for the purposes of licence condition C10 of the **Transmission Licence**. For the purposes of this Section 12, the version of the **CUSC** as amended by the changes designated by the **Secretary of State** shall be referred to as the “**GB CUSC**”.

12.1.2 In this Section 12 (including Appendices 1 and 2):

- (a) **Existing E&W Users** and **E&W Applicants** are referred to as “**E&W Users**”;
- (b) **Users** who as at [1 January 2005] have entered into an agreement or have accepted an offer for connection to and/or use of the **NGC Transmission System** are referred to as “**Existing E&W Users**”;
- (c) **Users** other than **Existing E&W Users** who apply during the **Transition Period** for connection to and/or use of the **NGC Transmission System** are referred to as “**E&W Applicants**”;
- (d) **Existing Scottish Users** and **Scottish Applicants** are referred to as “**Scottish Users**”;
- (e) **Users** who as at [1 January 2005] have entered into an agreement or have accepted an offer for connection to and/or use of the **Transmission System** of either **Relevant Transmission Licensee** are referred to as “**Existing Scottish Users**”;
- (f) **Users** other than **Existing Scottish Users** who apply during the **Transmission Period** for connection to and/or use of the **Transmission System** of either **Relevant Transmission Licensee** are referred to as “**Scottish Applicants**”;
- (g) the term “**Relevant Transmission Licensee**” means SP Transmission Limited or Scottish Hydro-Electric Transmission Limited, as the case may be;
- (h) the term “**Transmission System**” means the system consisting (wholly or mainly) of high

voltage electric lines owned or operated by a **Relevant Transmission Licensee** and used for the transmission of electricity from one generating station to a sub-station or to another generating station or between sub-stations or to or from any **Interconnector** and including any electrical plant and meters owned or operated by a **Relevant Transmission Licensee** in connection with the transmission of electricity but shall not include **Remote Transmission Assets**;

- (i) the term “**Transition Period**” means the period from **Go-Active** to **Go-Live** (unless it is provided to be different in relation to a particular provision), and is the period with which this Section 12 deals;
- (j) the term “**CUSC Agreements**” means any one or more, as applicable for a particular **E&W Applicant** or **Scottish User**, of the **Bilateral Connection Agreement, Bilateral Embedded Generation Agreement, Construction Agreement, Mandatory Services Agreement, Use of System Supply Offer and Confirmation Notice** and **Use of System Interconnector Offer and Confirmation Notice**, each in relation to the **GB Transmission System**;
- (k) the term “**Existing CUSC Agreements**” means any one or more, as applicable for a particular **Existing E&W User**, of the **Bilateral Connection Agreement, Bilateral Embedded Generation Agreement, Construction Agreement, Mandatory Services Agreement, Use of System Supply Confirmation Notice** and **Use of System Interconnector Confirmation Notice**;
- (l) the term “**Statement of Opportunities Document**” means *[To be defined]*;
- (m) the term “**Go-Active**” means the date on which the amendments designated by the **Secretary of State** to the **CUSC** in accordance with the Energy Act 2004 come into effect;
- (n) the term “**Go-Live**” means the date notified by the **Secretary of State** as such;
- (o) the term “**GB Transmission System**” means the system consisting (wholly or mainly) of high voltage electric wires owned or operated by **NGC** and the **Relevant Transmission Licensees** within **Great Britain** and used for the transmission of electricity from one generating station to a sub-station or to another generating station or between sub-stations or to or from any **Interconnector** and includes any electrical plant

and meters owned or operated by **NGC** and the **Relevant Transmission Licensees** within **Great Britain** in connection with the transmission of electricity;

- (p) the term “**Great Britain**” has the meaning given to that term in Schedule 1 of the **Transmission Licence**.

12.1.3 The **GB CUSC** has been introduced with effect from **Go-Active** pursuant to the relevant licence changes introduced into the **Transmission Licence**. **NGC** is required to implement and comply, and **Users** to comply, with the **GB CUSC** subject as provided in this Section 12, which provides for the extent to which the **GB CUSC** is to apply to **CUSC Parties** during the **Transition Period**.

12.1.4 This Section 12 comprises:

- (a) this Introduction;
- (b) **GB CUSC Transition** issues; and
- (c) Cut-over issues.

12.1.5 Without prejudice to Paragraph 12.1.6, the failure of any **CUSC Party** to comply with this Section 12 shall not invalidate or render ineffective any part of this Section 12 or actions undertaken pursuant to this Section 12.

12.1.6 A **CUSC Party** shall not be in breach of any part of this Section 12 to the extent that compliance with that part is beyond its power by reason of the fact that any other **CUSC Party** is in default of its obligations under this Section 12.

12.1.7 Without prejudice to any specific provision under this Section 12 as to the time within which or the manner in which a **CUSC Party** should perform its obligations under this Section 12, where a **CUSC Party** is required to take any step or measure under this Section 12, such requirement shall be construed as including any obligation to:

- (a) take such step or measure as quickly as reasonably practicable; and
- (b) do such associated or ancillary things as may be necessary to complete such step or measure as quickly as reasonably practicable.

12.1.8 **NGC** shall use reasonable endeavours to identify any amendments it believes are needed to the **GB CUSC** in respect of the matters referred to for the purposes of paragraph [xxx] of licence condition C10 of the **Transmission Licence** and identified in the Appendix, and, having notified the **Authority** of its consultation plans in relation to such amendments, **NGC** shall consult in accordance with the instructions of the **Authority** concerning such proposed amendments.

- 12.1.9 **NGC** shall notify the **Authority** of any amendments that **NGC** identifies as needed pursuant to Paragraph 12.1.8 and shall make such amendments as the **Authority** approves.

12.2 GB CUSC TRANSITION

General Provisions

- 12.2.1 The provisions of the **GB CUSC** shall be varied or suspended (and the requirements of the **GB CUSC** shall be deemed to be satisfied) by or in accordance with, and for the period and to the extent set out in this Paragraph 12.2, and in accordance with the other applicable provisions in Section 12.
- 12.2.2 **E&W Users:** In furtherance of the licence provisions referred to in Paragraph 12.1.3, **E&W Users** shall comply with the **GB CUSC** during the **Transition Period** in accordance with this Section 12, including, for the avoidance of doubt, on the basis that during the **Transition Period** [other than as set out in Paragraph [xxx]] all rights and obligations of **E&W Users** under the **GB CUSC** shall only apply in respect of the **NGC Transmission System**.
- 12.2.3 **Scottish Users:** In furtherance of the licence provisions referred to in Paragraph 12.1.3, **Scottish Users** shall comply with the **GB CUSC** during the **Transition Period** only as provided in this Section 12.
- 12.2.4 **NGC:** In furtherance of the licence provisions referred to in Paragraph 12.1.3, **NGC** shall implement and comply with the **GB CUSC** during the **Transition Period** in accordance with this Section 12, including on the basis that:
- (a) during the **Transition Period** [other than as set out in Paragraph [xxx]] **NGC's** rights and obligations in relation to **E&W Users** under the **GB CUSC** shall only apply in respect of the **NGC Transmission System**; and
 - (b) during the **Transition Period** [other than as set out in Paragraph [xxx]] **NGC's** rights and obligations in relation to **Scottish Users** under the **GB CUSC** shall only apply [as set out in this Section 12.]

Specific Provisions

- 12.2.5 **Definitions:** The provisions of Section 11 (Interpretation and Definitions) shall apply to and for the purposes of this Section 12 except where provided to the contrary in this Section 12.
- 12.2.6 **CUSC Agreements/Existing CUSC Agreements – England & Wales:**
- E&W Applicants:**
- (a) Each **E&W Applicant** shall provide to **NGC** as soon as reasonably practicable such information (including data) as **NGC** shall require in order to enable **NGC** to prepare the **CUSC Agreements** for that **E&W Applicant**, and

agrees to **NGC** using such information (including data) for such purposes.

- (b) [**NGC** shall prepare for each **E&W Applicant** its **CUSC Agreements** as soon as reasonably practicable and (except where the **Authority** consents to a longer period) within 3 months of the receipt by **NGC** of an application from the **E&W Applicant** containing all such information (including data) as **NGC** may reasonably require for the purpose of formulating the terms of its offer to that **E&W Applicant**.]
- (c) The **CUSC Agreements** so prepared for each **E&W Applicant** will be substantially in the form of those set out in Schedule 2, Exhibits 1, 2, 3 and 4, and Exhibits G and H to the **GB CUSC** (as at **Go-Live**).
- (d) Each **E&W Applicant** must work with **NGC** and use reasonable endeavours to enter into each of its **CUSC Agreements** within a reasonable period of receipt of the **CUSC Agreements** prepared for it by **NGC** pursuant to Paragraphs 12.2.6(b) and 12.2.6(c).

Existing E&W Users:

- (f) **NGC** shall offer to amend the **Existing CUSC Agreements** between it and each **Existing E&W User** such that those agreements will, with effect from **Go-Live**, become agreements for, as the case may be:
 - (i) connection to and/or use of the **GB Transmission System**;
 - (ii) construction of connections to the **GB Transmission System**; or
 - (iii) the provision of **Mandatory Ancillary Services** in relation to the **GB Transmission System**,and will otherwise be modified such that those agreements comply and are consistent with the requirements of [licence condition] of the **Transmission Licence**.
- (g) **NGC** shall make an offer in accordance with Paragraph 12.2.6(f) to each **Existing E&W User** as soon as reasonably practicable after the date upon which licence condition [xxx] of the **Transmission Licence** takes effect and, in any event, by 1 February 2005 or such later date as the **Authority** may direct for the purposes of [paragraph [xxx]] of licence condition [xxx] of the **Transmission Licence**.
- (h) If **NGC** and an **Existing E&W User** have not agreed changes to each of their **Existing CUSC Agreements** by 1 March 2005 (or such later date as the **Authority** may direct) either such person may refer the matter to the **Authority** under [licence condition] of the **Transmission**

Licence and [details of other relevant licence conditions]. **NGC** may request that the **Authority** direct, and the **Authority** may so direct, that the **Existing E&W User** and **NGC** must enter into each of their **CUSC Agreements** in its offered form at the time of referral, with the obligation to make any variation required to such **CUSC Agreements** as a result of the **Authority's** determination.

12.2.7 **CUSC Agreements - Scotland:**

- (a) Each **Scottish User** shall provide, and shall permit and enable the **Relevant Transmission Licensee** to provide, to **NGC** (in each case as soon as reasonably practicable) such information (including data and details of existing contractual arrangements between the **Relevant Transmission Licensee** and that **Scottish User**) as **NGC** shall require in order to enable **NGC** to prepare the **CUSC Agreements** for that **Scottish User**, and agrees to **NGC** using such information (including data) for such purposes.
- (b) **NGC** shall prepare for each **Existing Scottish User** its **CUSC Agreements** as soon as reasonably practicable after the date upon which licence condition [xxx] of the **Transmission Licence** takes effect and, in any event, by 1 February 2005 or such later date as the **Authority** may direct for the purposes of [paragraph [xxx]] of licence condition [xxx] of the **Transmission Licence**.
- (c) [**NGC** shall prepare for each **Scottish Applicant** its **CUSC Agreements** as soon as reasonably practicable and (except where the **Authority** consents to a longer period) within 3 months of the receipt by **NGC** of a notification by the **Relevant Transmission Licensee** that that **Relevant Transmission Licensee** has received an application from the **Scottish Applicant** containing all such information (including data) as that **Relevant Transmission Licensee** may reasonably require for the purpose of formulating the terms of its offer to that **Scottish Applicant**.]
- (d) The **CUSC Agreements** so prepared for each **Scottish User** will be substantially in the form of those set out in Schedule 2, Exhibits 1, 2, 3 and 4, and Exhibits G and H to the **GB CUSC** (as at **Go-Live**).
- (e) Each **Scottish User** must work with **NGC** and use reasonable endeavours to enter into each of its **CUSC Agreements** within a reasonable period of receipt of the **CUSC Agreements** prepared for it by **NGC** pursuant to Paragraphs 12.2.7(b) to 12.2.7(d).
- (f) If **NGC** and an **Existing Scottish User** have not entered by 1 March 2005 (or such later date as the **Authority** may direct) into each of their **CUSC Agreements** either such person may refer the matter to the **Authority** under [licence condition] of the **Transmission Licence** and [details of other relevant licence conditions]. **NGC** may request that the **Authority** direct, and the **Authority** may

so direct, that the **Scottish User** and **NGC** must enter into each of their **CUSC Agreements** in its offered form at the time of referral, with the obligation to make any variation required to such **CUSC Agreements** as a result of the **Authority's** determination.

- (g) If **NGC** and a **Scottish Applicant** have not entered by 1 March 2005 (or such later date as the **Authority** may direct) into each of their **CUSC Agreements** either such person may refer the matter to the **Authority** under [licence condition] of the **Transmission Licence** and [details of other relevant licence conditions].

12.2.8 **Interface Agreements:**

- (a) **NGC** will advise each **Existing Scottish User** as soon as reasonably practicable and in any event by 1 February 2005 as to whether an **Interface Agreement** is required between the **Existing Scottish User** and the **Relevant Transmission Licensee**.
- (b) Where so notified, the **Scottish User** will enter into discussions with the **Relevant Transmission Licensee** as advised by **NGC** and use all reasonable endeavours to enter into an **Interface Agreement** in substantially the form of Exhibit O Part 1B or 2B to the **GB CUSC** (as at the date entered into) as appropriate with the **Relevant Transmission Licensee** by **Go-Live**.

12.2.9 **Connection Charges Security - Scotland:**

- (a) Where an **Existing Scottish User** does not meet the **NGC Credit Rating**, **NGC** shall provide to the **Existing Scottish User** a **Bi-annual Estimate** as provided for in Paragraph 2.21.2, except that it shall cover the period from **Go-Live** to [30 September 2005] (or such other date as approved by the **Authority**).
- (b) The **Existing Scottish User** shall put in place by 17 February 2005 (or such other date as approved by the **Authority**) security in accordance with Paragraph 2.20.4 and the other provisions of Section 2.

12.2.10 **Use of System Charges Security - Scotland:**

- (a) Each **Scottish User** to be using the **GB Transmission System** shall by 17 January 2005 (or such other date as approved by the **Authority**) confirm to **NGC** whether it meets the **NGC Credit Rating**.
- (b) Where a **Scottish User** who is a **Supplier** or an **Interconnector Owner** confirms to **NGC** that it does not meet the **NGC Credit Rating**, it shall provide at the same time as such confirmation its **Demand Forecast** for the **Financial Year 2005/6**.
- (c) Where a **Scottish User** does not meet the **NGC Credit Rating**, **NGC** will notify the **Scottish User** of the amount of **Security Cover** to be provided by it given the forecast

under Paragraph 12.2.10(b) and **NGC's** estimate of the **Balancing Services Use of System Charges** for in the case of a **Generator** the 29-day period and in the case of a **Supplier** the 32-day period in each case from **Go Live**, on the basis of, and in the manner set out in, Paragraph 3.22.2, except that the periods referred to in Paragraphs 3.22.2(b) and 3.22.2(c) shall begin from **Go-Live**.

- (d) The **Scottish User** shall put in place by 17 February 2005 (or such other date as approved by the **Authority**) security in respect of the **Security Cover** in accordance with Paragraph 3.21.3 and the other provisions of Section 3.

12.2.11 **Balancing Services Issues:**

- (a) *Part 2 System Ancillary Services:* Where Appendix F1 of a **Bilateral Agreement** identifies the need for a **Scottish User** to enter into an agreement for **Part 2 System Ancillary Services**, the **Scottish User** and **NGC** shall both use reasonable endeavours to agree to put an agreement in place by [**Go-Live**].
- (b) *Reactive Tender:* The provisions of Schedule 3 paragraph 3 shall apply in respect of each **Scottish User** provided that **NGC** has received from such **User** the necessary historical data to enable it to assess any tender and that the **Mandatory Services Agreement** to be entered into by the parties pursuant to Paragraph 12.2.7 has been entered into, or where not entered into, the relevant schedules to those agreements have been agreed (and in such a case the reference to the **Mandatory Services Agreement** in Schedule 3 shall be deemed to be a reference to the **Mandatory Services Agreement** to be entered into).

12.2.12 **Verification of Data etc:**

- (a) **NGC** shall be entitled to request from a **Scottish User** (which shall comply as soon as reasonably practicable with such a request) confirmation and verification of any information (including data) which has been supplied to **NGC** by a **Relevant Transmission Licensee** in relation to that **Scottish User** for the purposes of creating the **CUSC Agreements** for that **Scottish User**.
- (b) **NGC** shall be entitled to request from a **Scottish User** (which shall comply as soon as reasonably practicable with such a request) confirmation and verification of any information (including data) that has been received by a **Relevant Transmission Licensee** under a grid code and passed on to **NGC** in respect of that **Scottish User**.

12.2.13 **Confidentiality:**

- (a) During the **Transition Period** the **Scottish Users** shall comply with the confidentiality provisions set out in Paragraph 6.15 with respect to any information (including data) supplied to such **User** by **NGC** during the **Transition**

- Period**, with such information (including data) being **Confidential Data**. After **Go-Live** such information (including data) will continue to be **Confidential Information** under the **GB CUSC**.
- (b) During the **Transition Period** **NGC** shall comply with the confidentiality provisions set out in Paragraph 6.15 with respect to any information (including data) supplied to it by a **Scottish User**, or a **Relevant Transmission Licensee** in respect of a **Scottish User**, during the **Transition Period**, with such information (including data) being **Protected Data**. After **Go-Live** such information (including data) will continue to be **Protected Information** under the **GB CUSC**.
 - (c) Each **Scottish User** agrees that each **Relevant Transmission Licensee** can provide to **NGC**, and that **NGC** can utilise, such information (including data) relating to that **Scottish User** (including details of the existing contractual arrangements between the **Relevant Transmission Licensee** and that **User**) as **NGC** shall require to enable **NGC** to prepare the **CUSC Agreements** for such **User** and otherwise prepare for **Go-Live**.
 - (d) Each **Scottish User** agrees that any information (including data) held or received by the **Relevant Transmission Licensee** in respect of that **User** under the relevant grid code prior to **Go-Live** can be passed onto **NGC** by the **Relevant Transmission Licensee**, and used by **NGC** in the same way as it would be able to use the information (including data) if it had been passed to it under the **GB Grid Code** itself.
 - (e) Each **E&W User** and each **Scottish User** agrees that any information (including data) held or received by **NGC** in respect of that **User** under these transition provisions or the **GB Grid Code** prior to **Go-Live** can be passed onto the **Relevant Transmission Licensee** by **NGC** and used by the **Relevant Transmission Licensee** in the same way as it would be able to use the information (including data) if it had been passed to it by **NGC** under the **STC**, the **GB CUSC** (other than this Section 12) and the **GB Grid Code**.

12.2.14 **Amendments/Panel:**

- (a) The individuals whose names are notified to **NGC** by the **Authority** prior to **Go-Active** as **Panel Members** and **Alternate Members** are agreed by the **CUSC Parties** (including **Scottish Users**) to constitute the **Panel Members** and **Alternate Members** of the **Amendments Panel** as at the first meeting of the **Amendments Panel** after **Go-Active** as if they had been elected as **Panel Members** and **Alternate Members** pursuant to Paragraphs 8.3 and 8.6 and Annex 8A.

- (b) For the avoidance of doubt, the term of office of the **Panel Members** and **Alternate Members** whose names are notified to **NGC** in accordance with Paragraph 12.2.14(a) shall expire on 30 September 2005.
 - (c) The provisions of Section 8 shall apply to, and in respect of, **Scottish Users** from **Go-Active**.
 - (d) The provisions of Section 8 shall not apply in respect of amendments to this Section 12 during the **Transition Period**.
 - (e) The provisions of Section 8.23.5 shall not apply in respect of amendments to the **CUSC** designated by the **Secretary of State** in accordance with the provisions of the Energy Act 2004 for the purposes of licence condition C10 of the **Transmission Licence** or in respect of amendments to the **GB CUSC** made during the **Transition Period** pursuant to paragraph [xxx] of licence condition C10 of the **Transmission Licence**.
- 12.2.15 **Liability & Jurisdiction:** The provisions of Paragraphs 6.12 (Limitation of Liability) and 6.23 (Jurisdiction) shall apply to and be complied with by the **Scottish Users** in respect of this Section 12.
- 12.2.16 **Reconciliation Provisions:** **Users** acknowledge, for the avoidance of doubt, that the reconciliation provisions in relation to **Transmission Network Use of System Charges** (Paragraph 3.13), **Balancing Services Use of System Charges** (Paragraph 3.16) and **Site Specific Maintenance Charge** (Paragraph 2.14.5) in respect of reconciliation of charges relating to **Financial Year 2004/5** will not apply in respect of **Scottish Users**.
- 12.2.17 **Statement of Opportunities:** Where requirements are stated in, or in relation to, the **GB CUSC** with reference to the **NGC Seven Year Statement**, they shall be read and construed as necessary as being with reference to the **Statement of Opportunities Document**.
- 12.2.18 **Dormant CUSC Parties:** For the avoidance of doubt, **Scottish Users** shall not be treated as **Dormant CUSC Parties** during the **Transition Period** but shall have rights and obligations as provided for in this Section 12.
- 12.2.19 **Compliance during Transition Period:** Upon **Go-Live Users** shall comply with their respective obligations under the **GB CUSC** with compliance in accordance with Section 12 during the **Transition Period** being deemed as meeting the requirements of the **GB CUSC** in that period.
- 12.2.20 **Communications:** As soon as practicable after **Go-Active** each **Existing Scottish User** who is to be a **BSC Party** shall comply with its obligations under Paragraph 6.8 such that those obligations have been met before **Go-Live**.

12.3 [CUT-OVER]

- 12.3.1 [It is anticipated that it will be appropriate for arrangements to be put in place for final transition to **BETTA** in the period up to and following (for a temporary period) **Go-Live**, for the purposes of:
- (a) managing the transition from operations under the **CUSC** as in force immediately prior to **Go-Active** to operations under the **GB CUSC** as in force on and after **Go-Active**;
 - (b) managing the transition from operations under the [Scottish equivalent(s) of the CUSC] as in force immediately prior to **Go-Active** to operations under the **GB CUSC** as in force on and after **Go-Active**;
 - (c) managing the transition of certain data from operations under the [Scottish equivalent(s) of the CUSC] before and after **Go-Active**; and
 - (d) managing **GB CUSC** systems, processes and procedures so that they operate effectively at and from **Go-Live**.]

[NB There will be a consultation in due course regarding the Cut-over provisions to be included to deal with the specific detail of the change up to, and immediately following, Go-Live from operation under the existing CUSC arrangements to operation under the GB CUSC arrangements.]

Appendix

Matters Potentially Requiring Amendments to GB CUSC

1. The specific detail of the obligations needed to manage implementation in the period up to and following (for a temporary period) **Go-Live** to achieve the change to operation under the **GB CUSC** (to be included in Paragraph 12.3).
2. The conclusions of Ofgem/DTI in relation to small and/or embedded generator issues under **BETTA** and allocation of access rights on a **GB** basis.
3. The introduction of the **GB Charging Statements**.
4. Issues arising out of the process to create the **CUSC Agreements** (Paragraph 12.2.7).
5. Any arrangements to enable **NGC** to shadow applications to and offers by **Relevant Transmission Licensees**.

END OF SECTION 12

Appendix 10 GB Grid Code GC 14 – BETTA transition issues

- 10.1 The following pages contain the proposed legal drafting for section GC 14 – BETTA transition issues. There are no other provisions required in the GB Grid Code than this section. Further elements of this section to effect the transition to BETTA will be developed in accordance with the process described in chapter 5 above.

BETTA Grid Code Transitional Provisions
(forming part of the Grid Code General Conditions)

GC.14 **BETTA TRANSITION ISSUES**

GC.14.1 The provisions of the Appendix to the **General Conditions** apply in relation to issues arising out of the transition associated with the designation of amendments to the **Grid Code** by the **Secretary of State** in accordance with the provisions of the Energy Act 2004 for the purposes of paragraph 2 of **Licence** condition C14 of the **Transmission Licence**.

Appendix to the General Conditions

GC.A1 **Introduction**

GC.A1.1 This Appendix to the **General Conditions** deals with issues arising out of the transition associated with the designation of amendments to the **Grid Code** by the **Secretary of State** in accordance with the provisions of the Energy Act 2004 for the purposes of paragraph 2 of **Licence** condition C14 of the **Transmission Licence**. For the purposes of this Appendix to the **General Conditions**, the version of the **Grid Code** as amended by the changes designated by the **Secretary of State** shall be referred to as the "**GB Grid Code**".

GC.A1.2 The provisions of this Appendix to the **General Conditions** shall only apply to **Users** (as defined in GC.A1.4) and **NGC** after **Go-Live** for so long as is necessary for the transition requirements referred to in GC.A1.1 and cut-over requirements (as further detailed in GC.A3.1) to be undertaken.

GC.A1.3 In this Appendix to the **General Conditions**:

- (a) **Existing E&W Users** and **E&W Applicants** are referred to as "**E&W Users**";
- (b) **Users** who as at [1 January 2005] have entered into an agreement or have accepted an offer for connection to and/or use of the **Transmission System** of **NGC** are referred to as "**Existing E&W Users**";
- (c) **Users** other than **Existing E&W Users** who apply during the **Transmission Period** for connection to and/or use of the **Transmission System** of **NGC** are referred to as "**E&W Applicants**";
- (d) **Existing Scottish Users** and **Scottish Applicants** are referred to as "**Scottish Users**";
- (e) **Users** who as at [1 January 2005] have entered into an agreement or have accepted an offer for connection to and/or use of the **Transmission System** of either **Relevant Transmission Licensee** are referred to as "**Existing Scottish Users**";
- (f) **Users** other than **Existing Scottish Users** who apply during the **Transmission Period** for connection to and/or use of the

Transmission System of either **Relevant Transmission Licensee** are referred to as "**Scottish Applicants**";

- (g) the term "**Transition Period**" means the period from **Go-Active** to **Go-Live** (unless it is provided to be different in relation to a particular provision), and is the period with which this Appendix to the **General Conditions** deals;
- (h) the term "**Statement of Opportunities Document**" means *[To be defined]*;
- (i) the term "**Go-Active**" means the date so called and notified in writing to **NGC** by the **Authority**; and
- (j) the term "**Go-Live**" means the date so called and publicly announced by the **Authority**.

[NB Certain further definitions being considered.]

GC.A1.4 The provisions of GC.2.1 shall not apply in respect of this Appendix to the **General Conditions**, and in this Appendix to the **General Conditions** the term "**Users**" means:

- (a) **Generators**;
- (b) **Network Operators**;
- (c) **Non-Embedded Customers**;
- (d) **Suppliers**;
- (e) **BM Participants**; and
- (f) **Externally Interconnected System Operators**,

to the extent that the provisions of this Appendix to the **General Conditions** affect the rights and obligations of such **Users** under the other provisions of the **GB Grid Code**. ***[NB The Relevant Transmission Licensees are not Users for the purposes of this Appendix. They will nonetheless be involved in the transition arrangements, in particular cut-over, and it will be necessary to ensure, for example, that the third party rights provisions of GC.13 of the GB Grid Code are brought into effect at the same time as the relevant provisions of OC8 of the GB Grid Code for cut-over.]***

GC.A1.5 The **GB Grid Code** has been introduced with effect from **Go-Active** pursuant to the relevant **Licence** changes introduced into the **Transmission Licence**. **NGC** is required to implement and comply, and **Users** to comply, with the **GB Grid Code** subject as provided in this Appendix to the **General Conditions**, which provides for the extent to which the **GB Grid Code** is to apply to **NGC** and **Users** during the **Transition Period**.

GC.A1.6 This Appendix to the **General Conditions** comprises:

- (a) this Introduction;

- (b) **GB Grid Code** issues; and
 - (c) Cut-over issues.
- GC.A1.7 Without prejudice to GC.A1.8, the failure of any **User** or **NGC** to comply with this Appendix to the **General Conditions** shall not invalidate or render ineffective any part of this Appendix to the **General Conditions** or actions undertaken pursuant to this Appendix to the **General Conditions**.
- GC.A1.8 A **User** or **NGC** shall not be in breach of any part of this Appendix to the **General Conditions** to the extent that compliance with that part is beyond its power by reason of the fact that any other **User** or **NGC** is in default of its obligations under this Appendix to the **General Conditions**.
- GC.A1.9 Without prejudice to any specific provision under this Appendix to the **General Conditions** as to the time within which or the manner in which a **User** or **NGC** should perform its obligations under this Appendix to the **General Conditions**, where a **User** or **NGC** is required to take any step or measure under this Appendix to the **General Conditions**, such requirement shall be construed as including any obligation to:
- (a) take such step or measure as quickly as reasonably practicable; and
 - (b) do such associated or ancillary things as may be necessary to complete such step or measure as quickly as reasonably practicable.
- GC.A1.10 **NGC** shall use reasonable endeavours to identify any amendments it believes are needed to the **GB Grid Code** in respect of the matters referred to for the purposes of paragraph [xxx] of **Licence** condition C14 of the **Transmission Licence** and identified in GC.A1.11, and, having notified the **Authority** of its consultation plans in relation to such amendments, **NGC** shall consult in accordance with the instructions of the **Authority** concerning such proposed amendments.
- GC.A1.11 The following matters potentially require amendments to the **GB Grid Code**:
- (a) The specific detail of the obligations needed to manage implementation in the period up to and following (for a temporary period) **Go-Live** to achieve the change to operation under the **GB Grid Code** (to be included in GC.A3).
 - (b) Information (including data) and other requirements under the **GB Grid Code** applicable to **Scottish Users** during the **Transition Period** (to be included in GC.A2).
 - (c) The conclusions of Ofgem/DTI in relation to small and/or embedded generator issues under BETTA and allocation of access rights on a GB basis.
 - (d) Any arrangements required to make provision for Operational Liaison, including **Black Start** and Islanding arrangements in Scotland.

- (e) Any arrangements required to make provision for cascade hydro **BM Units**.
- (f) Any consequential changes to the safety co-ordination arrangements resulting from STC and STCP development.
- (g) Any arrangements required to reflect the **Electrical Standards** for the **Transmission** Systems of **SPT** and **SHETL**.

GC.A1.12 **NGC** shall notify the **Authority** of any amendments that **NGC** identifies as needed pursuant to GC.A1.10 and shall make such amendments as the **Authority** approves.

GC.A2 GB Grid Code Transition

General Provisions

GC.A2.1 The provisions of the **GB Grid Code** shall be varied or suspended (and the requirements of the **GB Grid Code** shall be deemed to be satisfied) by or in accordance with, and for the period and to the extent set out in this GC.A2, and in accordance with the other applicable provisions in this Appendix to the **General Conditions**.

GC.A2.2 **E&W Users:**

In furtherance of the **Licence** provisions referred to in GC.A1.5, **E&W Users** shall comply with the **GB Grid Code** as written during the **Transition Period**, but shall comply with it subject to this Appendix to the **General Conditions**, including on the basis that:

- (a) the **Scottish Users** are only complying with the **GB Grid Code** during the **Transition Period** in accordance with this Appendix to the **General Conditions**; and
- (b) during the **Transition Period** [other than as set out in GC.A[xxx]] the **GB Transmission System** shall be limited to the **Transmission System** of **NGC**, and all rights and obligations of **E&W Users** in respect of the **GB Transmission System** under the **GB Grid Code**, shall only apply in respect of the **Transmission System** of **NGC**.

GC.A2.3 **Scottish Users:**

In furtherance of the **Licence** provisions referred to in GC.A1.5, **Scottish Users** shall comply with the **GB Grid Code** during the **Transition Period** only as provided in this Appendix to the **General Conditions**.

GC.A2.4 **NGC:**

In furtherance of the **Licence** provisions referred to in GC.A1.5, **NGC** shall implement and comply with the **GB Grid Code** as written during the **Transition Period**, but shall implement and comply with it subject to, and taking into account, all the provisions of this Appendix to the **General Conditions**, including on the basis that:

- (a) during the **Transition Period** [other than as set out in GC.A[xxx]] **NGC's** rights and obligations in relation to **E&W Users** in respect

of the **GB Transmission System** under the **GB Grid Code** shall only apply in respect of the **Transmission System** of **NGC**; and

- (b) during the **Transition Period** [other than as set out in GC.A[xxx]] **NGC's** rights and obligations in relation to **Scottish Users** in respect of the **GB Transmission System** under the **GB Grid Code** shall only apply in respect of the **Transmission Systems** of the **Relevant Transmission Licensees**.

Specific Provisions

GC.A2.5 Definitions:

The provisions of the **GB Grid Code Glossary and Definitions** shall apply to and for the purposes of this Appendix to the **General Conditions** except where provided to the contrary in this Appendix to the **General Conditions**.

GC.A2.6 Identification of Documents:

In the period beginning at **Go-Active**, **Scottish Users** will work with **NGC** to identify and agree with **NGC** any documents needed to be in place in accordance with the **GB Grid Code**, to apply from **Go-Live** or as earlier provided for under this Appendix to the **General Conditions**, including (without limitation) **Site Responsibility Schedules**, **Gas Zone Diagrams** and **OC9 Desynchronised Island Procedures**.

GC.A2.7 Data:

Each **Scottish User** must provide, or enable a **Relevant Transmission Licensee** to provide, **NGC**, as soon as reasonably practicable upon request, with all data which **NGC** needs in order to implement, with effect from **Go-Live**, the **GB Grid Code** in relation to Scotland. This data will include, without limitation, the data that a new **User** is required to submit to **NGC** under CC.5.2. **NGC** is also entitled to receive data on **Scottish Users** over the **Relevant Transmission Licensees'** SCADA links to the extent that **NGC** needs it for use in testing and in order to implement, with effect from **Go-Live**, the **GB Grid Code** in relation to Scotland. After **Go-Live** such data shall, notwithstanding GC.A1.2, be treated as though it had been provided to **NGC** under the enduring provisions of the **GB Grid Code**.

GC.A2.8 Verification of Data etc:

NGC shall be entitled to request from a **Scottish User** (which shall comply as soon as reasonably practicable with such a request) confirmation and verification of any information (including data) that has been received by a **Relevant Transmission Licensee** under an existing grid code and passed on to **NGC** in respect of that **Scottish User**. After **Go-Live** such information (including data) shall, notwithstanding GC.A1.2, be treated as though provided to **NGC** under the enduring provisions of the **GB Grid Code**.

GC.A2.9 Grid Code Review Panel:

- (a) The individuals whose names are notified to **NGC** by the **Authority** prior to **Go-Active** as **Panel** members (and alternate members, if applicable) are agreed by **Users** (including **Scottish Users**) and

NGC to constitute the **Panel** members and alternate members of the **Grid Code Review Panel** as at the first meeting of the **Grid Code Review Panel** after **Go-Active** as if they had been appointed as **Panel** members (and alternate members) pursuant to the relevant provisions of the Constitution and Rules of the **Grid Code Review Panel** incorporating amendments equivalent to the amendments to GC.4.2 and GC.4.3 designated by the **Secretary of State** in accordance with the provisions of the Energy Act 2004 for the purposes of paragraph 2 of **Licence** condition C14 of the **Transmission Licence**.

- (b) The provisions of GC.4 of the **GB Grid Code** shall apply to, and in respect of, **Scottish Users** from **Go-Active**.

GC.A2.10 **Statement of Opportunities:**

Where requirements are stated in, or in relation to, the **GB Grid Code** with reference to the **Seven Year Statement**, they shall be read and construed as necessary as being with reference to the **Statement of Opportunities Document**.

GC.A2.11 **General Conditions:**

The provisions of [**Relevant General Conditions provisions to be specified**] shall apply to and be complied with by **Scottish Users** in respect of this Appendix to the **General Conditions**.

GC.A3 Cut-over

GC.A3.1 [It is anticipated that it will be appropriate for arrangements to be put in place for final transition to BETTA in the period up to and following (for a temporary period) **Go-Live**, for the purposes of:

- (a) managing the transition from operations under the **Grid Code** as in force immediately prior to **Go-Active** to operations under the **GB Grid Code** [and the **BSC**] as in force on and after **Go-Active**;
- (b) managing the transition from operations under the existing grid code applicable to **Scottish Users** as in force immediately prior to **Go-Active** to operations under the **GB Grid Code** as in force on and after **Go-Active**;
- (c) managing the transition of certain data from operations under the existing grid code applicable to **Scottish Users** before and after **Go-Active**; and
- (d) managing **GB Grid Code** systems, processes and procedures so that they operate effectively at and from **Go-Live**.]

[NB There will be a consultation in due course regarding the Cut-over provisions to be included to deal with the specific detail of the change up to, and immediately following, Go-Live from operation under the existing Grid Code arrangements to operation under the GB Grid Code arrangements.]

