

**Special Condition E2B: Restriction of revenue in respect of the Distribution Network transportation activity**

**Part 1 a [Paragraphs 1 – 5]: Not used**

**Part 1 b The Distribution Network transportation activity revenue restriction**

**(North West Distribution Network)**

**6. The principal restriction**

- (1) The licensee shall use its best endeavours in setting its charges to ensure that in respect of any formula year  $t$  the Distribution Network transportation activity revenue for the Distribution Network covered by this condition ( $DNR_t$ ) shall not exceed the maximum Distribution Network transportation activity revenue ( $DNMR_t$ ) in that year.
- (2) (a) If in respect of any formula year the Distribution Network transportation activity revenue in respect of a relevant Distribution Network exceeds the maximum Distribution Network transportation activity revenue in respect of that Distribution Network by more than 4 per cent of the latter, the licensee shall provide the Authority with a written explanation and, in the next following formula year, the licensee shall not effect any increase in prices for use of the relevant Distribution Network unless either:
  - (i) it has demonstrated to the reasonable satisfaction of the Authority that the Distribution Network transportation activity revenue in respect of the relevant Distribution Network would not be likely to exceed the maximum Distribution Network transportation activity revenue in respect of the relevant Distribution Network in that next following formula year; or

(ii) the Authority has, on the written application of the licensee, consented to such an increase in prices.

(b) If, in respect of any two successive formula years, the sums of the amounts by which the Distribution Network transportation activity revenue in respect of the relevant Distribution Network has exceeded the maximum Distribution Network transportation activity revenue is more than 6 per cent of the maximum Distribution Network transportation activity revenue in respect of the relevant Distribution Network for the second of those formula years, then in the next following formula year the licensee shall if required by the Authority adjust its prices in respect of the relevant Distribution Network such that the Distribution Network transportation activity revenue in respect of the relevant Distribution Network would not be likely in the judgement of the Authority to exceed maximum Distribution Network transportation activity revenue in respect of the relevant Distribution Network in that next following formula year.

#### 7. Distribution Network transportation activity revenue ( $DNR_t$ )

For the purposes of paragraph 6 of Part 1 b of this condition, the Distribution Network transportation activity revenue in respect of the relevant Distribution Network in formula year  $t$  ( $DNR_t$ ) shall have the meaning given to that term in Special Condition E2A (Revenue restriction definitions) (and for the avoidance of doubt shall exclude any revenues derived from excluded services).

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#### 8. Maximum Distribution Network transportation activity revenue $DNMR_t$

##### (1) Principal formula

For the purposes of paragraph 6 of Part 1 b of this condition the maximum Distribution Network transportation activity revenue in respect of the relevant Distribution Network in formula year  $t$   $DNMR_t$  shall be derived from the following formula:

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For formula year t=1

$$DNMR_t = DNZ_t + DNF_t - DNMRA_t - DNK_t$$

For formula year t=2 and for each subsequent formula year

$$DNMR_t = DNZ_t + DNF_t + DNExC_t - DNMRA_t - DNK_t$$

where:

$DNZ_t$  in respect of the relevant Distribution Network shall be derived in the following manner:

(i)

$$DNZ_t = DNZ_{t-1} \times \left[ 1 + \left( \frac{RPI_t - X}{100} \right) \right] \times Q_t$$

where in respect of the formula year commencing on 1 April 2004:

$$DNZ_{t-1} = \text{£}235,626,263$$

where:

$RPI_t$  means the percentage change (whether of a positive or a negative value) in the arithmetic average of the retail price index published or determined with respect to each of the six months from July to December (both inclusive) in formula year t-1 and the arithmetic average of the retail price index numbers published or determined with respect to the same months in relevant year t-2;

X has the value of two (2); and

$Q_t$  shall be derived from the following formula:

$$Q_t = \left( 0.65 + 0.35 \times \frac{W_t}{W_{t-1}} \right)$$

where:

$W_t$  means the composite user quantity in respect of the relevant Distribution Network in formula year t and shall be derived from the following formula:

$$W_t = B_t + (0.15 \times D_t) + (0.05 \times V_t)$$

where:

$B_t$  is the small user quantity in respect of the relevant Distribution Network in formula year t;

$D_t$  is the large user quantity in respect of the relevant Distribution Network in formula year t; and

$V_t$  is the very large user quantity in respect of the relevant Distribution Network in formula year t.

$DNF_t$  means the Distribution Network prescribed rates plus the Distribution Network licence fees in respect of the relevant Distribution Network in formula year t,

where:

Distribution Network prescribed rates means the amount of the charge deemed to be incurred in respect of the prescribed rates or equivalent tax or duty replacing them levied on the licensee in respect of the licensee's Distribution Network transportation activity: in the event that the licensee is not Transco plc, and is not an affiliate of Transco plc, it will be the amount of the separate rating assessment for the licensee's Distribution Network transportation activity including (where relevant) metering: in the event that the licensee is Transco plc or an affiliate of Transco plc it shall be calculated as follows;

a) in the event that separate rating assessments are provided in respect of each Distribution Network transportation activity carried out by Transco plc or an affiliate of Transco plc, and in respect of the NTS transportation owner activity carried out either by Transco plc or by an affiliate of Transco plc, the charge shall be the amount so assessed;

b) in the event that a separate rating assessment is not provided in respect of any of the Distribution Network transportation activities carried out by Transco plc or an affiliate of Transco plc, and of the NTS transportation owner activity carried out either by Transco plc or by an affiliate of Transco plc, and if each of the 8 Distribution Networks owned by Transco plc on 1 April 2004 continue to be owned by Transco plc or an affiliate of

Transco plc, the total charge in respect of the licensee's Distribution Network transportation owner activity shall be 12.1314% of 83% of the prescribed rates or equivalent tax replacing them levied in respect of the licensee and its affiliates' NTS transportation owner activity and the Distribution Network transportation activity;

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c) In the event that a separate rating assessment is not provided in respect of any of the Distribution Network transportation activities carried out by Transco plc or an affiliate of Transco plc and of the NTS transportation owner activity carried out either by Transco plc or by an affiliate of Transco plc, and that neither Transco plc nor its affiliates own any of the Scotland Distribution Network, the North of England Distribution Network, the Wales & the West Distribution Network and the South of England Distribution Network, but continue to own the North West Distribution Network, the East of England Distribution Network, the West Midlands Distribution Network and the London Distribution Network and the NTS, the total charge in respect of the licensee's Distribution Network transportation owner activity shall be 14.5918% of the prescribed rates or equivalent tax replacing them levied in respect of the licensee and its affiliates' NTS transportation owner activity in England and Distribution Network transportation activity in England; and

d) in any other circumstance, the licensee shall perform attributions and allocations of cost between the NTS transportation owner activity, the Distribution Network

transportation activity, and (where relevant) Metering activities:

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- on an objective basis;
- in a manner calculated not to benefit unduly the licensee or any other company or organisation;
- wherever practicable, on a consistent basis from one formula period to the next.

In the event that the licensee receives a separate rating assessment or assessments in respect of gas meters connected to the licensee's pipeline system in respect of periods from 1 April 2005 onwards, the resultant charges shall be deemed to constitute an element of the Distribution Network prescribed rates and shall be treated by the licensee in accordance with Special Condition E3.

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Distribution Network licence fee means payments made by the licensee in respect of the Distribution Network transportation activity under standard condition 3 (Payments by the Licensee to the Authority) in respect of the relevant Distribution Network in formula year t determined in accordance with the methodology determined by the Authority for the purposes of that condition.

DNExC<sub>t</sub> means in respect of formula year t, an amount equal to the actual payments made by the licensee in respect of NTS exit capacity and NTS exit flow flexibility in respect of the relevant Distribution Network and shall be derived from the following formula:

$$\text{DNExC}_t = \text{DNExCC}_t + \text{DNExFFC}_t$$

where

DNExCC<sub>t</sub> means in respect of formula year t, the total costs incurred by the licensee for NTS exit capacity in respect of all NTS offtakes within the relevant Distribution Network less any revenues received from the NTS operator by the licensee in respect of NTS exit capacity; and

DNExFFC<sub>t</sub> means in respect of formula year t, the total costs incurred by the licensee for NTS exit flow flexibility in respect of all NTS offtakes within the relevant Distribution Network less any revenues received from the NTS operator by the licensee in respect of NTS exit flow flexibility;

DNMRA<sub>t</sub> means the mains replacement expenditure adjustment (whether positive or negative value) in respect of the relevant Distribution Network in formula year t and shall be derived in accordance with paragraph 8(2) of Part 1 b of this condition; and

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DNK<sub>t</sub> means the Distribution Network transportation activity revenue adjustment factor to the Distribution Network transportation activity revenue over or under recovery in respect of the relevant Distribution Network in formula year t-1 and shall be derived in accordance with paragraph 8(4) of Part 1 b of this condition.

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## (2) Mains replacement expenditure adjustment (DNMRA<sub>t</sub>)

For the purposes of paragraph 8(1) of Part 1 b of this condition the mains expenditure adjustment in respect of the relevant Distribution Network in formula year t (DNMRA<sub>t</sub>) shall be derived from the following manner:

If  $E_t > AM_t$ , then:

$$DNMRA_t = \left(1 + \frac{A_t}{100}\right) \times J_t \times 1,000,000 - (0.5 \times E_t) - (0.5 \times AM_t)$$

Otherwise:

$$DNMRA_t = \left(1 + \frac{A_t}{100}\right) \times J_t \times 1,000,000 - (0.67 \times E_t) - (0.33 \times AM_t)$$

where:

$A_t$  means the mains RPI in respect of formula year t;

$J_t$  means the price control initial projection allowance in respect of the relevant Distribution Network in formula year t and shall have the values set out in the following table:

Price control mains allowance	Formula year t			
		t=1	t=2	t=3
		43.4	50.0	56.1

$E_t$  means the outturn mains costs in respect of the relevant Distribution Network in formula year t;

$AM_t$  means the matrix mains cost in respect of the relevant Distribution Network in formula year t and shall be derived in accordance with

paragraph 8(3) of Part 1 b of this condition.

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where:

Included mains	means all mains which prior to decommissioning formed mains which operated at low, medium or intermediate distribution pressures;
mains RPI	means the percentage change (whether of a positive or negative value) in the arithmetic average of the retail price Index numbers published or determined with respect to each of the twelve months April to March (both inclusive) in formula year t and the arithmetic average of the retail price index numbers published or determined with respect to the period from January to December (both inclusive) 2000;
outturn mains cost	means the costs reasonably attributable to the replacement and decommissioning of included mains composed of non standard mains materials in respect of the relevant Distribution Network in formula year t excluding costs reasonably attributable to rechargeable diversions; and
non standard mains materials	mains which are not composed of polyethylene or a similar polymer based material (other than polyvinyl chloride (PVC)) or of steel provided with cathodic protection.

**(3) Matrix mains cost ( $AM_t$ )**

- (a) For the purposes of paragraph 8(2) of Part 1 b of this Special Condition the matrix mains cost in respect of the relevant Distribution Network in formula year t ( $AM_t$ ) shall be derived in the following manner:

$$AM_t = \left(1 + \frac{A_t}{100}\right) \times \left[ \sum_{n=1}^6 (L_{nt} \times U_{nt}) \right] \times 1,000$$

where:

$A_t$  shall have the meaning given to that term in paragraph 8(2) of Part 1 b of this condition;

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$L_{nt}$  means the length of mains in kilometres decommissioned in respect of diameter band n, the relevant Distribution Network and formula year t where the diameter bands shall be defined as set out in the following table, save that in respect of any diameter of mains not covered by the table or mains measured in metric measurement shall be reported in the diameter band corresponding to the nearest imperial equivalent

Diameter band n	Nominal internal diameter of mains decommissioned (inches)
1	2 – 3
2	4 – 5
3	6 – 7
4	8 – 9
5	10 – 12
6	Greater than 12

$U_{nt}$  means the specific matrix costs in respect of diameter band n, the relevant Distribution Network and formula year t as set out in the following table.

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Diameter	Specific matrix costs (£ per metre)		
	t=1	t=2	t=3

band n					
1			52.4	49.6	47.9
2			66.8	65.2	63.3
3			101.8	95.5	91.8
4			137.7	129.2	124.2
5			204.3	191.7	183.7
6			351.6	329.1	316.1

$\sum_{n=1}^6$  Means the sum over the diameter bands n of  $L_{nt} \times U_{nt}$ .

(b) On or before 31 July in each formula year t in respect of the relevant Distribution Network, the licensee shall prepare and provide to the Authority a report providing details of:

(i) the mains replacement work completed in respect of the previous formula year in kilometres of length of mains decommissioned (excluding rechargeable diversions) by diameter band; and

(ii) detailing the outturn mains costs in respect of formula year t-1.

(c) For the purposes of paragraph 8(3)(b) of Part 1 b of this condition, rechargeable diversions means mains decommissioned or replaced at the request of a party other than the licensee and where the cost of the work is recovered or is expected to be recovered from that party (or another) by the licensee.

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(d) The licensee shall allow the Authority or a duly authorised nominated representative of the Authority on the provision of reasonable prior written notice access to its staff, records and facilities as the Authority may reasonably require or as may be necessary for the purpose of enabling the

Authority to establish to its reasonable satisfaction that the information to be provided by the licensee under sub-paragraph 8(3)(b) of Part 1 b of this condition above fairly presents the outturn mains costs and lengths and diameters decommissioned in formula year t.

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**(4) Distribution Network transportation activity revenue adjustment (DNK<sub>t</sub>)**

(a) For the purposes of paragraph 8(1) of Part 1 b of this condition the Distribution Network transportation activity revenue adjustment in respect of the relevant Distribution Network in formula year t (DNK<sub>t</sub>) shall be derived from the following manner:

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(i) In respect of the formula year commencing on 1 April 2004:

$$DNK_t = £2,531,611$$

(ii) and thereafter

$$DNK_t = (DNR_{t-1} - DNMR_{t-1}) \times \left( 1 + \frac{I_t}{100} \right)$$

where:

I<sub>t</sub> means the percentage interest rate in respect of formula year t which is equal to:

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In respect of formula year t=1

(a) in the event that the licensee and its affiliates taken together own one Distribution Network, where DNK<sub>t</sub> (taking no account of I<sub>t</sub> for this purpose) has a positive value, the average specified rate plus 3 or, where DNK<sub>t</sub> (taking no account of I<sub>t</sub> for this purpose) has a negative value, the average specified rate:

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(b) in the event that the licensee and its affiliates taken together own more than one Distribution Network, the value given under (a), except that, where the sum of  $DNK_t$  (taking no account of  $I_t$  for this purpose) for all such networks has a negative value the percentage interest rate for each Distribution Network shall be the average specified rate, and where the total of  $DNK_t$  (taking no account of  $I_t$  for this purpose) for all such networks has a positive value, the percentage interest rate for each Distribution Network shall be the average specified rate plus 3;

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In respect of formula year  $t \geq 2$

Where  $DNK_t$  (taking no account of  $I_t$  for this purpose) has a positive value, the average specified rate plus 3 or, where  $DNK_t$  (taking no account of  $I_t$  for this purpose) has a negative value, the average specified rate.

## 9. Calculation of quantities

- (1) In Part 1 b of this condition in respect of the definitions of commercial user quantity, very large user quantity and small interruptible user quantity, the licensee shall determine loads attributable to the small interruptible user quantity, commercial user quantity and very large user quantity on the basis of volumes reasonably expected to have been off-taken from the relevant Distribution Network during the formula year having regard to daily meter reads or if these are not available the licensee shall use reasonable estimates of the volumes likely to be off-taken from the relevant Distribution Network in accordance with the process for determination of such volumes pursuant to the network code.

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## 10. Reporting obligations

(1) Where the licensee publishes any statement or revised or amended statement as to its Distribution Network transportation charges under ~~Standard~~ Special Condition A4 (~~Charging – General~~), the Licensee shall not later than twenty eight days prior to the time of such publication provide the Authority with:

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(a) a written forecast of maximum Distribution Network transportation activity revenue together with its components, in respect of the relevant Distribution Network to which the statements referred to in paragraph 10(1) relate and in respect of the formula year in which the change in such charges is to take effect and also in respect of the next following formula year; and

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(b) a written estimate of the maximum Distribution Network transportation activity revenue together with its components, in respect of the relevant Distribution Network to which the statements referred to in paragraph 10 (1) relate and in respect of the formula year immediately preceding the formula year in which the change in such charges is to take effect unless a statement complying with paragraph 10(4) of Part 1 b of this condition in respect of the first mentioned formula year has been furnished to the Authority before publication of the proposed change to such charges.

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(2) If, within three months of the commencement of any formula year, the licensee has not published or effected any such change in its Distribution Network transportation charges under ~~Standard~~ Special Condition A4 (~~Charging – General~~) the licensee shall provide the Authority with a written forecast of the maximum Distribution Network transportation activity revenue in respect of the relevant Distribution Network and together with its components, in respect of that formula year.

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(3) Any forecasts as aforesaid shall be accompanied by such information as may be necessary to enable the Authority to be reasonably satisfied that the forecasts have been properly prepared on a consistent basis.

(4) Not later than six weeks after the commencement of the formula year, the licensee shall send to the Authority a statement as to whether or not, in its opinion,

paragraphs 6(1) and 6(2) of Part I b of this condition above apply in respect of that formula year and its best estimate of what DNK<sub>t</sub> (as defined in paragraph 8(4) of Part 1 b this Special Condition) is likely to be in that formula year in respect of the relevant Distribution Network.

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- (5) The licensee shall send to the Authority, not later than three months after the end of each formula year, a statement in respect of the relevant Distribution Network showing the Distribution Network transportation activity revenue, the Distribution Network transportation quantity and the commercial user quantity, the very large user quantity and the small interruptible user quantity in respect of that formula year which shall be certified by a Director of the licensee on behalf of the licensee stating that the information is correct to the best of his knowledge and belief having made all reasonable enquiries.
- (6) The statement referred to in sub-paragraph (5) above shall be accompanied by a report from an appropriate auditor that, in its opinion, that statement fairly presents the Distribution Network transportation activity revenue, the Distribution Network transportation quantity and the commercial user quantity, the very large user quantity and the small interruptible user quantity, in relation to the relevant Distribution Network in accordance with the requirements of this condition.

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## **11. Disapplication of the Distribution Network transportation activity revenue restriction**

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- (1) The Distribution Network transportation activity revenue restriction conditions shall apply so long as this licence continues in force but shall cease to have effect in such circumstances and at such times as are described in paragraphs 11(2) to 11(7) of Part 1 b of this condition.
- (2) The Distribution Network transportation activity revenue restriction conditions shall cease to have effect (in whole or in part as the case may be) if the licensee delivers to the Authority a disapplication request made in accordance with

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paragraph 11(3) of Part 1 b of this condition or notice is given to the Authority by the licensee in accordance with either paragraph 11(6) or paragraph 11(7) of Part 1 b of this condition.

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(3) A disapplication request shall:

- (i) be in writing addressed to the Authority;
- (ii) specify the Distribution Network transportation activity revenue restriction conditions (or any part or parts thereof) to which the request relates;
- (iii) specify the Distribution Network (or any part or parts thereof) to which the request relates; and
- (iv) state the date (being not earlier than the date referred to in paragraph 11(5) of Part 1 b of this condition) from which the licensee wishes the Authority to agree that the conditions shall cease to have effect, (the disapplication date).

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(4) The licensee may withdraw a disapplication request at any time.

(5) Save where the Authority otherwise agrees, no disapplication following delivery of a disapplication request pursuant to paragraph 6 of Part 1 b of this condition shall have effect until a date being the earlier of:

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- (a) not less than 18 months after delivery of the disapplication request; and
- (b) 31st March 2007.

(6) If the Authority has not made a reference to the Competition Commission under section 24 of the Act relating to the modification of Part 1 b of this condition or the part or parts thereof specified in the disapplication request before the beginning of the period of 12 months which will end with the disapplication date and the licensee has not withdrawn this disapplication request, the licensee may deliver written notice to the Authority terminating the application of Part 1 b of

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this condition or the part or parts thereof specified in the disapplication request with effect from the disapplication date or a later date.

- (7) If the Competition Commission makes a report on a reference made by the Authority relating to the modification of Part 1 b of this condition or the part or parts thereof specified in the disapplication request and such report does not include a conclusion that the cessation of such revenue restrictions in Special Condition E2B Part 1 b, in whole or in part, operates or may be expected to operate against the public interest, the licensee may within 30 days after the publication of the report by the Authority in accordance with section 25 of the Act deliver to the Authority written notice terminating the application of Part 1 b of this condition or the part or parts thereof specified in the disapplication request with effect from the disapplication date or such a later date.

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## Part 1 b The Distribution Network transportation activity revenue restriction

### (East of England Distribution Network)

#### 6. The principal restriction

- (1) The licensee shall use its best endeavours in setting its charges to ensure that in respect of any formula year  $t$  the Distribution Network transportation activity revenue for the Distribution Network covered by this condition ( $DNR_t$ ) shall not exceed the maximum Distribution Network transportation activity revenue ( $DNMR_t$ ) in that year.
  
- (2) (a) If in respect of any formula year the Distribution Network transportation activity revenue in respect of a relevant Distribution Network exceeds the maximum Distribution Network transportation activity revenue in respect of that Distribution Network by more than 4 per cent of the latter, the licensee shall provide the Authority with a written explanation and, in the next following formula year, the licensee shall not effect any increase in prices for use of the relevant Distribution Network unless either:
  - (i) it has demonstrated to the reasonable satisfaction of the Authority that the Distribution Network transportation activity revenue in respect of the relevant Distribution Network would not be likely to exceed the maximum Distribution Network transportation activity revenue in respect of the relevant Distribution Network in that next following formula year; or
  - (ii) the Authority has, on the written application of the licensee, consented to such an increase in prices.
  
- (b) If, in respect of any two successive formula years, the sums of the amounts by which the Distribution Network transportation activity revenue in respect of the relevant Distribution Network has exceeded the maximum Distribution Network transportation activity revenue is more than 6 per cent of the maximum Distribution Network transportation activity revenue in respect of

the relevant Distribution Network for the second of those formula years, then in the next following formula year the licensee shall if required by the Authority adjust its prices in respect of the relevant Distribution Network such that the Distribution Network transportation activity revenue in respect of the relevant Distribution Network would not be likely in the judgement of the Authority to exceed maximum Distribution Network transportation activity revenue in respect of the relevant Distribution Network in that next following formula year.

**7. Distribution Network transportation activity revenue ( $DNR_t$ )**

For the purposes of paragraph 6 of Part 1 b of this condition, the Distribution Network transportation activity revenue in respect of the relevant Distribution Network in formula year t ( $DNR_t$ ) shall have the meaning given to that term in Special Condition E2A (Revenue restriction definitions) (and for the avoidance of doubt shall exclude any revenues derived from excluded services).

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**8. Maximum Distribution Network transportation activity revenue  $DNMR_t$**

**(1) Principal formula**

For the purposes of paragraph 6 of Part 1 b of this condition the maximum Distribution Network transportation activity revenue in respect of the relevant Distribution Network in formula year t  $DNMR_t$  shall be derived from the following formula:

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For formula year t=1

$$DNMR_t = DNZ_t + DNF_t - DNMRA_t - DNK_t$$

For formula year t=2 and for each subsequent formula year

$$DNMR_t = DNZ_t + DNF_t + DNE_{xC_t} - DNMRA_t - DNK_t$$

where:

DNZ<sub>t</sub> in respect of the relevant Distribution Network shall be derived in the following manner:

(i)

$$DNZ_t = DNZ_{t-1} \times \left[ 1 + \left( \frac{RPI_t - X}{100} \right) \right] \times Q_t$$

where in respect of the formula year commencing on 1 April 2004:

$$DNZ_{t-1} = \text{£}343,825,706$$

where:

RPI<sub>t</sub> means the percentage change (whether of a positive or a negative value) in the arithmetic average of the retail price index published or determined with respect to each of the six months from July to December (both inclusive) in formula year t-1 and the arithmetic average of the retail price index numbers published or determined with respect to the same months in relevant year t-2;

X has the value of two (2); and

Q<sub>t</sub> shall be derived from the following formula:

$$Q_t = \left( 0.65 + 0.35 \times \frac{W_t}{W_{t-1}} \right)$$

where:

$W_t$  means the composite user quantity in respect of the relevant Distribution Network in formula year t and shall be derived from the following formula:

$$W_t = B_t + (0.15 \times D_t) + (0.05 \times V_t)$$

where:

$B_t$  is the small user quantity in respect of the relevant Distribution Network in formula year t;

$D_t$  is the large user quantity in respect of the relevant Distribution Network in formula year t; and

$V_t$  is the very large user quantity in respect of the relevant Distribution Network in formula year t.

$DNF_t$  means the Distribution Network prescribed rates plus the Distribution Network licence fees in respect of the relevant Distribution Network in formula year t,

where:

Distribution Network prescribed rates means the amount of the charge deemed to be incurred in respect of the prescribed rates or equivalent tax or duty replacing them levied on the licensee in respect of the licensee's Distribution Network transportation activity: in the event that the licensee is not Transco plc, and is not an affiliate of Transco plc, it will be the amount of the separate rating assessment for the licensee's Distribution Network transportation activity including (where relevant) metering: in the event that the licensee is Transco plc or an affiliate of Transco plc it shall be calculated as follows;

a) in the event that separate rating assessments are provided in respect of each Distribution Network transportation activity carried out by Transco plc or an affiliate of Transco plc, and in respect of the NTS transportation owner activity carried out either by Transco plc or by an affiliate of Transco plc, the charge shall be the amount so assessed;

b) in the event that a separate rating assessment is not provided in respect of any of the Distribution Network transportation activities carried out by Transco plc or an affiliate of Transco plc, and of the NTS transportation owner activity carried out either by Transco plc or by an affiliate of Transco plc, and if each of the 8 Distribution Networks owned by Transco plc on 1 April 2004 continue to be owned by Transco plc or an affiliate of Transco plc, the total charge in respect of the licensee's Distribution Network transportation owner activity shall be 19.8953% of 83% of the prescribed rates or equivalent tax replacing them levied in respect of the licensee and its affiliates' NTS transportation owner

activity and the Distribution Network transportation activity;

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c) In the event that a separate rating assessment is not provided in respect of any of the Distribution Network transportation activities carried out by Transco plc or an affiliate of Transco plc and of the NTS transportation owner activity carried out either by Transco plc or by an affiliate of Transco plc, and that neither Transco plc nor its affiliates own any of the Scotland Distribution Network, the North of England Distribution Network, the Wales & the West Distribution Network and the South of England Distribution Network, but continue to own the North West Distribution Network, the East of England Distribution Network, the West Midlands Distribution Network and the London Distribution Network and the NTS, the total charge in respect of the licensee's Distribution Network transportation owner activity shall be 30.3646% of the prescribed rates or equivalent tax replacing them levied in respect of the licensee and its affiliates' NTS transportation owner activity in England and Distribution Network transportation activity in England; and

d) in any other circumstance, the licensee shall perform attributions and allocations of cost between the NTS transportation owner activity, the Distribution Network transportation activity, and (where relevant) Metering activities:

- on an objective basis;

- in a manner calculated not to benefit unduly the licensee or any other company or organisation;

- wherever practicable, on a consistent basis from one formula period to the next.

In the event that the licensee receives a separate rating assessment or assessments in respect of gas meters connected to the licensee's pipeline system in respect of periods from 1 April 2005 onwards, the resultant charges shall be deemed to constitute an element of the Distribution Network prescribed rates and shall be treated by the licensee in accordance with Special Condition E3.

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Distribution Network licence fee means payments made by the licensee in respect of the Distribution Network transportation activity under standard condition 3 (Payments by the Licensee to the Authority) in respect of the relevant Distribution Network in formula year t determined in accordance with the methodology determined by the Authority for the purposes of that condition.

DNExC<sub>t</sub> means in respect of formula year t, an amount equal to the actual payments made by the licensee in respect of NTS exit capacity and NTS exit flow flexibility in respect of the relevant Distribution Network and shall be derived from the following formula:

---

$$DNExC_t = DNExCC_t + DNExFFC_t$$

where

DNExCC<sub>t</sub> means in respect of formula year t, the total costs incurred by the licensee for NTS exit capacity in respect of all NTS offtakes within the relevant Distribution Network less any revenues received from the NTS operator by the licensee in respect of NTS exit capacity; and

DNExFFC<sub>t</sub> means in respect of formula year t, the total costs incurred by the licensee for NTS exit flow flexibility in respect of all NTS offtakes within the relevant Distribution Network less any revenues received from the NTS operator by the licensee in respect of NTS exit flow flexibility;

DNMRA<sub>t</sub> means the mains replacement expenditure adjustment (whether positive or negative value) in respect of the relevant Distribution Network in formula year t and shall be derived in accordance with paragraph 8(2) of Part 1 b of this condition; and

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DNK<sub>t</sub> means the Distribution Network transportation activity revenue adjustment factor to the Distribution Network transportation activity revenue over or under recovery in respect of the relevant Distribution Network in formula year t-1 and shall be derived in accordance with paragraph 8(4) of Part 1 b of this condition.

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**(2) Mains replacement expenditure adjustment (DNMRA<sub>t</sub>)**

For the purposes of paragraph 8(1) of Part 1 b of this condition the mains expenditure adjustment in respect of the relevant Distribution Network in formula year t (DNMRA<sub>t</sub>) shall be derived from the following manner:

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If  $E_t > AM_t$ , then:

$$DNMRA_t = \left(1 + \frac{A_t}{100}\right) \times J_t \times 1,000,000 - (0.5 \times E_t) - (0.5 \times AM_t)$$

Otherwise:

$$DNMRA_t = \left(1 + \frac{A_t}{100}\right) \times J_t \times 1,000,000 - (0.67 \times E_t) - (0.33 \times AM_t)$$

where:

$A_t$  means the mains RPI in respect of formula year t;

$J_t$  means the price control initial projection allowance in respect of the relevant Distribution Network in formula year t and shall have the values set out in the following table:

Price control mains allowance	Formula year t			
		t=1	t=2	t=3
		47.4	42.9	43.6

$E_t$  means the outturn mains costs in respect of the relevant Distribution Network in formula year t;

$AM_t$  means the matrix mains cost in respect of the relevant Distribution Network in formula year t and shall be derived in accordance with paragraph 8(3) of Part 1 b of this condition.

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where:

Included mains	means all mains which prior to decommissioning formed mains which operated at low, medium or intermediate distribution pressures;
mains RPI	means the percentage change (whether of a positive or negative value) in the arithmetic average of the retail price Index numbers published or determined with respect to each of the twelve months April to March (both inclusive) in formula year t and the arithmetic average of the retail price index numbers published or determined with respect to the period from January to December (both inclusive) 2000;
outturn mains cost	means the costs reasonably attributable to the replacement and decommissioning of included mains composed of non standard mains materials in respect of the relevant Distribution Network in formula year t excluding costs reasonably attributable to rechargeable diversions; and
non standard mains materials	mains which are not composed of polyethylene or a similar polymer based material (other than polyvinyl chloride (PVC)) or of steel provided with cathodic protection.

**(3) Matrix mains cost ( $AM_t$ )**

- (a) For the purposes of paragraph 8(2) of Part 1 b of this Special Condition the matrix mains cost in respect of the relevant Distribution Network in formula year t ( $AM_t$ ) shall be derived in the following manner:

$$AM_t = \left(1 + \frac{A_t}{100}\right) \times \left[ \sum_{n=1}^6 (L_{nt} \times U_{nt}) \right] \times 1,000$$

where:

$A_t$  shall have the meaning given to that term in paragraph 8(2) of Part 1 b of this condition;

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$L_{nt}$  means the length of mains in kilometres decommissioned in respect of diameter band n, the relevant Distribution Network and formula year t where the diameter bands shall be defined as set out in the following table, save that in respect of any diameter of mains not covered by the table or mains measured in metric measurement shall be reported in the diameter band corresponding to the nearest imperial equivalent

Diameter band n	Nominal internal diameter of mains decommissioned (inches)
1	2 – 3
2	4 – 5
3	6 – 7
4	8 – 9
5	10 – 12
6	Greater than 12

$U_{nt}$  means the specific matrix costs in respect of diameter band n, the relevant Distribution Network and formula year t as set out in the following table.

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Diameter band n	Specific matrix costs (£ per metre)			
		t=1	t=2	t=3
1		50.6	52.3	50.9
2		57.1	57.8	56.4
3		89.8	91.5	88.9

4			136.9	141.6	140.0
5			181.0	186.2	180.7
6			245.3	279.3	274.1

$\sum_{n=1}^6$  Means the sum over the diameter bands n of  $L_{nt} \times U_{nt}$ .

(b) On or before 31 July in each formula year t in respect of the relevant Distribution Network the licensee shall prepare and provide to the Authority a report providing details of:

(i) the mains replacement work completed in respect of the previous formula year in kilometres of length of mains decommissioned (excluding rechargeable diversions) by diameter band; and

(ii) detailing the outturn mains costs in respect of formula year t-1.

(c) For the purposes of paragraph 8(3)(b) of Part 1 b ~~of this condition~~, rechargeable diversions means mains decommissioned or replaced at the request of a party other than the licensee and where the cost of the work is recovered or is expected to be recovered from that party (or another) by the licensee.

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(d) The licensee shall allow the Authority or a duly authorised nominated representative of the Authority on the provision of reasonable prior written notice access to its staff, records and facilities as the Authority may reasonably require or as may be necessary for the purpose of enabling the Authority to establish to its reasonable satisfaction that the information to be provided by the licensee under sub-paragraph 8(3)(b) of Part 1 b ~~of this condition~~ above fairly presents the outturn mains costs and lengths and diameters decommissioned in formula year t.

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**(4) Distribution Network transportation activity revenue adjustment (DNK<sub>t</sub>)**

- (a) For the purposes of paragraph 8(1) of Part 1 b of this condition the Distribution Network transportation activity revenue adjustment in respect of the relevant Distribution Network in formula year t (DNK<sub>t</sub>) shall be derived from the following manner:

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- (i) In respect of the formula year commencing on 1 April 2004:

$$\text{DNK}_t = \text{£}3,694,125$$

- (ii) and thereafter

$$\text{DNK}_t = (\text{DNR}_{t-1} - \text{DNMR}_{t-1}) \times \left(1 + \frac{I_t}{100}\right)$$

where:

$I_t$  means the percentage interest rate in respect of formula year t which is equal to: In respect of formula year t=1

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- (a) in the event that the licensee and its affiliates taken together own one Distribution Network, where DNK<sub>t</sub> (taking no account of  $I_t$  for this purpose) has a positive value, the average specified rate plus 3 or, where DNK<sub>t</sub> (taking no account of  $I_t$  for this purpose) has a negative value, the average specified rate;
- (b) in the event that the licensee and its affiliates taken together own more than one Distribution Network, the value given under (a), except that, where the sum of DNK<sub>t</sub> (taking no account of  $I_t$  for this purpose) for all such networks has a negative value the percentage interest rate for each Distribution

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Network shall be the average specified rate, and where the total of  $DNK_t$  (taking no account of  $I_t$  for this purpose) for all such networks has a positive value, the percentage interest rate for each Distribution Network shall be the average specified rate plus 3%.

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In respect of formula year  $t > 2$

where  $DNK_t$  (taking no account of  $I_t$  for this purpose) has a positive value, the average specified rate plus 3 or, where  $DNK_t$  (taking no account of  $I_t$  for this purpose) has a negative value, the average specified rate.

## 9. Calculation of quantities

- (1) In Part 1 b of this condition in respect of the definitions of commercial user quantity, very large user quantity and small interruptible user quantity, the licensee shall determine loads attributable to the small interruptible user quantity, commercial user quantity and very large user quantity on the basis of volumes reasonably expected to have been off-taken from the relevant Distribution Network during the formula year having regard to daily meter reads or if these are not available the licensee shall use reasonable estimates of the volumes likely to be off-taken from the relevant Distribution Network in accordance with the process for determination of such volumes pursuant to the network code.

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## 10. Reporting obligations

- (1) Where the licensee publishes any statement or revised or amended statement as to its Distribution Network transportation charges under Standard Special Condition A4 (Charging- General), the Licensee shall not later than twenty eight days prior to the time of such publication provide the Authority with:

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(a) a written forecast of maximum Distribution Network transportation activity revenue together with its components, in respect of the relevant Distribution Network to which the statements referred to in paragraph 10(1) relate and in respect of the formula year in which the change in such charges is to take effect and also in respect of the next following formula year; and

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(b) a written estimate of the maximum Distribution Network transportation activity revenue together with its components, in respect of the relevant Distribution Network to which the statements referred to in paragraph 10 (1) relate and in respect of the formula year immediately preceding the formula year in which the change in such charges is to take effect unless a statement complying with paragraph 10(4) of Part 1 b of this condition in respect of the first mentioned formula year has been furnished to the Authority before publication of the proposed change to such charges.

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(2) If, within three months of the commencement of any formula year, the licensee has not published or effected any such change in its Distribution Network transportation charges under Standard Special Condition A4 (Charging – General) the licensee shall provide the Authority with a written forecast of the maximum Distribution Network transportation activity revenue in respect of the relevant Distribution Network and together with its components, in respect of that formula year.

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(3) Any forecasts as aforesaid shall be accompanied by such information as may be necessary to enable the Authority to be reasonably satisfied that the forecasts have been properly prepared on a consistent basis.

(4) Not later than six weeks after the commencement of the formula year, the licensee shall send to the Authority a statement as to whether or not, in its opinion, paragraphs 6(1) and 6(2) of Part 1 b of this condition above apply in respect of that formula year and its best estimate of what  $DNK_t$  (as defined in paragraph 8(4) of Part 1 b this Special Condition) is likely to be in that formula year in respect of the relevant Distribution Network.

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- (5) The licensee shall send to the Authority, not later than three months after the end of each formula year, a statement in respect of the relevant Distribution Network showing the Distribution Network transportation activity revenue, the Distribution Network transportation quantity and the commercial user quantity, the very large user quantity and the small interruptible user quantity in respect of that formula year which shall be certified by a Director of the licensee on behalf of the licensee stating that the information is correct to the best of his knowledge and belief having made all reasonable enquiries.
- (6) The statement referred to in sub-paragraph (5) above shall be accompanied by a report from an appropriate auditor that, in its opinion, that statement fairly presents the Distribution Network transportation activity revenue, the Distribution Network transportation quantity and the commercial user quantity, the very large user quantity and the small interruptible user quantity, in relation to the relevant Distribution Network in accordance with the requirements of this condition.

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**11. Disapplication of the Distribution Network transportation activity revenue restriction**

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- (1) The Distribution Network transportation activity revenue restriction conditions shall apply so long as this licence continues in force but shall cease to have effect in such circumstances and at such times as are described in paragraphs 11(2) to 11(7) of Part 1 b of this condition.

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- (2) The Distribution Network transportation activity revenue restriction conditions shall cease to have effect (in whole or in part as the case may be) if the licensee delivers to the Authority a disapplication request made in accordance with paragraph 11(3) of Part 1 b of this condition or notice is given to the Authority by the licensee in accordance with either paragraph 11(6) or paragraph 11(7) of Part 1 b of this condition.

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- (3) A disapplication request shall:
  - (i) be in writing addressed to the Authority;

- (ii) specify the Distribution Network transportation activity revenue restriction conditions (or any part or parts thereof) to which the request relates;
- (iii) specify the Distribution Network (or any part or parts thereof) to which the request relates; and
- (iv) state the date (being not earlier than the date referred to in paragraph 11(5) of Part 1 b of this condition) from which the licensee wishes the Authority to agree that the conditions shall cease to have effect, (the disapplication date).

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(4) The licensee may withdraw a disapplication request at any time.

(5) Save where the Authority otherwise agrees, no disapplication following delivery of a disapplication request pursuant to paragraph 6 of Part 1 b of this condition shall have effect until a date being the earlier of:

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(a) not less than 18 months after delivery of the disapplication request; and

(b) 31st March 2007.

(6) If the Authority has not made a reference to the Competition Commission under section 24 of the Act relating to the modification of Part 1 b of this condition or the part or parts thereof specified in the disapplication request before the beginning of the period of 12 months which will end with the disapplication date and the licensee has not withdrawn this disapplication request, the licensee may deliver written notice to the Authority terminating the application of Part 1 b of this condition or the part or parts thereof specified in the disapplication request with effect from the disapplication date or a later date.

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(7) If the Competition Commission makes a report on a reference made by the Authority relating to the modification of Part 1 b of this condition or the part or parts thereof specified in the disapplication request and such report does not include a conclusion that the cessation of such revenue restrictions in Special Condition E2B Part 1 b, in whole or in part, operates or may be expected to operate against the public interest, the licensee may within 30 days after the

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publication of the report by the Authority in accordance with section 25 of the Act  
deliver to the Authority written notice terminating the application of Part 1 b of  
this condition or the part or parts thereof specified in the disapplication request  
with effect from the disapplication date or such a later date.

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Condition

## Part 1 b The Distribution Network transportation activity revenue restriction

### (West Midlands Distribution Network)

#### 6. The principal restriction

- (1) The licensee shall use its best endeavours in setting its charges to ensure that in respect of any formula year  $t$  the Distribution Network transportation activity revenue for the Distribution Network covered by this condition ( $DNR_t$ ) shall not exceed the maximum Distribution Network transportation activity revenue ( $DNMR_t$ ) in that year.
  
- (2) (a) If in respect of any formula year the Distribution Network transportation activity revenue in respect of a relevant Distribution Network exceeds the maximum Distribution Network transportation activity revenue in respect of that Distribution Network by more than 4 per cent of the latter, the licensee shall provide the Authority with a written explanation and, in the next following formula year, the licensee shall not effect any increase in prices for use of the relevant Distribution Network unless either:
  - (i) it has demonstrated to the reasonable satisfaction of the Authority that the Distribution Network transportation activity revenue in respect of the relevant Distribution Network would not be likely to exceed the maximum Distribution Network transportation activity revenue in respect of the relevant Distribution Network in that next following formula year; or
  - (ii) the Authority has, on the written application of the licensee, consented to such an increase in prices.
  
- (b) If, in respect of any two successive formula years, the sums of the amounts by which the Distribution Network transportation activity revenue in respect of the relevant Distribution Network has exceeded the maximum Distribution Network transportation activity revenue is more than 6 per cent of the maximum Distribution Network transportation activity revenue in respect of

the relevant Distribution Network for the second of those formula years, then in the next following formula year the licensee shall if required by the Authority adjust its prices in respect of the relevant Distribution Network such that the Distribution Network transportation activity revenue in respect of the relevant Distribution Network would not be likely in the judgement of the Authority to exceed maximum Distribution Network transportation activity revenue in respect of the relevant Distribution Network in that next following formula year.

## 7. Distribution Network transportation activity revenue ( $DNR_t$ )

For the purposes of paragraph 6 of Part 1 b of this condition, the Distribution Network transportation activity revenue in respect of the relevant Distribution Network in formula year  $t$  ( $DNR_t$ ) shall have the meaning given to that term in Special Condition E2A (Revenue restriction definitions) (and for the avoidance of doubt shall exclude any revenues derived from excluded services).

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## 8. Maximum Distribution Network transportation activity revenue $DNMR_t$

### (1) Principal formula

For the purposes of paragraph 6 of Part 1 b of this condition the maximum Distribution Network transportation activity revenue in respect of the relevant Distribution Network in formula year  $t$   $DNMR_t$  shall be derived from the following formula:

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For formula year  $t=1$

$$DNMR_t = DNZ_t + DNF_t - DNMRA_t - DNK_t$$

For formula year  $t=2$  and for each subsequent formula year

$$\underline{DNMR_t = DNZ_t + DNF_t + DNE_{xC_t} - DNMRA_t - DNK_t}$$

where:

DNZ<sub>t</sub> in respect of the relevant Distribution Network shall be derived in the following manner:

(i)

$$DNZ_t = DNZ_{t-1} \times \left[ 1 + \left( \frac{RPI_t - X}{100} \right) \right] \times Q_t$$

where in respect of the formula year commencing on 1 April 2004:

$$DNZ_{t-1} = \text{£}178,499,957$$

where:

RPI<sub>t</sub> means the percentage change (whether of a positive or a negative value) in the arithmetic average of the retail price index published or determined with respect to each of the six months from July to December (both inclusive) in formula year t-1 and the arithmetic average of the retail price index numbers published or determined with respect to the same months in relevant year t-2;

X has the value of two (2); and

Q<sub>t</sub> shall be derived from the following formula:

$$Q_t = \left( 0.65 + 0.35 \times \frac{W_t}{W_{t-1}} \right)$$

where:

$W_t$  means the composite user quantity in respect of the relevant Distribution Network in formula year t and shall be derived from the following formula:

$$W_t = B_t + (0.15 \times D_t) + (0.05 \times V_t)$$

where:

$B_t$  is the small user quantity in respect of the relevant Distribution Network in formula year t;

$D_t$  is the large user quantity in respect of the relevant Distribution Network in formula year t; and

$V_t$  is the very large user quantity in respect of the relevant Distribution Network in formula year t.

$DNF_t$  means the Distribution Network prescribed rates plus the Distribution Network licence fees in respect of the relevant Distribution Network in formula year t,

where:

Distribution means the amount of the charge deemed to be incurred

Network prescribed rates in respect of the prescribed rates or equivalent tax or duty replacing them levied on the licensee in respect of the licensee's Distribution Network transportation activity: in the event that the licensee is not Transco plc, and is not an affiliate of Transco plc, it will be the amount of the separate rating assessment for the licensee's Distribution Network transportation activity including (where relevant) metering: in the event that the licensee is Transco plc or an affiliate of Transco plc it shall be calculated as follows;

a) in the event that separate rating assessments are provided in respect of each Distribution Network transportation activity carried out by Transco plc or an affiliate of Transco plc, and in respect of the NTS transportation owner activity carried out either by Transco plc or by an affiliate of Transco plc, the charge shall be the amount so assessed:

b) in the event that a separate rating assessment is not provided in respect of any of the Distribution Network transportation activities carried out by Transco plc or an affiliate of Transco plc, and of the NTS transportation owner activity carried out either by Transco plc or by an affiliate of Transco plc, and if each of the 8 Distribution Networks owned by Transco plc on 1 April 2004 continue to be owned by Transco plc or an affiliate of Transco plc, the total charge in respect of the licensee's Distribution Network transportation owner activity shall be 9.6348% of 83% of the prescribed rates or equivalent tax replacing them levied in respect of the licensee and its affiliates' NTS transportation owner activity and the Distribution Network transportation activity:

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c) In the event that a separate rating assessment is not provided in respect of any of the Distribution Network transportation activities carried out by Transco plc or an affiliate of Transco plc and of the NTS transportation owner activity carried out either by Transco plc or by an affiliate of Transco plc, and that neither Transco plc nor its affiliates own any of the Scotland Distribution Network, the North of England Distribution Network, the Wales & the West Distribution Network and the South of England Distribution Network, but continue to own the North West Distribution Network, the East of England Distribution Network, the West Midlands Distribution Network and the London Distribution Network and the NTS, the total charge in respect of the licensee's Distribution Network transportation owner activity shall be 11.5621% of the prescribed rates or equivalent tax replacing them levied in respect of the licensee and its affiliates' NTS transportation owner activity in England and Distribution Network transportation activity in England; and

d) in any other circumstance, the licensee shall perform attributions and allocations of cost between the NTS transportation owner activity, the Distribution Network transportation activity, and (where relevant) Metering activities:

- on an objective basis;
- in a manner calculated not to benefit unduly the licensee or any other company or organisation;

- wherever practicable, on a consistent basis from one formula period to the next.

In the event that the licensee receives a separate rating assessment or assessments in respect of gas meters connected to the licensee's pipeline system in respect of periods from 1 April 2005 onwards, the resultant charges shall be deemed to constitute an element of the Distribution Network prescribed rates and shall be treated by the licensee in accordance with Special Condition E3.

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Distribution Network licence fee means payments made by the licensee in respect of the Distribution Network transportation activity under standard condition 3 (Payments by the Licensee to the Authority) in respect of the relevant Distribution Network in formula year t determined in accordance with the methodology determined by the Authority for the purposes of that condition.

DNExC<sub>t</sub> means in respect of formula year t, an amount equal to the actual payments made by the licensee in respect of NTS exit capacity and NTS exit flow flexibility in respect of the relevant Distribution Network and shall be derived from the following formula:

$$\text{DNExC}_t = \text{DNExCC}_t + \text{DNExFFC}_t$$

where

DNExCC<sub>t</sub> means in respect of formula year t, the total costs incurred by the licensee for NTS exit capacity in respect of all NTS offtakes within the relevant

Distribution Network less any revenues received from the NTS operator by the licensee in respect of NTS exit capacity; and

DNExFFC<sub>t</sub> means in respect of formula year t, the total costs incurred by the licensee for NTS exit flow flexibility in respect of all NTS offtakes within the relevant Distribution Network less any revenues received from the NTS operator by the licensee in respect of NTS exit flow flexibility;

DNMRA<sub>t</sub> means the mains replacement expenditure adjustment (whether positive or negative value) in respect of the relevant Distribution Network in formula year t and shall be derived in accordance with paragraph 8(2) of Part 1 b of this condition; and

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DNK<sub>t</sub> means the Distribution Network transportation activity revenue adjustment factor to the Distribution Network transportation activity revenue over or under recovery in respect of the relevant Distribution Network in formula year t-1 and shall be derived in accordance with paragraph 8(4) of Part 1 b of this condition.

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**(2) Mains replacement expenditure adjustment (DNMRA<sub>t</sub>)**

For the purposes of paragraph 8(1) of Part 1 b of this condition the mains expenditure adjustment in respect of the relevant Distribution Network in formula year t (DNMRA<sub>t</sub>) shall be derived from the following manner:

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If  $E_t > AM_t$ , then:

$$\text{DNMRA}_t = \left(1 + \frac{A_t}{100}\right) \times J_t \times 1,000,000 - (0.5 \times E_t) - (0.5 \times \text{AM}_t)$$

Otherwise:

$$\text{DNMRA}_t = \left(1 + \frac{A_t}{100}\right) \times J_t \times 1,000,000 - (0.67 \times E_t) - (0.33 \times \text{AM}_t)$$

where:

$A_t$  means the mains RPI in respect of formula year t;

$J_t$  means the price control initial projection allowance in respect of the relevant Distribution Network in formula year t and shall have the values set out in the following table:

Price control mains allowance	Formula year t			
		t=1	t=2	t=3
		29.3	30.1	30.0

$E_t$  means the outturn mains costs in respect of the relevant Distribution Network in formula year t;

$\text{AM}_t$  means the matrix mains cost in respect of the relevant Distribution Network in formula year t and shall be derived in accordance with paragraph 8(3) of Part 1 b of this condition.

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where:

**Included mains** means all mains which prior to decommissioning formed mains which operated at low, medium or intermediate

distribution pressures;

mains RPI means the percentage change (whether of a positive or negative value) in the arithmetic average of the retail price Index numbers published or determined with respect to each of the twelve months April to March (both inclusive) in formula year t and the arithmetic average of the retail price index numbers published or determined with respect to the period from January to December (both inclusive) 2000;

outturn mains cost means the costs reasonably attributable to the replacement and decommissioning of included mains composed of non standard mains materials in respect of the relevant Distribution Network in formula year t excluding costs reasonably attributable to rechargeable diversions; and

non standard mains materials means mains which are not composed of polyethylene or a similar polymer based material (other than polyvinyl chloride (PVC)) or of steel provided with cathodic protection.

**(3) Matrix mains cost ( $AM_t$ )**

(a) For the purposes of paragraph 8(2) of Part 1 b of this Special Condition the matrix mains cost in respect of the relevant Distribution Network in formula year t ( $AM_t$ ) shall be derived in the following manner:

$$AM_t = \left(1 + \frac{A_t}{100}\right) \times \left[ \sum_{n=1}^6 (L_{nt} \times U_{nt}) \right] \times 1,000$$

where:

$A_t$  shall have the meaning given to that term in paragraph 8(2) of Part 1 b of this condition;

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$L_{nt}$  means the length of mains in kilometres decommissioned in respect of diameter band n, the relevant Distribution Network and formula year t where the diameter bands shall be defined as set out in the following table, save that in respect of any diameter of mains not covered by the table or mains measured in metric measurement shall be reported in the diameter band corresponding to the nearest imperial equivalent

Diameter band n	Nominal internal diameter of mains decommissioned (inches)
1	2 – 3
2	4 – 5
3	6 – 7
4	8 – 9
5	10 –12
6	Greater than 12

$U_{nt}$  means the specific matrix costs in respect of diameter band n, the relevant Distribution Network and formula year t as set out in the following table.

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Diameter band n	Specific matrix costs (£ per metre)			
		t=1	t=2	t=3
1		54.7	52.9	52.4
2		65.9	62.9	61.6
3		99.4	95.0	94.0
4		155.5	148.6	146.9
5		215.4	205.8	203.7

6			309.4	294.0	288.0
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$\sum_{n=1}^6$  Means the sum over the diameter bands n of  $L_{nt} \times U_{nt}$ .

(b) On or before 31 July in each formula year t in respect of the relevant Distribution Network the licensee shall prepare and provide to the Authority a report providing details of:

(i) the mains replacement work completed in respect of the previous formula year in kilometres of length of mains decommissioned (excluding rechargeable diversions) by diameter band; and

(ii) detailing the outturn mains costs in respect of formula year t-1.

(c) For the purposes of paragraph 8(3)(b) of Part 1 b of this condition, rechargeable diversions means mains decommissioned or replaced at the request of a party other than the licensee and where the cost of the work is recovered or is expected to be recovered from that party (or another) by the licensee.

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(d) The licensee shall allow the Authority or a duly authorised nominated representative of the Authority on the provision of reasonable prior written notice access to its staff, records and facilities as the Authority may reasonably require or as may be necessary for the purpose of enabling the Authority to establish to its reasonable satisfaction that the information to be provided by the licensee under sub-paragraph 8(3)(b) of Part 1 b of this condition above fairly presents the outturn mains costs and lengths and diameters decommissioned in formula year t.

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**(4) Distribution Network transportation activity revenue adjustment (DNK<sub>t</sub>)**

- (a) For the purposes of paragraph 8(1) of Part 1 b ~~of this condition~~ the Distribution Network transportation activity revenue adjustment in respect of the relevant Distribution Network in formula year t ( $DNK_t$ ) shall be derived from the following manner:

- (i) In respect of the formula year commencing on 1 April 2004:

$$DNK_t = \text{£}1,917,836$$

- (ii) and thereafter

$$DNK_t = (DNR_{t-1} - DNMR_{t-1}) \times \left( 1 + \frac{I_t}{100} \right)$$

where:

$I_t$  means the percentage interest rate in respect of formula year t which is equal to:

In respect of formula year t=1

- (a) in the event that the licensee and its affiliates taken together own one Distribution Network, where  $DNK_t$  (taking no account of  $I_t$  for this purpose) has a positive value, the average specified rate plus 3 or, where  $DNK_t$  (taking no account of  $I_t$  for this purpose) has a negative value, the average specified rate;
- (b) in the event that the licensee and its affiliates taken together own more than one Distribution Network, the value given under (a), except that, where the sum of  $DNK_t$  (taking no account of  $I_t$  for this purpose) for all such networks has a negative value the percentage interest rate for each Distribution Network shall be the average

specified rate, and where the total of  $DNK_t$  (taking no account of  $I_t$  for this purpose) for all such networks has a positive value, the percentage interest rate for each Distribution Network shall be the average specified rate plus 3;

In respect of formula year  $t > 2$

where  $DNK_t$  (taking no account of  $I_t$  for this purpose) has a positive value, the average specified rate plus 3 or, where  $DNK_t$  (taking no account of  $I_t$  for this purpose) has a negative value, the average specified rate,

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## 9. Calculation of quantities

- (1) In Part 1 b of this condition in respect of the definitions of commercial user quantity, very large user quantity and small interruptible user quantity, the licensee shall determine loads attributable to the small interruptible user quantity, commercial user quantity and very large user quantity on the basis of volumes reasonably expected to have been off-taken from the relevant Distribution Network during the formula year having regard to daily meter reads or if these are not available the licensee shall use reasonable estimates of the volumes likely to be off-taken from the relevant Distribution Network in accordance with the process for determination of such volumes pursuant to the network code.

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## 10. Reporting obligations

- (1) Where the licensee publishes any statement or revised or amended statement as to its Distribution Network transportation charges under Standard Special Condition A4 (Charging- General), the Licensee shall not later than twenty eight days prior to the time of such publication provide the Authority with:

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(a) a written forecast of maximum Distribution Network transportation activity revenue together with its components, in respect of the relevant Distribution Network to which the statements referred to in paragraph 10(1) relate and in respect of the formula year in which the change in such charges is to take effect and also in respect of the next following formula year; and

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(b) a written estimate of the maximum Distribution Network transportation activity revenue together with its components, in respect of the relevant Distribution Network to which the statements referred to in paragraph 10 (1) relate and in respect of the formula year immediately preceding the formula year in which the change in such charges is to take effect unless a statement complying with paragraph 10(4) of Part 1 b of this condition in respect of the first mentioned formula year has been furnished to the Authority before publication of the proposed change to such charges.

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(2) If, within three months of the commencement of any formula year, the licensee has not published or effected any such change in its Distribution Network transportation charges under Standard Special Condition A4 (Charging- General) the licensee shall provide the Authority with a written forecast of the maximum Distribution Network transportation activity revenue in respect of the relevant Distribution Network and together with its components, in respect of that formula year.

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(3) Any forecasts as aforesaid shall be accompanied by such information as may be necessary to enable the Authority to be reasonably satisfied that the forecasts have been properly prepared on a consistent basis.

(4) Not later than six weeks after the commencement of the formula year, the licensee shall send to the Authority a statement as to whether or not, in its opinion, paragraphs 6(1) and 6(2) of Part I b of this condition above apply in respect of that formula year and its best estimate of what  $DNK_t$  (as defined in paragraph 8(4) of Part 1 b this Special Condition) is likely to be in that formula year in respect of the relevant Distribution Network.

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- (5) The licensee shall send to the Authority, not later than three months after the end of each formula year, a statement in respect of the relevant Distribution Network showing the Distribution Network transportation activity revenue, the Distribution Network transportation quantity and the commercial user quantity, the very large user quantity and the small interruptible user quantity in respect of that formula year which shall be certified by a Director of the licensee on behalf of the licensee stating that the information is correct to the best of his knowledge and belief having made all reasonable enquiries.
- (6) The statement referred to in sub-paragraph (5) above shall be accompanied by a report from an appropriate auditor that, in its opinion, that statement fairly presents the Distribution Network transportation activity revenue, the Distribution Network transportation quantity and the commercial user quantity, the very large user quantity and the small interruptible user quantity, in relation to the relevant Distribution Network in accordance with the requirements of this condition.

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**11. Disapplication of the Distribution Network transportation activity revenue restriction**

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- (1) The Distribution Network transportation activity revenue restriction conditions shall apply so long as this licence continues in force but shall cease to have effect in such circumstances and at such times as are described in paragraphs 11(2) to 11(7) of Part 1 b of this condition.

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- (2) The Distribution Network transportation activity revenue restriction conditions shall cease to have effect (in whole or in part as the case may be) if the licensee delivers to the Authority a disapplication request made in accordance with paragraph 11(3) of Part 1 b of this condition or notice is given to the Authority by the licensee in accordance with either paragraph 11(6) or paragraph 11(7) of Part 1 b of this condition.

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- (3) A disapplication request shall:
  - (i) be in writing addressed to the Authority;

(ii) specify the Distribution Network transportation activity revenue restriction conditions (or any part or parts thereof) to which the request relates;

(iii) specify the Distribution Network (or any part or parts thereof) to which the request relates; and

(iv) state the date (being not earlier than the date referred to in paragraph 11(5) of Part 1 b of this condition) from which the licensee wishes the Authority to agree that the conditions shall cease to have effect, (the disapplication date).

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(4) The licensee may withdraw a disapplication request at any time.

(5) Save where the Authority otherwise agrees, no disapplication following delivery of a disapplication request pursuant to paragraph 6 of Part 1 b of this condition shall have effect until a date being the earlier of:

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(a) not less than 18 months after delivery of the disapplication request; and

(b) 31st March 2007.

(6) If the Authority has not made a reference to the Competition Commission under section 24 of the Act relating to the modification of Part 1 b of this condition or the part or parts thereof specified in the disapplication request before the beginning of the period of 12 months which will end with the disapplication date and the licensee has not withdrawn this disapplication request, the licensee may deliver written notice to the Authority terminating the application of Part 1 b of this condition or the part or parts thereof specified in the disapplication request with effect from the disapplication date or a later date.

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(7) If the Competition Commission makes a report on a reference made by the Authority relating to the modification of Part 1 b of this condition or the part or parts thereof specified in the disapplication request and such report does not include a conclusion that the cessation of such revenue restrictions in Special Condition E2B Part 1 b, in whole or in part, operates or may be expected to operate against the public interest, the licensee may within 30 days after the

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publication of the report by the Authority in accordance with section 25 of the Act  
deliver to the Authority written notice terminating the application of Part 1 b of  
this condition or the part or parts thereof specified in the disapplication request  
with effect from the disapplication date or such a later date.

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## **Part 1 b The Distribution Network transportation activity revenue restriction**

### **(London Distribution Network)**

#### **6. The principal restriction**

- (1) The licensee shall use its best endeavours in setting its charges to ensure that in respect of any formula year  $t$  the Distribution Network transportation activity revenue for the Distribution Network covered by this condition ( $DNR_t$ ) shall not exceed the maximum Distribution Network transportation activity revenue ( $DNMR_t$ ) in that year.
  
- (2) (a) If in respect of any formula year the Distribution Network transportation activity revenue in respect of a relevant Distribution Network exceeds the maximum Distribution Network transportation activity revenue in respect of that Distribution Network by more than 4 per cent of the latter, the licensee shall provide the Authority with a written explanation and, in the next following formula year, the licensee shall not effect any increase in prices for use of the relevant Distribution Network unless either:
  - (i) it has demonstrated to the reasonable satisfaction of the Authority that the Distribution Network transportation activity revenue in respect of the relevant Distribution Network would not be likely to exceed the maximum Distribution Network transportation activity revenue in respect of the relevant Distribution Network in that next following formula year; or
  - (ii) the Authority has, on the written application of the licensee, consented to such an increase in prices.
  
- (b) If, in respect of any two successive formula years, the sums of the amounts by which the Distribution Network transportation activity revenue in respect of the relevant Distribution Network has exceeded the maximum Distribution Network transportation activity revenue is more than 6 per cent of the maximum Distribution Network transportation activity revenue in respect of

the relevant Distribution Network for the second of those formula years, then in the next following formula year the licensee shall if required by the Authority adjust its prices in respect of the relevant Distribution Network such that the Distribution Network transportation activity revenue in respect of the relevant Distribution Network would not be likely in the judgement of the Authority to exceed maximum Distribution Network transportation activity revenue in respect of the relevant Distribution Network in that next following formula year.

## 7. Distribution Network transportation activity revenue ( $DNR_t$ )

For the purposes of paragraph 6 of Part 1 b of this condition, the Distribution Network transportation activity revenue in respect of the relevant Distribution Network in formula year  $t$  ( $DNR_t$ ) shall have the meaning given to that term in Special Condition E2A (Revenue restriction definitions) (and for the avoidance of doubt shall exclude any revenues derived from excluded services).

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## 8. Maximum Distribution Network transportation activity revenue $DNMR_t$

### (1) Principal formula

For the purposes of paragraph 6 of Part 1 b of this condition the maximum Distribution Network transportation activity revenue in respect of the relevant Distribution Network in formula year  $t$   $DNMR_t$  shall be derived from the following formula:

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For formula year  $t=1$

$$DNMR_t = DNZ_t + DNF_t - DNMRA_t - DNK_t$$

For formula year  $t=2$  and for each subsequent formula year

$$\underline{DNMR_t = DNZ_t + DNF_t + DNE_{xC_t} - DNMRA_t - DNK_t}$$

where:

DNZ<sub>t</sub> in respect of the relevant Distribution Network shall be derived in the following manner:

(i)

$$DNZ_t = DNZ_{t-1} \times \left[ 1 + \left( \frac{RPI_t - X}{100} \right) \right] \times Q_t$$

where in respect of the formula year commencing on 1 April 2004:

$$DNZ_{t-1} = \text{£}202,967,704$$

where:

RPI<sub>t</sub> means the percentage change (whether of a positive or a negative value) in the arithmetic average of the retail price index published or determined with respect to each of the six months from July to December (both inclusive) in formula year t-1 and the arithmetic average of the retail price index numbers published or determined with respect to the same months in relevant year t-2;

X has the value of two (2); and

Q<sub>t</sub> shall be derived from the following formula:

$$Q_t = \left( 0.65 + 0.35 \times \frac{W_t}{W_{t-1}} \right)$$

where:

$W_t$  means the composite user quantity in respect of the relevant Distribution Network in formula year t and shall be derived from the following formula:

$$W_t = B_t + (0.15 \times D_t) + (0.05 \times V_t)$$

where:

$B_t$  is the small user quantity in respect of the relevant Distribution Network in formula year t;

$D_t$  is the large user quantity in respect of the relevant Distribution Network in formula year t; and

$V_t$  is the very large user quantity in respect of the relevant Distribution Network in formula year t.

$DNF_t$  means the Distribution Network prescribed rates plus the Distribution Network licence fees in respect of the relevant Distribution Network in formula year t,

where:

Distribution means the amount of the charge deemed to be incurred

Network prescribed rates in respect of the prescribed rates or equivalent tax or duty replacing them levied on the licensee in respect of the licensee's Distribution Network transportation activity: in the event that the licensee is not Transco plc, and is not an affiliate of Transco plc, it will be the amount of the separate rating assessment for the licensee's Distribution Network transportation activity including (where relevant) metering: in the event that the licensee is Transco plc or an affiliate of Transco plc it shall be calculated as follows;

a) in the event that separate rating assessments are provided in respect of each Distribution Network transportation activity carried out by Transco plc or an affiliate of Transco plc, and in respect of the NTS transportation owner activity carried out either by Transco plc or by an affiliate of Transco plc, the charge shall be the amount so assessed:

b) in the event that a separate rating assessment is not provided in respect of any of the Distribution Network transportation activities carried out by Transco plc or an affiliate of Transco plc, and of the NTS transportation owner activity carried out either by Transco plc or by an affiliate of Transco plc, and if each of the 8 Distribution Networks owned by Transco plc on 1 April 2004 continue to be owned by Transco plc or an affiliate of Transco plc, the total charge in respect of the licensee's Distribution Network transportation owner activity shall be 10.9214% of 83% of the prescribed rates or equivalent tax replacing them levied in respect of the licensee and its affiliates' NTS transportation owner activity and the Distribution Network transportation

activity;

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c) In the event that a separate rating assessment is not provided in respect of any of the Distribution Network transportation activities carried out by Transco plc or an affiliate of Transco plc and of the NTS transportation owner activity carried out either by Transco plc or by an affiliate of Transco plc, and that neither Transco plc nor its affiliates own any of the Scotland Distribution Network, the North of England Distribution Network, the Wales & the West Distribution Network and the South of England Distribution Network, but continue to own the North West Distribution Network, the East of England Distribution Network, the West Midlands Distribution Network and the London Distribution Network and the NTS, the total charge in respect of the licensee's Distribution Network transportation owner activity shall be 14.2086% of the prescribed rates or equivalent tax replacing them levied in respect of the licensee and its affiliates' NTS transportation owner activity in England and Distribution Network transportation activity in England; and

d) in any other circumstance, the licensee shall perform attributions and allocations of cost between the NTS transportation owner activity, the Distribution Network transportation activity, and (where relevant) Metering activities:

- on an objective basis;
- in a manner calculated not to benefit unduly the licensee or any other company or organisation;

- wherever practicable, on a consistent basis from one formula period to the next.

In the event that the licensee receives a separate rating assessment or assessments in respect of gas meters connected to the licensee's pipeline system in respect of periods from 1 April 2005 onwards, the resultant charges shall be deemed to constitute an element of the Distribution Network prescribed rates and shall be treated by the licensee in accordance with Special Condition E3.

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Distribution Network licence fee means payments made by the licensee in respect of the Distribution Network transportation activity under standard condition 3 (Payments by the Licensee to the Authority) in respect of the relevant Distribution Network in formula year t determined in accordance with the methodology determined by the Authority for the purposes of that condition.

DNExC<sub>t</sub> means in respect of formula year t, an amount equal to the actual payments made by the licensee in respect of NTS exit capacity and NTS exit flow flexibility in respect of the Distribution Network and shall be derived from the following formula:

$$\text{DNExC}_t = \text{DNExCC}_t + \text{DNExFFC}_t$$

where

DNExCC<sub>t</sub> means in respect of formula year t, the total costs incurred by the licensee for NTS exit capacity in respect of all NTS offtakes within the relevant

Distribution Network less any revenues received from the NTS operator by the licensee in respect of NTS exit capacity; and

DNExFFC<sub>t</sub> means in respect of formula year t, the total costs incurred by the licensee for NTS exit flow flexibility in respect of all NTS offtakes within the relevant Distribution Network less any revenues received from the NTS operator by the licensee in respect of NTS exit flow flexibility;

DNMRA<sub>t</sub> means the mains replacement expenditure adjustment (whether positive or negative value) in respect of the relevant Distribution Network in formula year t and shall be derived in accordance with paragraph 8(2) of Part 1 b of this condition; and

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DNK<sub>t</sub> means the Distribution Network transportation activity revenue adjustment factor to the Distribution Network transportation activity revenue over or under recovery in respect of the relevant Distribution Network in formula year t-1 and shall be derived in accordance with paragraph 8(4) of Part 1 b of this condition.

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**(2) Mains replacement expenditure adjustment (DNMRA<sub>t</sub>)**

For the purposes of paragraph 8(1) of Part 1 b of this condition the mains expenditure adjustment in respect of the relevant Distribution Network in formula year t (DNMRA<sub>t</sub>) shall be derived from the following manner:

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If  $E_t > AM_t$ , then:

$$DNMRA_t = \left(1 + \frac{A_t}{100}\right) \times J_t \times 1,000,000 - (0.5 \times E_t) - (0.5 \times AM_t)$$

Otherwise:

$$DNMRA_t = \left(1 + \frac{A_t}{100}\right) \times J_t \times 1,000,000 - (0.67 \times E_t) - (0.33 \times AM_t)$$

where:

$A_t$  means the mains RPI in respect of formula year t;

$J_t$  means the price control initial projection allowance in respect of the relevant Distribution Network in formula year t and shall have the values set out in the following table:

Price control mains allowance	Formula year t			
		t=1	t=2	t=3
		31.0	34.8	35.4

$E_t$  means the outturn mains costs in respect of the relevant Distribution Network in formula year t;

$AM_t$  means the matrix mains cost in respect of the relevant Distribution Network in formula year t and shall be derived in accordance with paragraph 8(3) of Part 1 b of this condition.

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where:

**Included mains** means all mains which prior to decommissioning formed mains which operated at low, medium or intermediate

distribution pressures;

mains RPI means the percentage change (whether of a positive or negative value) in the arithmetic average of the retail price Index numbers published or determined with respect to each of the twelve months April to March (both inclusive) in formula year t and the arithmetic average of the retail price index numbers published or determined with respect to the period from January to December (both inclusive) 2000;

outturn mains cost means the costs reasonably attributable to the replacement and decommissioning of included mains composed of non standard mains materials in respect of the relevant Distribution Network in formula year t excluding costs reasonably attributable to rechargeable diversions; and

non standard mains materials means mains which are not composed of polyethylene or a similar polymer based material (other than polyvinyl chloride (PVC)) or of steel provided with cathodic protection.

**(3) Matrix mains cost ( $AM_t$ )**

(a) For the purposes of paragraph 8(2) of Part 1 b of this Special Condition the matrix mains cost in respect of the relevant Distribution Network in formula year t ( $AM_t$ ) shall be derived in the following manner:

$$AM_t = \left(1 + \frac{A_t}{100}\right) \times \left[ \sum_{n=1}^6 (L_{nt} \times U_{nt}) \right] \times 1,000$$

where:

$A_t$  shall have the meaning given to that term in paragraph 8(2) of Part 1 b of this condition;

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$L_{nt}$  means the length of mains in kilometres decommissioned in respect of diameter band n, the relevant Distribution Network and formula year t where the diameter bands shall be defined as set out in the following table, save that in respect of any diameter of mains not covered by the table or mains measured in metric measurement shall be reported in the diameter band corresponding to the nearest imperial equivalent

Diameter band n	Nominal internal diameter of mains decommissioned (inches)
1	2 – 3
2	4 – 5
3	6 – 7
4	8 – 9
5	10 –12
6	Greater than 12

$U_{nt}$  means the specific matrix costs in respect of diameter band n, the relevant Distribution Network and formula year t as set out in the following table.

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Diameter band n	Specific matrix costs (£ per metre)			
		t=1	t=2	t=3
1		64.2	63.2	61.6
2		77.9	76.7	74.8
3		108.5	105.9	103.2
4		211.6	206.6	201.2
5		304.2	294.3	286.5
6		445.8	435.2	424.0

$\sum_{n=1}^6$  Means the sum over the diameter bands n of  $L_{nt} \times U_{nt}$ .

(b) On or before 31 July in each formula year t in respect of the relevant Distribution Network the licensee shall prepare and provide to the Authority a report providing details of:

(i) the mains replacement work completed in respect of the previous formula year in kilometres of length of mains decommissioned (excluding rechargeable diversions) by diameter band; and

(ii) detailing the outturn mains costs in respect of formula year t-1.

(c) For the purposes of paragraph 8(3)(b) of Part 1 b of this condition, rechargeable diversions means mains decommissioned or replaced at the request of a party other than the licensee and where the cost of the work is recovered or is expected to be recovered from that party (or another) by the licensee.

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(d) The licensee shall allow the Authority or a duly authorised nominated representative of the Authority on the provision of reasonable prior written notice access to its staff, records and facilities as the Authority may reasonably require or as may be necessary for the purpose of enabling the Authority to establish to its reasonable satisfaction that the information to be provided by the licensee under sub-paragraph 8(3)(b) of Part 1 b of this condition above fairly presents the outturn mains costs and lengths and diameters decommissioned in formula year t.

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#### (4) Distribution Network transportation activity revenue adjustment (DNK<sub>t</sub>)

(a) For the purposes of paragraph 8(1) of Part 1 b of this condition the Distribution Network transportation activity revenue adjustment in respect of

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the relevant Distribution Network in formula year t ( $DNK_t$ ) shall be derived from the following manner:

- (i) In respect of the formula year commencing on 1 April 2004:

$$DNK_t = \text{£}2,180,722$$

- (ii) and thereafter

$$DNK_t = (DNR_{t-1} - DNMR_{t-1}) \times \left( 1 + \frac{I_t}{100} \right)$$

where:

$I_t$  means the percentage interest rate in respect of formula year t which is equal to:

In respect of formula year t=1

- (a) in the event that the licensee and its affiliates taken together own one Distribution Network, where  $DNK_t$  (taking no account of  $I_t$  for this purpose) has a positive value, the average specified rate plus 3 or, where  $DNK_t$  (taking no account of  $I_t$  for this purpose) has a negative value, the average specified rate;
- (b) in the event that the licensee and its affiliates taken together own more than one Distribution Network, the value given under (a), except that, where the sum of  $DNK_t$  (taking no account of  $I_t$  for this purpose) for all such networks has a negative value the percentage interest rate for each Distribution Network shall be the average specified rate, and where the total of  $DNK_t$  (taking no account of  $I_t$  for this purpose) for all such networks has a positive value, the percentage interest rate for each

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Distribution Network shall be the average specified rate plus 3;

In respect of formula year  $t \geq 2$

where  $DNK_t$  (taking no account of  $I_t$  for this purpose) has a positive value, the average specified rate plus 3 or,

where  $DNK_t$  (taking no account of  $I_t$  for this purpose) has a negative value, the average specified rate,

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## 9. Calculation of quantities

- (1) In Part 1 b of this condition in respect of the definitions of commercial user quantity, very large user quantity and small interruptible user quantity, the licensee shall determine loads attributable to the small interruptible user quantity, commercial user quantity and very large user quantity on the basis of volumes reasonably expected to have been off-taken from the relevant Distribution Network during the formula year having regard to daily meter reads or if these are not available the licensee shall use reasonable estimates of the volumes likely to be off-taken from the relevant Distribution Network in accordance with the process for determination of such volumes pursuant to the network code.

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## 10. Reporting obligations

- (1) Where the licensee publishes any statement or revised or amended statement as to its Distribution Network transportation charges under Standard Special Condition A4 (Charging- General), the Licensee shall not later than twenty eight days prior to the time of such publication provide the Authority with:

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- (a) a written forecast of maximum Distribution Network transportation activity revenue together with its components, in respect of the relevant Distribution Network to which the statements referred to in paragraph 10(1) relate and in

respect of the formula year in which the change in such charges is to take effect and also in respect of the next following formula year; and

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- (b) a written estimate of the maximum Distribution Network transportation activity revenue together with its components, in respect of the relevant Distribution Network to which the statements referred to in paragraph 10 (1) relate and in respect of the formula year immediately preceding the formula year in which the change in such charges is to take effect unless a statement complying with paragraph 10(4) of Part 1 b of this condition in respect of the first mentioned formula year has been furnished to the Authority before publication of the proposed change to such charges.

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- (2) If, within three months of the commencement of any formula year, the licensee has not published or effected any such change in its Distribution Network transportation charges under Standard Special Condition A4 (Charging – General) the licensee shall provide the Authority with a written forecast of the maximum Distribution Network transportation activity revenue in respect of the relevant Distribution Network and together with its components, in respect of that formula year.

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- (3) Any forecasts as aforesaid shall be accompanied by such information as may be necessary to enable the Authority to be reasonably satisfied that the forecasts have been properly prepared on a consistent basis.

- (4) Not later than six weeks after the commencement of the formula year, the licensee shall send to the Authority a statement as to whether or not, in its opinion, paragraphs 6(1) and 6(2) of Part I b of this condition above apply in respect of that formula year and its best estimate of what  $DNK_t$  (as defined in paragraph 8(4) of Part 1 b this Special Condition) is likely to be in that formula year in respect of the relevant Distribution Network.

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- (5) The licensee shall send to the Authority, not later than three months after the end of each formula year, a statement in respect of the relevant Distribution Network showing the Distribution Network transportation activity revenue, the Distribution

Network transportation quantity and the commercial user quantity, the very large user quantity and the small interruptible user quantity in respect of that formula year which shall be certified by a Director of the licensee on behalf of the licensee stating that the information is correct to the best of his knowledge and belief having made all reasonable enquiries.

- (6) The statement referred to in sub-paragraph (5) above shall be accompanied by a report from an appropriate auditor that, in its opinion, that statement fairly presents the Distribution Network transportation activity revenue, the Distribution Network transportation quantity and the commercial user quantity, the very large user quantity and the small interruptible user quantity, in relation to the relevant Distribution Network in accordance with the requirements of this condition.

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## 11. Disapplication of the Distribution Network transportation activity revenue restriction

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- (1) The Distribution Network transportation activity revenue restriction conditions shall apply so long as this licence continues in force but shall cease to have effect in such circumstances and at such times as are described in paragraphs 11(2) to 11(7) of Part 1 b of this condition.

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- (2) The Distribution Network transportation activity revenue restriction conditions shall cease to have effect (in whole or in part as the case may be) if the licensee delivers to the Authority a disapplication request made in accordance with paragraph 11(3) of Part 1 b of this condition or notice is given to the Authority by the licensee in accordance with either paragraph 11(6) or paragraph 11(7) of Part 1 b of this condition.

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- (3) A disapplication request shall:
- (i) be in writing addressed to the Authority;
  - (ii) specify the Distribution Network transportation activity revenue restriction conditions (or any part or parts thereof) to which the request relates;

- (iii) specify the Distribution Network (or any part or parts thereof) to which the request relates; and
- (iv) state the date (being not earlier than the date referred to in paragraph 11(5) of Part 1 b of this condition) from which the licensee wishes the Authority to agree that the conditions shall cease to have effect, (the disapplication date).
- (4) The licensee may withdraw a disapplication request at any time.
- (5) Save where the Authority otherwise agrees, no disapplication following delivery of a disapplication request pursuant to paragraph 6 of Part 1 b of this condition shall have effect until a date being the earlier of:
- (a) not less than 18 months after delivery of the disapplication request; and
- (b) 31st March 2007.
- (6) If the Authority has not made a reference to the Competition Commission under section 24 of the Act relating to the modification of Part 1 b of this condition or the part or parts thereof specified in the disapplication request before the beginning of the period of 12 months which will end with the disapplication date and the licensee has not withdrawn this disapplication request, the licensee may deliver written notice to the Authority terminating the application of Part 1 b of this condition or the part or parts thereof specified in the disapplication request with effect from the disapplication date or a later date.
- (7) If the Competition Commission makes a report on a reference made by the Authority relating to the modification of Part 1 b of this condition or the part or parts thereof specified in the disapplication request and such report does not include a conclusion that the cessation of such revenue restrictions in Special Condition E2B Part 1 b, in whole or in part, operates or may be expected to operate against the public interest, the licensee may within 30 days after the publication of the report by the Authority in accordance with section 25 of the Act deliver to the Authority written notice terminating the application of Part 1 b of

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| this condition or the part or parts thereof specified in the disapplication request with effect from the disapplication date or such a later date.

**Part 2 [Paragraphs 12 – 14(6)(h)]: Not used**

**14(6) (i) Statement of actual interruption**

(i) The licensee shall publish by 12:00 hours each day a statement setting out in respect of each of the licensee’s Distribution Networks by each exit zone (having the meaning given to that term in the network code):

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(aa) the volumes of Distribution Network capacity (in respect of which the licensee held exit capacity curtailment rights) which were curtailed on the previous day; and

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(bb) in respect of sub-paragraph (aa) above it initiated such use of exit capacity curtailment rights for which of the following reasons: (i) for the purposes of managing capacity rights within the Distribution Network or (ii) for such other reason as the licensee shall specify.

(ii) The licensee shall retain copies of each statement published pursuant to sub-paragraph 14(6)(i)(i) of Part 2 of this condition for at least seven (7) years.

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[Paragraphs 14(7) – 16] : Not used