

**The initial allocation of GB transmission
system access rights under BETTA**

A consultation on draft legal text

July 2004 174/04

Summary

This document seeks views on draft legal text to give effect to Ofgem/DTI's proposals for addressing the transitional issue associated with the introduction of the British Electricity Transmission and Trading Arrangements ("BETTA") and how existing rights to access the transmission systems of the existing transmission licensees should be translated to rights to access the unified GB transmission system under BETTA.

Under BETTA the GB system operator will have responsibility for contracting with all users of the GB transmission system. This will include responsibility for processing applications from potential new transmission users. In the transitional period leading up to BETTA go-live the GB system operator will also need to enter into agreements with all existing users of the transmission systems of the three existing transmission licensees. Ofgem/DTI are already consulting upon the approach that should be adopted generally by the GB system operator to put in place GB connection and use of system agreements. Ofgem/DTI proposes to place additional licence obligations on the GB system operator to inform how it undertakes the task of allocating rights to existing users to access the GB transmission system under BETTA. It should be noted that this issue does not relate to how new applications for connection and use of system are to be handled from BETTA go-live onwards, nor how the initial rights allocated may change from BETTA go-live under the enduring change processes.

In determining an appropriate approach to the allocation of GB access rights Ofgem/DTI requested that NGC, in its capacity as prospective GB system operator, consult on different possible approaches to allocating GB access rights, and to prepare a technical report for Ofgem/DTI setting out where possible the quantified effects of different options. The purpose of this consultation and analysis was for Ofgem/DTI to understand fully the implications of different approaches for existing (and new) users given the likely increase in requests to connect to, and use, the transmission system. This potential increase would largely be driven by increased renewable generation, primarily in Scotland. Given that this consultation and technical analysis is now complete, Ofgem/DTI is now inviting views on a specific proposed approach and the associated legal text to give effect to this approach.

The proposals brought forward by Ofgem/DTI have been developed in the light of our respective statutory duties and the scope of the legislative provisions in the Energy Act to give effect to BETTA.

The transitional arrangements described below are proposed to apply to all parties who have a relevant agreement with a transmission licensee as at 1 September 2004 and all parties who have applied for a connection offer from a transmission licensee prior to 1 January 2005. The offer of terms pursuant to these transitional arrangements would be the same as the offer of terms under the enduring (i.e. post-BETTA) arrangement except that:

- ◆ the offer shall not be contingent on completion of network reinforcement works on circuits relating directly to the Scotland-England interconnector (or works directly consequential to such network reinforcement); and
- ◆ parties connecting in Scotland shall not receive an offer contingent on the completion of works in England and Wales, and parties connecting in England and Wales shall not receive an offer contingent on the completion of works in Scotland.

The proposed transitional licence obligation also sets out how the sequence in which the GB system operator processes offers in the transitional period (recognising that identified network contingencies are affected by the order of processing) is to be established. The proposals ensure that parties with existing agreements at the start of the transitional period are considered, in respect of those agreements, before parties who do not at that time have agreements in place, and that parties without existing agreements at the start of the transitional period are considered in the chronological order in which they submit a connection application to a transmission licensee.

Whilst the framework proposed by Ofgem/DTI applies in theory to all existing users and applicants, in practice Ofgem/DTI expect that all parties with existing commissioned plant at the start of this transitional period will receive an offer which, in effect, converts their prevailing local access rights to the same level of GB access rights. Further, the offer made to new applicants pursuant to the proposed transitional arrangement would be anticipated to be no more contingent upon local network reinforcement than is the case today, albeit taking into account the different market arrangements associated with BETTA, whilst providing GB rather than local access rights upon commissioning of the identified local network reinforcement.

The overall objective of the policy is to seek to ensure that, during the transition to BETTA, parties are unaffected in terms of the offers they receive by constrained transmission capacity at the boundary between Scotland and England, i.e. the two

wholesale electricity markets that are being joined together under BETTA. In Ofgem/DTI's view that is a pragmatic and proportionate approach, given the balance of issues involved and the range of relevant considerations.

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1. Rationale

BETTA

- 1.1. The objective of the British Electricity Trading and Transmission Arrangements (BETTA) reforms is to implement new trading and transmission arrangements that are designed to promote the creation of a single competitive wholesale electricity trading market and to introduce a single set of arrangements for access to and use of any transmission system in Great Britain (GB).
- 1.2. The rationale for BETTA was set out initially in an Ofgem consultation paper of December 2001¹ ('the December 2001 consultation') and reaffirmed in a joint Ofgem/DTI report of May 2002² ('the May 2002 report'). DTI has also published a Regulatory Impact Assessment (RIA) which assesses the likely costs and benefits of the BETTA reforms. The RIA was published in draft in May 2002 for consultation, and published in final form with the draft Electricity (Trading and Transmission) Bill (the 'E(TT) Bill') in January 2003.
- 1.3. The December 2001 consultation set out Ofgem's view that it was appropriate and timely to implement market based wholesale trading arrangements in Scotland. It was proposed that the most appropriate way of achieving this was through the creation of GB balancing and settlement arrangements, a common GB transmission charging regime, common terms throughout GB for connection to and use of the transmission system, removing the current commercial arrangements surrounding use of the Scotland-England interconnector assets and incorporating those assets into the GB transmission system and the creation of a GB system operator responsible, at a minimum, for balancing the GB transmission system.
- 1.4. It was also proposed that the basis for consultation on the arrangements to apply across GB should be the arrangements in place in England and Wales. Consequently, consultation has been progressed by Ofgem/DTI over recent

¹ 'The Development of British Electricity Trading and Transmission Arrangements (BETTA): A consultation paper', Ofgem, December 2001: Ofgem #74/01.

² 'The Development of British Electricity Trading and Transmission Arrangements (BETTA): Report on consultation and next steps' Ofgem/DTI, May 2002: Ofgem #38/02.

months on the detail of GB versions of the Connection and Use of System Code (CUSC), Balancing and Settlement Code (BSC) and Grid Code. Details on all of these consultations can be found on the BETTA publications section of the Ofgem website³.

Allocation of GB access rights in the transitional period

- 1.5. The enduring (post-BETTA) arrangements setting out how parties seeking connection to and use of the GB transmission system shall be treated will be specified in the transmission licence of the GB system operator and in industry codes pursuant to the licence, e.g. the GB CUSC and GB Grid Code. The licenses and industry codes do not, however, describe how rights to access the GB transmission system are to be allocated in the first instance in the transition to BETTA. It is important to note that the GB CUSC and GB Grid are expected to be modified from time to time in line with change procedures specified in the codes themselves. As such it is possible that the initial allocation of rights at BETTA go-live could change over time.
- 1.6. It is recognised that transmission owners will have a significant role to play in delivering these arrangements, and Ofgem/DTI are developing licence obligations on transmission owners which are designed to support the proposals set out in this document relating to the interface between users of the GB transmission system and the GB system operator. Ofgem/DTI will be consulting with the transmission licensees on these matters in the near future.
- 1.7. The subject of this consultation document is the specific issue of how the rights that parties might have prior to BETTA Go Live to connect to and use the existing transmission systems of National Grid Company plc (“NGC”), SP Transmission Limited (“SP Transmission”) and Scottish Hydro-Electric Transmission Limited (“SHETL”) should be translated to rights to connect to and use the GB transmission system under BETTA. This includes parties who might have an offer to connect from NGC, SP Transmission or SHETL prior to Go Live,

³ www.ofgem.gov.uk/ofgem/work/index.jsp?section=/areasofwork/betta00

even though the physical connection would, on the basis of an anticipated Go Live date of 1 April 2005, not be completed until after Go Live.

- 1.8. The reason why this issue requires specific consideration is that the enduring arrangements are designed to address new applications for connection given the prevailing contracted position of other transmission users. In the transitional period prior to BETTA Go Live there is a need to establish the initial contracted position against which new applications can be considered from Go Live onwards.

Scope of this document

- 1.9. This document seeks views on the policy approach Ofgem/DTI intend to adopt in providing a regulatory framework within which the initial allocation of GB transmission access rights can be undertaken by the GB system operator, and the draft legal text to give effect to this policy approach. The draft legal text takes the form of an additional licence obligation for the GB system operator to have effect from the point at which the system operator licence conditions are designated by the Secretary of State (anticipated to be on or around 1 September 2004) to BETTA go-live (which is currently anticipated to occur on 1 April 2005)).

2. Timetable

- 2.1. The closing date for responses to this consultation is 6 August 2004. It is anticipated that Ofgem/DTI's conclusions on this matter will be reflected in the pre-designation version of the transmission licenses to be published in mid-August. It is anticipated that these licence obligations will be given effect in September 2004 through the commencement and use of the relevant legislative powers in the Energy Act.

Views invited

- 2.2. Parties are free to raise comments on any of the matters covered in this document and in particular on those matters where views have been requested. All responses, except those marked confidential will be published on the Ofgem website and held electronically in the Ofgem Research and Information Centre. Respondents should try to confine any confidential material in their responses to appendices. Ofgem prefers to receive responses in an electronic form so they can easily be placed on the Ofgem website⁴.
- 2.3. Responses marked 'Access rights – transitional licence condition' should be sent no later than 6 August 2004 to:

David Halldearn
Director, Scotland and Europe
Office of Gas and Electricity Markets (Ofgem)
9 Millbank
London
SW1P 3GE
Fax: 020 7901 7479

- 2.4. Please e-mail responses to BETTA.Consultationresponse@ofgem.gov.uk marked 'Response to Access rights – transitional licence condition'.
- 2.5. All responses will be forwarded to the DTI.

⁴ www.ofgem.gov.uk

- 2.6. If you wish to discuss any aspect of this document, please contact Colin Sausman at Ofgem (email: colin.sausman@ofgem.gov.uk, telephone: 020 7901 7339 or 07887 830185), Richard Haigh at Ofgem (richard.haigh@ofgem.gov.uk, 020 7901 7487) or Maria Bazell at the DTI (email: maria.bazell@dti.gov.uk, telephone 020 7215 6159).

3. Background

- 3.1. This chapter sets out relevant background to the issue of the initial allocation of GB access rights.

Legal framework for implementing BETTA

- 3.2. The Energy Act contains provisions that are designed to facilitate the implementation of BETTA. The BETTA provisions would give the Secretary of State for Trade and Industry the ability to implement BETTA principally by:
- ◆ making a licensing scheme (pursuant to Schedule 17 of the Energy Act) in relation to existing transmission licences so that each such licence takes effect as a licence under a new prohibition “to participate in the transmission of electricity”. The scheme will also be used to incorporate new standard licence conditions and to make amendments to the existing framework agreements for the BSC and CUSC
 - ◆ determining new standard licence conditions for transmission licensees, and
 - ◆ modifying the standard and special licence conditions of each of transmission, generation, supply and distribution licences.
- 3.3. The powers available under Chapter 1 of Part 4 of the Energy Act are those which it is considered are necessary to enable the implementation of BETTA. The exercise by the Secretary of State of the relevant powers under the Energy Act would be one of the first and key legal steps in the process of implementing BETTA.

Enduring contractual framework under BETTA

- 3.4. One of the key functions of the GB system operator under BETTA would be to contract with users of the transmission system across GB by establishing and maintaining agreements with existing users of the transmission systems which will form the GB transmission system under BETTA, and by offering terms for connection and use of the GB system to prospective new users. The manner in

which the GB system operator undertakes this task would be in accordance with the following documents:

- ◆ the system operator's licence;
- ◆ the GB CUSC, GB Grid Code and GB BSC, and
- ◆ the approved GB charging methodologies for connection and use of system.

3.5. These documents would, among other things and on the basis of the proposed form of the system operator's licence and GB CUSC, GB Grid Code and GB BSC, establish for each generator a contracted level of Connection Entry Capacity⁵ ("CEC") and Transmission Entry Capacity ("TEC"), and an annual use of system charge commensurate with the relevant TEC and the location of the generator. This TEC would ordinarily be 'firm', i.e. a generator would be compensated through balancing services contracts with the GB system operator (e.g. through the Balancing Mechanism) if the contracted capacity could not be met at any point in time.

3.6. New applications after BETTA go-live for transmission capacity from generators would also be handled within the framework established by the documents listed above. An offer of terms to a new generator (or an existing user seeking increased access) would ordinarily be based on an assessment of what additional works were required to facilitate the additional export whilst maintaining a network that complies with relevant standards. To the extent that this assessment indicated the need for infrastructure reinforcement to accommodate a new or expanded connection, the user would not generally have the right to export at TEC until the completion of the associated network reinforcement.

3.7. Whilst these (or indeed any of the) provisions of the CUSC are capable of being changed via modification proposals, in the absence of change the allocated level of TEC (i.e. the firm right to export energy onto the transmission system) would

⁵ CEC and TEC are defined terms in the existing CUSC. In effect, CEC is an upper limit on the level of export of a generator, while TEC is the maximum level of export NGC is contracted to accept on its system. In practice, TEC and CEC are generally equal to each other, although this is not necessarily the case.

be retained by the generator indefinitely if it continued to meet its other contractual obligations, such as the obligation to pay transmission charges.

Transitional issues

- 3.8. The transitional issue is, in effect, how TEC (and CEC) is established in relation to the GB transmission system in the first instance for existing users of a transmission system, noting that parties only have rights currently to use a transmission system which under BETTA will form part of the GB transmission system.
- 3.9. One possible allocation rule would be to take the level of TEC (or its equivalent) within existing agreements or offers and translate this to GB TEC on a one-for-one basis. In the light of recent rapid increases in the rate of new generation connection applications, particularly in Scotland, Ofgem/DTI concluded that further analysis and consultation was required before the transitional legal framework could be designed. The specific concern related to the extent to which the GB transmission system would not have the physical capacity to accommodate, on a GB basis, the aggregate amount of local rights, and therefore the extent to which the cost of constraints borne by consumers could escalate.

Process to date

- 3.10. On 26 January 2004 Ofgem/DTI published a statement on GB transmission access⁶. The statement explained that whilst Ofgem/DTI did not anticipate BETTA *per se* providing a reason to move away from the first-come, first-served' framework for consideration of new applications for transmission capacity on an enduring (i.e. post-BETTA) basis, further consideration was needed of the establishment of GB access rights in the first instance. The statement also set out that, based on information provided by the transmission licensees, Ofgem/DTI understood there to be sufficient capacity to accommodate all users connected as at 26 January 2004. The statement explained that anticipated network constraints could potentially result in new parties seeking connection to the GB transmission system receiving an offer of connection contingent on the

⁶ "Statement on access to the GB transmission system", Ofgem (15/04), January 2004

completion of the relevant network reinforcements. The statement also recognised that the position of parties who had applied for a connection but were not yet connected needed further consideration.

- 3.11. On May 2004 Ofgem/DTI requested in an open letter published on 4 May that NGC consult on options for allocating access rights to use the GB transmission system to existing users of one of the three existing transmission systems in the first instance, and to submit a report to Ofgem/DTI summarising consultation responses and assessing (and, where possible, quantifying) the effect of different options, e.g. on constraint costs, and on the extent to which derogations against planning standards would be required.
- 3.12. NGC's consultation was published on 21 May⁷. The consultation characterised four broad options:
- I. Make a non-discriminatory economic allocation of firm initial GB access rights consistent with the physical capacity of the network (e.g. using auctions);
 - II. Allocate firm GB access rights to all parties who apply for them for a period up to a point when the enduring BETTA access processes (for assessing connection applications, including how contingent infrastructure is identified) take over;
 - III. Allocate firm GB access rights to all parties that had existing agreements for access to either the Scottish or England and Wales networks prior to an appropriate date (envisaged to be earlier than the point at which the enduring BETTA access processes take over); and
 - IV. As immediately above; but with the provision of 'non-firm' rights until a point in time at which the system could accommodate firm rights.
- 3.13. NGC compiled a report summarising respondents' views on the consultation document and published the report on the NGC website together with copies of non-confidential responses⁸. The consultation revealed that all options

⁷ The report is published on NGC's website (www.nationalgrid.com/uk/indinfo/betta/gb_consultations.html)

⁸ The report is published on NGC's website (www.nationalgrid.com/uk/indinfo/betta/gb_consultations.html)

highlighted by NGC attracted some support, and that the option which attracted most support was option II above.

- 3.14. NGC's analytical work to quantify the effects of the different options has been ongoing, and NGC has provided technical updates to Ofgem/DTI on a continuing basis. The final report on this analysis was published on 4 July 2004.
- 3.15. NGC's technical report addresses the following issues in respect of the four options identified in the consultation paper:
- ◆ The potential transmission constraints that might occur;
 - ◆ The mechanisms that might be used to manage the allocation of access rights (Transmission Entry Capacity, "TEC") which is contingent on the completion of network reinforcements; and
 - ◆ The mechanisms that might be used to manage non-firm/less firm access rights.
- 3.16. The report concludes that constraints volumes could escalate significantly if new generation projects (which are predominately windfarms) are granted firm rights prior to the completion of network reinforcements and if there are no significant other changes in connected generation. These constraints would be predominately within Scotland and at the boundary between Scotland and England. The report noted that the extent of these constraints would depend on the volume and geographical pattern of firm rights allocated, e.g. constraint volumes would be lower if firm rights were allocated only to those parties who were connected as at 26 January 2004 compared to approaches which allocated firm GB rights to parties connected or applied to be connected after this date.
- 3.17. On 6 July 2004 Ofgem/DTI published a consultation paper on the transition to a GB CUSC⁹. Included within that document was a proposed licence condition that would apply to NGC in the transitional period prior to BETTA go-live in relation to the process for putting in place offers for connection and use of the GB transmission system for existing users and applicants prior to BETTA go-live.

⁹ "Provisions for the transition to the GB CUSC, the GB Grid Code and GB connection and use of system agreements under BETTA", Ofgem (152/04), July 2004

That document referred to the then currently unresolved issue of the allocation of GB transmission access rights at BETTA go-live and recognised that the licence condition proposed for NGC in relation to the putting in place of connection and use of system agreements prior to BETTA go-live might need to change when this issue was resolved.

4. Ofgem/DTI's Proposals

4.1. The specific issue that Ofgem/DTI are addressing through this consultation is the appropriate nature of the licence obligations to apply to the GB system operator in allocating GB transmission access rights to existing users. It is addressing the specific transitional issue of how rights associated with the prevailing transmission systems pre-BETTA are translated into rights to use the GB transmission at BETTA Go Live. For the avoidance of doubt, it does not affect how new applications for connection and use of system are to be handled from BETTA Go Live onwards, nor how the initial rights allocated may change from Go Live under the enduring change processes. As explained earlier, the rules applying to the allocation of such rights in relation to new applications after BETTA go-live are set out in the transmission licence that will apply from BETTA go-live and the GB CUSC, GB BSC and GB Grid Code.

Framework

- 4.2. In considering potential approaches, Ofgem/DTI have considered their respective statutory duties and the scope of the legislative powers that are available to implement BETTA. The latter consideration limits the Secretary of State to measures which are, in her view, necessary or expedient for the implementation of GB transmission and trading arrangements.
- 4.3. There are a number of considerations in seeking to identify an appropriate approach to addressing this issue, including:
- ◆ The access arrangements that parties currently experience (and the associated property rights);
 - ◆ The extent to which competition between generators is facilitated;
 - ◆ The potential emergence of transmission constraints and associated costs; and
 - ◆ The objectives of BETTA and the scope of the legislative provisions available to implement BETTA.

Options

- 4.4. This section sets out Ofgem/DTI views on the options in the light of respondents' views and NGC's technical analysis.

Economic, value-based allocation mechanisms

- 4.5. It is generally the case that where a resource is scarce an allocation rule based on economic value (e.g. expressed through bids in an auction) delivers more efficient outcomes overall. It enables parties who value the resource most highly to access it, irrespective of where they might stand in any queuing mechanism. Such an approach has been adopted by Transco in the context of its National Transmission System ("NTS").
- 4.6. Whilst Ofgem/DTI recognises that some respondents to NGC's consultation supported this approach, Ofgem/DTI do not consider it to represent an appropriate approach for the allocation of initial GB access rights under BETTA. There are three key reasons for this conclusion.
- 4.7. First, even with relatively simple auction designs there are a number of complex design issues to address, including in respect of the design, testing and trialling of systems. Ofgem/DTI consider that undertaking such a task at this point in the process would represent an unacceptable risk to delivering the BETTA project in time for the planned go-live date of 1 April 2005, given the significant resources pressures that are already in place in respect of the three transmission licensees in preparing for BETTA.
- 4.8. Second, the scale of constraints forecast by NGC in its technical report indicates that constraints, other than those associated with the release of the contractual constraints on the Scotland-England interconnector circuits, are relatively minimal. Hence, the benefits of an economic allocation rule in terms of enhanced economic efficiency might be expected to be disproportionately small relative to the risks of delay to BETTA go live highlighted above, given that the only issue being addressed is the transition issue of how the initial allocation of GB rights is undertaken.

- 4.9. Third, the approach would raise a number of legal issues, including whether such a measure was within the scope of the legislative provisions available to implement BETTA.

Administered allocation rules based on application dates

- 4.10. The alternative to value-based allocation methods is allocation methods based on administered rules (linked to an obligation to pay relevant charges). This model is adopted currently by all three transmission licensees, and takes the form of a queuing system. Applications for new connection (or requests to increase existing rights) are considered in the order in which they are received. Each offer is based on an assessment of what local and remote network investment would be required to ensure continuing compliance with transmission planning standards. These assessments are undertaken today assuming that power flows across the Scotland-England interconnector are constrained to their physical capacity (i.e. 2200MW).
- 4.11. The proposed enduring arrangements under BETTA have been developed through a process of public consultation over the past three years, and are based on the administered rules described above. It is Ofgem/DTI's understanding that this approach would be applied by the GB system operator on a GB basis. The GB system operator would consider applications in the context of what local and remote network investment would be required to accommodate an application whilst retaining a planning standards compliant network across GB. The key difference when compared to today is that remote network investment in the GB framework could include network investment in England and Wales for connections in Scotland (and *vice versa*). It should be noted that transmission licensees can seek (potentially time-limited) derogations against planning standards, which could influence the offer given to an applicant, i.e. by reducing the extent to which connections are contingent on the physical completion of works.
- 4.12. NGC's options II and III assume that all existing parties connected to a transmission licensee's network are afforded firm GB rights. NGC's consultation considered how existing parties who are not yet connected to the transmission network might be treated. There are three broad classes within this group:

- ◆ Parties who have a signed agreement with a licensee;
- ◆ Parties who have an offer of an agreement from a licensee; and
- ◆ Parties who have applied for an offer.

4.13. Options I and II adopt the concept of a cut-off date. Parties who are, as at the cut-off date, one of the three classes listed above would be subject to the transitional arrangements, whilst parties who first applied for an offer after the cut-off date would not be subject to the transitional arrangements, i.e their application for new capacity would be considered in the context of a full assessment of GB contingent infrastructure requirements. Option II adopts a cut-off date of the point at which the GB system operator assumes responsibility on an enduring basis for processing connection offers (currently planned for BETTA go live), whilst Option III adopts an earlier date.

4.14. NGC's consultation cites the key benefit of option III over option II as being the effect on constraint volumes, i.e. the number of instances where the GB system operator would need to compensate generators or demand users for the unavailability of physical capacity to meet their contracted rights. A key insight from NGC's technical report in this regard is that the difference between Option II and III in 2005/06 is relatively small. This is because total demand for access rights in 2005/06 is driven by decisions that have, by and large, already been made, i.e. plant and associated network investment is either already constructed or close to completion.

4.15. However, NGC's technical report paints a quite different picture for subsequent years. It indicates that the allocation of access rights irrespective of the completion of the network investment that would, under the enduring arrangements be required prior to an applicant connecting to the network, could result in significant enduring transmission constraints (to the extent that the rate of growth of demand for capacity outstripped for a time the rate at which network capacity could be increased) at different points within Scotland and at the boundary between Scotland and England. NGC highlighted that, inevitably, longer term forecasts of constraints are uncertain, as they relied on assumptions about project completion rates, timescales for network investment and the behaviour of existing plant in Scotland and in England and Wales.

4.16. Whilst the potential path of constraint costs is a legitimate concern for Ofgem/DTI, it is not the only relevant issue. The purpose of BETTA is to promote competition in electricity wholesale markets across GB and, other things equal, reducing barriers to competition will stimulate competition (the barrier being, in this instance access to transmission capacity for potential market entrants). Further, there are trade-offs between short-term costs and long-term costs to consider in the context of transmission constraints. The incidence of constraint costs is one mechanism whereby signals can be given by market participants to transmission licensees as to the relative importance of different network reinforcements. Short-term costs can, therefore, deliver long-term benefits in more efficient network investment.

Non-firm access rights

4.17. NGC's consultation also highlighted the possibility of developing alternative, i.e. non-firm, transmission products for those parties who applied for transmission capacity after the cut-off date envisaged in Option III, but before the date from which NGC assumed the enduring responsibility for processing connection applications.

4.18. Intuitively, this option has two key attractions. First, it increases the number of parties who would gain at least some form of access to the network at an earlier point in time than would otherwise be the case (in essence, it seeks to squeeze the maximum amount of capacity from the prevailing physical network). Second, arguably it more accurately mirrors the nature of rights that a party in Scotland might receive in the absence of BETTA given the relatively under-developed nature of the current framework in Scotland for compensating generators in circumstances where physical transmission capacity is not available.

4.19. However, it is important to note the limited context within which this issue is being considered. It is a measure only to be applied in the latter part of the transitional period (i.e. after a cut-off date pursuant to Option III and before the enduring arrangements apply) to parties who apply for a connection. It is not a proposed feature of the enduring arrangements, and is not therefore relevant to Option II. Whilst, it could be argued that there are good reasons why the GB

system operator should consider whether and how non-firm products might form an element of the enduring arrangements it is outside the scope of this consultation and the BETTA project.

- 4.20. NGC in its consultation also noted that potential non-firm products have not yet been considered in detail, and have not consequently been subject to GB consultation. Further, in NGC's view the design considerations of such products are not trivial. Ofgem/DTI notes these concerns about this approach about adopting such an approach in relation to this issue given the stated aim of implementing BETTA by 1 April 2005.

Proposals

- 4.21. Ofgem/DTI considers that an approach based on the allocation of firm GB access rights for existing users and new users who apply for a connection prior to 1 January 2005 is most appropriate model to adopt given the relevant considerations highlighted in paragraph 4.3 above. Such a model protects the interests of customers by reducing barriers to competition, in this instance being access to the GB transmission system, relative to models which adopt an earlier cut-off date. Further, together with change processes facilitated under the enduring post-BETTA arrangements, it affords protection for consumers in terms of future constraint costs. The proposals are also consistent with the scope of the legislative powers available under the Energy Act to implement BETTA.
- 4.22. The detailed application of this approach does, however, need to be clarified since there are a number of different ways in which this could be implemented. Under the enduring arrangements, the GB system operator will, in the absence of changes between now and the point at which it assumes responsibility for this activity, derive offers of connection to the GB transmission system based on a GB assessment of transmission security and quality of supply standards. All applicants would under this approach receive an offer of firm GB rights which would be contingent on local and remote network reinforcement commensurate with a planning standards compliant network (including specific instances where the licensee receives derogations against standards).
- 4.23. Whilst this could be viewed as 'firm GB rights' (and therefore consistent with Option II), it is not the model Ofgem/DTI propose to adopt in the transitional

period. However, nor do Ofgem/DTI propose to adopt a model which grants firm GB rights irrespective of any consideration of network investment. Such an approach could result in situations where a party was granted access rights prior to the establishment of any physical link between its equipment and the GB transmission system. Ofgem/DTI consider that this would be inappropriate. Any approach must therefore provide for offers to parties being contingent on the completion of some network reinforcements, at a minimum those require to establish an appropriate physical link between the generator and the prevailing transmission network.

4.24. The approach which in Ofgem/DTI's view strikes the correct balance between the relevant considerations is as follows:

- ◆ For parties who are already connected to a transmission system or who have accepted an offer of connection but are not yet connected¹⁰, and parties who have submitted an application to a transmission licensee to connect before 1 January 2005¹¹ they should receive an offer based on the transitional arrangements;
- ◆ Offers made by the GB system operator pursuant to the transitional arrangements shall be as consistent as far as practicable with offers made under the enduring GB arrangements (i.e. based on a GB assessment of necessary contingent local and remote infrastructure), subject to the following:
 - ◆ that the offer shall not be contingent on completion of network reinforcement works on circuits relating directly to the Scotland-England interconnector (or works directly consequential to such network reinforcement); and
 - ◆ parties connecting in Scotland shall not receive an offer contingent on the completion of works in England and Wales,

¹⁰ A new connection application in this context also includes requests by existing connected parties to increase the capacity of their existing agreement.

¹¹ i.e. parties who would be entitled to expect under the existing regulatory framework to receive an offer of connection from a transmission licensee prior to the anticipated BETTA go-live date of 1 April 2004.

and parties connecting in England and Wales shall not receive an offer contingent on the completion of works in Scotland.

- 4.25. The approach ensures that parties receive a GB offer which is only contingent on local (i.e. specific to the network in Scotland, or in England and Wales) considerations, whilst recognising the need to consider the requirements of a GB network compliant with planning standards. One consequence of this approach is that to the extent that Ofgem/DTI's understanding is correct that there was sufficient capacity to accommodate all users connected as at 26 January 2004, then such users would get a non-contingent allocation of GB access rights equivalent to their existing level of local rights.
- 4.26. This approach also provides scope for GB offers to existing connected parties to accommodate within the GB framework non-standard connection designs. Whilst it is expected that an assessment against planning standards as described in paragraph 4.24 above for existing plant would indicate no network reinforcement contingencies, it could pick up some local issues associated with non-standard connection designs or ownership boundaries, e.g. where the transmission licensee rather than the generator owns the generator transformer. These arrangements should be reflected in the GB offer, with the expectation being that this would be done through limitations on access rights in particular circumstances, e.g. when the generator transformer is out of service.
- 4.27. Whilst the approach outlined above seeks to enable the GB system operator to generate GB offers without reference to the content of any existing England and Wales or Scottish agreement, Ofgem/DTI also propose that where the network reinforcements identified by the GB system operator do not differ substantially from the network reinforcements set out in the prevailing agreement, then the GB system operator may make a GB offer based on the contingencies identified in the prevailing agreement. This proposal is intended to represent a pragmatic approach that minimises the scale of the significant task faced by NGC to put in place all of these agreements for BETTA go-live.

- 4.28. It should be noted that the approach proposed applies to all existing transmission users with commissioned plant, users who have signed agreements but are not yet connected, and potential users who have applied for connection (or apply for connection before 1 January 2005). Since assessments of required network investment depend on the order in which offers are considered, the transitional arrangements need to specify how such a processing order is to be established for the purposes of identifying contingent network investment.
- 4.29. It is proposed that all parties who have an agreement with a transmission licensee as at 1 September 2004 will, for the purposes of identifying contingent network investment, be considered first, i.e. the GB offer will not reflect the potential effect on the network of any party who does not have an agreement in place as at 1 September 2004 with a transmission licensee. Within the class of parties who have existing agreements as at 1 September 2004, to the extent that the order in which the network infrastructure required to support such users is considered to have a material effect on the GB offer, offers will be derived in chronological order based on when the party and the relevant transmission licensee entered into the existing agreement. In Ofgem/DTI's view this approach is more consistent with Ofgem/DTI's understanding of the enduring arrangements, whereby the contingent network infrastructure set out in an offer can be dependent, in instances where two or more related offers are being considered jointly (an 'interactive offer'), on when an offer is accepted.
- 4.30. It should be noted that it is Ofgem/DTI's firm expectation that for all parties who have existing agreements with a transmission licensee and whose plant is commissioned as at 1 September 2004, the order in which offers are processed by the GB system operator will not have a material effect on the rights afforded in that offer. It is expected (except for matters such as those identified in paragraph 4.26 above) for these parties that existing rights will be translated on a one-to-one basis into GB rights.
- 4.31. For parties who do not have an agreement in place with an existing transmission licensee as at 1 September 2004 but have applied to an existing transmission licensee for connection prior to 1 January 2005, GB offers are to be considered,

for the purposes of identifying network reinforcement requirements in the chronological order in which applications were made. Absent any accepted offer, Ofgem/DTI considers that the date of application is the most appropriate parameter to use to determine the order in which offers should be considered. This is most consistent with Ofgem/DTI's understanding of the existing and enduring arrangements and, furthermore, Ofgem/DTI consider it to be the most practicable. It would not, for example, be practicable for NGC to consider offers on the basis of either the application date or the date of acceptance of the offer in relation to the existing transmission licensee after 1 September 2004, because NGC will not necessarily know the date of acceptance when developing the offers. In Ofgem/DTI's view it would be unmanageable for the GB system operator continually to revise offers to applicants during this transitional period as other offers were accepted. Hence, Ofgem/DTI believe that such an approach both better mirrors the existing and enduring processes and is more pragmatic from a practical perspective.

Implementation

- 4.32. Ofgem/DTI propose to implement this approach through augmenting the licence condition to apply to the GB system operator in the transitional period in respect of making offers to existing users and new applicants. A draft of this licence condition was included in the recently published consultation paper on the transition to a GB CUSC. The approach proposed in this paper will form part of that licence condition. In turn, this will inform the detail of how NGC derives offers for each individual user.
- 4.33. It should be noted that it will also be necessary to develop associated supporting licence conditions for transmission owners, and Ofgem/DTI will be consulting the transmission licensees on these matters in the near future. These are not anticipated to have any substantive impact upon the user-facing proposals described in this consultation document.
- 4.34. Legal drafting setting out the detailed licence obligation which Ofgem/DTI considers to be appropriate for NGC in this context is set out in Appendix 1. The drafting is shown as marked changes to the draft licence condition that was published in the aforementioned consultation paper on the transition to a GB

CUSC. Following consultation on this draft text, Ofgem/DTI propose to publish this licence condition, together with all other new and amended licence conditions pursuant to BETTA, in mid-August. Subject to the necessary legislative powers being commenced, these licence conditions are expected to be given effect by the Secretary of State in early September.

Appendix 1 Draft legal text

TRANSITIONAL LICENCE CONDITIONS FOR ~~CONNECTION AND USE~~ALLOCATION OF GB TRANSMISSION SYSTEM ACCESS RIGHTS

NOTES:

1. ~~The provisions of these draft transitional connection and use of~~On 6 July 2004, Ofgem/DTI published a consultation on transitional arrangements for the CUSC and Grid Code. Part of that consultation related to the licence conditions which will be imposed during the transition period relating to connections to and use of the GB transmission system. The text of the transitional licence conditions:
 - ~~(a) — make no assumptions about~~which were included in the consultation noted that they would need to be amended, as appropriate, to take account of the outcome of the ~~current~~consultation and 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~~
2. The attached drafting reflects that which was included in the above consultation, but is marked up to highlight the changes which would be made to reflect Ofgem/DTI's proposed approach to allocating GB access rights during the transition period.
- ~~(e) — will~~3. The attached drafting may need to be amended further 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].*

“Connection Entry Capacity” has the meaning given to it in the CUSC;

“existing agreement” means an agreement between the licensee or a Scottish licensee and an existing user;

“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”

[the definition of “interconnection” - which relates to the Anglo-Scots interconnection and appears in the existing transmission licence will be included here]

“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.

“Transmission Entry Capacity” has the meaning given to it in the CUSC.

“transmission licensee” means the licensee or any Scottish licensee, as appropriate.

“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)~~ (i) — the licensee's obligations under this condition¹;
- (ii) [Schedule 1](#); and
- ~~(iii)~~ (iii) subject to (i) and (ii), 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 []², the licensee shall take such steps and do such things as are necessary or requisite and as are within its

¹ 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.

² Insert cross reference to the generic licence condition.

power to secure the achievement of the principal objectives described in paragraph 1 above³.

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 98 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 98 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,

³ Once the TO obligations have been developed, it is anticipated that an obligation to cooperate and coordinate activities with TOs will be included here and that a reciprocal obligation will be imposed on TOs.

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];*⁴

(b) take account of and be consistent with the licensee's obligations under this condition;⁵

(c) take account of and be consistent with Schedule [1];

(d) in the case of each existing Scottish user, reflect a Connection Entry Capacity and Transmission Entry Capacity which are, to the extent practicable, equal to that existing Scottish user's equivalent rights under the relevant agreement between it and a Scottish licensee;

(e) subject to sub-paragraphs (b), (c), and (d), 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

⁴ If and to the extent appropriate, a transitional licence obligation will be imposed on Scottish transmission licensees to provide certain support to the licensee for these purposes. The nature of this support (once defined) will be referred to here.

⁵ 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.

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]⁶; and
- (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]*; ⁷
- (b) take account of and be consistent with the licensee's obligations under this condition⁸;
- (c) take account of and be consistent with Schedule 1;
- (d) in the case of each existing other user, reflect the Connection Entry Capacity and Transmission Entry Capacity which apply under the

⁶ 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).

⁷ It is envisaged that a licence obligation will be imposed on Scottish transmission 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.

⁸ 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.

relevant existing agreement between that existing other user and the licensee:

- (e) subject to sub-paragraphs (b), (c), and (d), 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
- (ef) 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:
 - (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];⁹;
 - (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.

⁹ 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).

7. ~~The~~ [Without prejudice to the licensee's obligation to prepare offers in the order specified in paragraph 3 of Schedule 1, 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 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 transmission licensee in accordance

with standard condition []¹⁰ that that Scottish transmission licensee has received an application for connection containing all such information as that Scottish transmission 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 transmission licensee in accordance with standard condition []¹¹ that that Scottish transmission licensee has received an application for use of system containing all such information as that Scottish transmission licensee reasonably requires for the purpose of formulating the terms of its offer to that existing Scottish applicant.

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

¹⁰ This condition will contain an obligation on TOs to pass on all relevant information to NGC.

¹¹ This condition will contain an obligation on TOs to pass on all relevant information to NGC.

- (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.

SCHEDULE [1]

GB TRANSMISSION SYSTEM ACCESS RIGHTS

1. Offers made by the licensee pursuant to paragraph 3 of [insert appropriate cross reference to the transitional connections condition] shall comply and be consistent with the requirements of this Schedule.
2. Each offer which the licensee makes in accordance with paragraph 3 of [insert appropriate cross reference to the transitional connections condition] to:
 - (a) an existing user; or
 - (b) an existing applicant who has, on or before 1 January 2005, submitted a complete application (which, for the purposes of this Schedule 1 shall mean an application which contains the information which the transmission licensee to whom it is submitted reasonably requires for the purposes of preparing an offer for connection or use of that licensee's transmission system) for connection or use of system, shall:
 - (i) not be contingent on the completion of transmission system reinforcement works on circuits which relate [directly] to the interconnection (or works directly consequential to such transmission system reinforcement works);
 - (ii) in the case of an existing Scottish user or an existing Scottish applicant who has submitted a complete application for connection or use of system to a Scottish licensee on or before 1 January 2005, not be contingent on the completion of transmission system works in England and Wales;
 - (iii) in the case of an existing other user or an existing other applicant who has submitted a complete application for connection or use of system to the licensee on or before 1 January 2005, not be contingent on the completion of transmission system works in Scotland.

3. The licensee shall, for the purposes of identifying the transmission system infrastructure requirements which are relevant to each offer which it makes in accordance with condition [*insert appropriate cross reference to the transitional connections condition*] and this Schedule, prepare those offers in the following order:

(a) first, and subject to (b), for each person who is, as at 1 September 2004, an existing user;

(b) to each existing user who falls within (a) above, in the order in which each such existing user accepted the offer for connection or use of system which led to its existing agreement, starting with the existing user who accepted its offer earliest, provided that, where it is not reasonably practicable for the licensee to determine the date upon which an offer was accepted by a particular existing user, the relevant date for these purposes shall be the date upon which that relevant existing user's plant or apparatus was commissioned; and

(c) then, to each other existing user or existing applicant in the order in which that existing user or existing applicant submitted or submits a complete application to the licensee or a Scottish licensee, as appropriate, starting with the existing user or existing applicant who submitted or submits the application which was received earliest.

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.