

**Proposed licence modifications required as
a consequence of the introduction of
interconnector licences**

**Statement of reasons and statutory notices
under section 11 and section 11A of the
Electricity Act 1989**

September 2005

Summary

The Gas¹ and Electricity² Directives and the Electricity Regulation³ require, among other things, Member States to regulate third party access to gas and electricity interconnectors. These requirements are being implemented in Great Britain by a new licensing regime, introduced via the Energy Act 2004.

The standard licence conditions for electricity and gas interconnectors were determined by the Secretary of State on 18 March 2005. From this date, Ofgem, as the relevant regulatory authority, has been able to issue licences to parties participating in the operation of 'new'⁴ interconnectors.⁵

Although the Secretary of State has responsibility for determining the form of the standard licence conditions in the interconnector licences and granting interconnector licences to existing operators, Ofgem is the relevant licensing authority for new interconnectors and has responsibility for regulatory oversight of all licensed interconnectors (existing or new).

On 21 June 2005 the DTI published its consultation document in respect of the proposed application of, or exemption from (where the DTI considers this appropriate), gas and electricity interconnector licences to the existing owners and operators.⁶ The DTI expects the prohibition on the participation in the operation of an interconnector⁷ to be commenced in Autumn 2005. At the same time the Secretary of State will grant licences, or exemptions from the requirement to hold a licence, to the existing owners and operators.

This document contains statutory notices concerning proposed collective licence modifications and modifications to certain licences. Ofgem considers these modifications to be necessary as a consequence of the introduction of gas and electricity

¹ Directive 2003/55/EC of the European Parliament and of the Council concerning common rules for the internal market in natural gas and repealing Directive 98/30/EC.

² Directive 2003/54/EC of the European Parliament and of the Council concerning the common rules for the internal market in electricity and repealing Directive 96/92/EC.

³ Regulation No. 1228/2003 of the European Parliament and of the Council on Conditions for Access to the Network for Cross-Border Exchanges in Electricity.

⁴ Interconnectors that were not in operation at the time when the power of the Authority to grant interconnector licences came into force.

⁵ On 8 April 2005 the Authority granted BBL Company a gas interconnector licence to participate in the operation of the Balgzand Bacton line.

⁶ Statutory consultation on the licensing of existing gas and electricity interconnectors under the terms of the Gas Act 1986, the Electricity Act 1989 and the Energy Act 2004, DTI, June 2004.

⁷ Unless authorised to do so by a licence.

interconnector licences⁸. These proposed modifications are mostly what Ofgem considers to be 'house-keeping' changes.

The Appendices to this document contain the statutory notices issued by Ofgem under section 11 of the Electricity Act 1989⁹ and section 11A of the Electricity Act 1989¹⁰ in respect of each of the proposed modifications.

If the proposed modifications may proceed, they will take effect on the date of commencement of the prohibition on the participation in the operation of an interconnector without an interconnector licence under the Energy Act 2004. This is currently anticipated to be in Autumn 2005.

Whilst Ofgem cannot propose modifications to industry codes (and, as with the licences, there are no provisions under the Energy Act 2004 for the Secretary of State to make the necessary changes), Ofgem considers that there are likely to be 'house-keeping' type modifications that need to be proposed to some of these codes as a consequence of the introduction of the interconnector licences. Ofgem notes that it is open to market participants to raise modification proposals to address any changes they consider to be appropriate.

⁸ The Energy Act 2004 does not make provision for the Secretary of State to make such consequential modifications.

⁹ In the case of modifications by agreement with the relevant licence holder.

¹⁰ In the case of modifications by the Collective Licence Modification procedure.

Table of contents

1. Introduction.....	1
Background.....	1
Timetable.....	2
Proposed modifications to licences.....	3
Consequential changes to industry codes.....	4
Representations/objections	4
2. Proposed modifications to licences.....	6
Process for undertaking licence changes	6
Proposed licence modifications	7
3. Way forward.....	14
Appendix 1 Statutory notice of changes required to NGET special conditions.....	16
Appendix 2 Statutory notice of changes required to SPT special conditions	29
Appendix 3 Statutory notice of changes required to SHETL special conditions	34
Appendix 4 Statutory notice of changes required to transmission licence standard conditions.....	39
Appendix 5 Statutory notice of changes required to distribution licence standard conditions.....	46
Appendix 6 Statutory notice of changes required to generation licence standard conditions.....	51
Appendix 7 Statutory notice of changes required to electricity supply licence standard conditions.....	55
Appendix 8 Pro forma for statutory objections	59

1. Introduction

Background

- 1.1 The Gas¹¹ and Electricity¹² Directives and the Electricity Regulation¹³ (“the EU legislation”) include provisions that apply directly to the regulation of gas and electricity interconnectors. The EU legislation requires a system of regulated third party access (RTPA) to be applied to interconnectors.
- 1.2 These requirements for RTPA are being implemented in Great Britain through the Energy Act 2004 (“the Energy Act”).¹⁴ The Energy Act introduces a licensing regime for all gas and electricity interconnectors. Through this licensing scheme it is intended that the requirements concerning third party access and, where appropriate, exemptions from these requirements (via the switching off of specific licence conditions where certain criteria defined in the EU legislation are met¹⁵) will be given effect.¹⁶ The regulatory impact of the proposed regime was assessed as a part of the Regulatory Impact Assessment for the Energy Bill.¹⁷
- 1.3 The Department of Trade and Industry (DTI) and the Office of Gas and Electricity Markets (Ofgem)¹⁸ have conducted joint consultations on the proposed regulatory regime for gas and electricity interconnectors in Great Britain.¹⁹ The DTI has also

¹¹ Directive 2003/55/EC of the European Parliament and of the Council concerning common rules for the internal market in natural gas and repealing Directive 98/30/EC.

¹² Directive 2003/54/EC of the European Parliament and of the Council concerning the common rules for the internal market in electricity and repealing Directive 96/92/EC.

¹³ Regulation No. 1228/2003 of the European Parliament and of the Council on Conditions for Access to the Network for Cross-Border Exchanges in Electricity.

¹⁴ The Energy Act 2004 was given Royal Assent on 22 July 2004. The sections of the Energy Act 2004 relating to interconnector licences are being brought into effect over a period of time, it is currently expected that the prohibition on the participation in the operation of an interconnector without an interconnector licence will come into effect during Autumn 2005.

¹⁵ The criteria are set out in: Article 22 of Directive 2003/55/EC and Article 7 of Regulation 1228/2003.

¹⁶ Chapter 2 of Part 3 of the Energy Act 2004 extends the licensing regimes under the Electricity Act 1989 and the Gas Act 1986 to electricity and gas interconnectors respectively.

¹⁷ This can be found at: http://www.dti.gov.uk/energy/leg_and_reg/acts/ria.pdf.

¹⁸ Ofgem is the Office of the Gas and Electricity Markets, which supports the Gas and Electricity Markets Authority, the regulator of the gas and electricity industries in Great Britain. Ofgem’s aim is to bring choice and value to all gas and electricity customers by promoting competition and regulating monopolies. The Authority’s powers are provided for under the Gas Act 1986, the Electricity Act 1989 and the Utilities Act 2000. The terms ‘Ofgem’ and the ‘Authority’ are used interchangeably in this document.

¹⁹ LNG facilities and interconnectors: EU legislation and regulatory regime: DTI/Ofgem initial views: June 2003; LNG facilities and interconnectors: EU legislation and regulatory regime: DTI/Ofgem final views: November 2003.

Proposed licence modifications required as a consequence of the introduction of interconnector licences:

Statement of reasons and statutory notices under section 11 and section 11A of the Electricity Act 1989

Office of Gas and Electricity Markets

conducted consultations on the implementation of the EU legislation in Great Britain.²⁰

1.4 On 13 July 2004 the DTI published a consultation document²¹ that discussed its initial views on the form that interconnector licences should take, including the standard licence conditions to be contained in the licences. In that document the DTI noted that, as a result of the introduction of interconnector licences, changes would be required to some existing licences and to industry codes and that it expected an appropriate body to take forward the necessary changes in each case.

1.5 Following an extended period of consultation, on 18 March 2005 the standard licence conditions for electricity interconnector licences were determined by the Secretary of State under section 146 of the Energy Act²² and the standard licence conditions for gas interconnector licences were determined by the Secretary of State under section 150 of the Energy Act.²³

1.6 On 21 June 2005, the DTI published a further consultation document²⁴ detailing its proposals in respect of the application of interconnector licences to the existing owners and operators of gas and electricity interconnectors, or exemptions to be granted from these requirements where the DTI considers this to be appropriate.

Timetable

1.7 The DTI expects the prohibition on the participation in the operation of an interconnector to be commenced in Autumn 2005. At the same time the Secretary of State will grant licences, or exemptions from the requirement to hold a licence, to the existing owners and operators of gas and electricity interconnectors.

²⁰ DTI, Implementation of EU Directive 2003/55 Concerning Common Rules for the Internal Market in Gas, February 2004; DTI, Implementation of EU Directive 2003/54 Concerning Common Rules for the Internal Market in Electricity, February 2004.

²¹ Interconnector licences: Determination of Standard Licence Conditions and Proposed Exemption Regime, DTI, July 2004.

²² Determination order of 18 March 2005 of standard licence conditions for electricity interconnector licences under section 146 of the Energy Act 2004; Standard licence conditions for electricity interconnector licences as determined on 18 March 2005 under section 146 of the Energy Act 2004.

²³ Determination order of 18 March 2005 of standard licence conditions for gas interconnector licences under section 150 of the Energy Act 2004; Standard licence conditions for gas interconnector licences as determined on 18 March 2005 under section 150 of the Energy Act 2004.

²⁴ Statutory Consultation on the licensing of existing gas and electricity interconnectors under the terms of the Gas Act 1986, the Electricity Act 1989 and the Energy Act 2004, DTI, June 2005.

Proposed licence modifications required as a consequence of the introduction of interconnector licences:

Statement of reasons and statutory notices under section 11 and section 11A of the Electricity Act 1989

Proposed modifications to licences

- 1.8 The Secretary of State had responsibility for determining the standard licence conditions in the interconnector licences and has responsibility for granting interconnector licences to existing interconnector owners/operators. However, Ofgem has responsibility for granting interconnector licences to new interconnector owners/operators and for the regulatory oversight of all licensed interconnectors (existing or new).
- 1.9 This document provides reasons for the proposed modifications that Ofgem considers are required to the other types of licence it grants (i.e. licences other than interconnector licences) to facilitate the introduction of gas and electricity interconnector licences.^{25,26} Specifically, Ofgem considers that changes are required to: electricity transmission licences (standard conditions and special conditions); electricity distribution licences (standard conditions only); electricity generation licences (standard conditions only); and electricity supply licences (standard conditions only).²⁷ Ofgem considers that these changes are mostly ‘house-keeping’ changes. Modifications to special licence conditions are to be undertaken via individual licence modifications, while modifications to standard licence conditions are to be undertaken via the collective licence modification (CLM) process.
- 1.10 As noted above, prior to the publication of this document, the DTI has in its consultations on the introduction of the interconnector licences discussed the requirement for these consequential changes to be made. Ofgem has also consulted informally with the three holders of electricity transmission licences,²⁸ and the 17 holders of electricity distribution licences regarding the potential implementation of these changes.²⁹ As these consultations have been undertaken and, given the nature

²⁵ As the Energy Act 2004 does not contain any provision for the Secretary of State to make these proposed modifications, it is Ofgem’s responsibility to raise them via the licence modification process in the relevant legislation.

²⁶ It should be noted that this document only contains modification proposals that Ofgem considers are required to facilitate the introduction of the gas and electricity interconnector licences. This document does not contain any modification proposals that may be considered appropriate as a result of other industry developments.

²⁷ Ofgem does not consider that any such changes are required to existing licences issued under the Gas Act 1986.

²⁸ National Grid Electricity Transmission plc, ScottishPower Transmission Ltd, and Scottish Hydro-Electric Transmission Ltd.

²⁹ Northern Electric Distribution Ltd; Yorkshire Electricity Distribution plc; Central Networks West plc; Central Networks East plc; EDF Energy Networks (EPN) plc; EDF Energy Networks (LPN) plc; EDF Energy Networks (SPN) plc; SP Distribution Ltd; SP Manweb plc; Scottish Hydro-Electric Power Distribution Ltd; Southern Electric
Proposed licence modifications required as a consequence of the introduction of interconnector licences:
Statement of reasons and statutory notices under section 11 and section 11A of the Electricity Act 1989
Office of Gas and Electricity Markets

of the proposed modifications, Ofgem does not consider it necessary to engage in a further round of consultation prior to publishing the statutory notices issued by Ofgem under section 11 of the Electricity Act 1989 (“the Electricity Act”)³⁰ and section 11A of the Electricity Act³¹ in respect of each of the proposed modifications, which are appended to this document.

- 1.11 Whilst Ofgem would not normally present statutory notices in this manner, it considers this to be the most efficient means of dealing with the large number of proposed modifications required as a result of the particular circumstances.

Consequential changes to industry codes

- 1.12 Whilst Ofgem cannot propose modifications to industry codes³² (and, as with the licences, there are no provisions under the Energy Act for the Secretary of State to make the necessary changes), Ofgem considers that there are likely to be ‘house-keeping’ type modifications that will need to be proposed to some of these codes as a consequence of the introduction of the interconnector licences. Ofgem notes that it is open to market participants to raise modification proposals to address any changes they consider to be appropriate. Ofgem would be happy to discuss with market participants any such changes.

Representations/objections

- 1.13 This document contains the statutory notices on the consequential changes that Ofgem considers should be made to certain licences following the introduction of gas and electricity interconnector licences. Ofgem invites representations to the statutory notices containing the licence modifications which are included in the Appendices to this document.

Power Distribution plc; United Utilities Electricity plc; Western Power Distribution (South Wales) plc; Western Power Distribution (South West) plc; Global Utility Connections; Laing Energy Ltd and Independent Power Networks Ltd.

³⁰ In the case of modifications by agreement with the relevant licence holder.

³¹ In the case of modifications by the Collective Licence Modification procedure.

³² Industry codes referred to here are: Balancing and Settlement Code; Connection and Use of System Code; System Operator – Transmission Owner Code; Grid Code; Distribution Code; Uniform Network Code and short form network codes.

- 1.14 If a relevant licence holder³³ wishes to make an objection with respect to the proposed modifications, it would be helpful if that licensee uses the pro forma in **Appendix 8** of this document for that purpose. It should be noted that relevant licence holders who do not register their statutory objection to a CLM are deemed to have accepted the proposal.
- 1.15 All representations and/or objections should be received by close of business on 10 October 2005. All representations and objections will normally be published on Ofgem's website and held in the Research and Information Centre. However, if respondents do not wish their representations/objections to be made public then they should clearly mark their responses as confidential. Ofgem prefers to receive representations/objections in an electronic format so they can be placed easily on the Ofgem website.
- 1.16 Representations/objections should be addressed to:
- Sonia Brown
- Director, Markets
- Office of Gas and Electricity Markets
- 9 Millbank
- London
- SW1P 3GE
- 1.17 Electronic representations/objections should be sent to wholesale.markets@ofgem.gov.uk
- 1.18 If you wish to discuss any part of this document, Jo Witters (telephone 020 7901 7159) or Colin Sausman (telephone 020 7901 7339) would be pleased to help.

³³ Relevant licence holders are the holders of the particular licence type in which the licence condition in issue is switched on when the statutory notice expires.

2. Proposed modifications to licences

Process for undertaking licence changes

Individual licence modifications

- 2.1 Both modifications to standard licence conditions where the changes relate only to individual licences and modifications to special licence conditions require the consent of the licensee.
- 2.2 In order to amend licences in such a manner a statutory notice detailing the proposed modification(s) is required to be provided by Ofgem under section 11 of the Electricity Act. A period of at least 28 days must be allowed for respondents to make comments on the proposals to Ofgem.

Collective licence modifications

- 2.3 Section 11A of the Electricity Act makes provision for the Authority to modify electricity standard licence conditions by way of a collective modification process. The process for a collective licence modification (CLM) and the calculations that Ofgem must carry out to assess whether a modification can proceed are set out in legislation. Ofgem has published a guidance document that further explains the procedures that it will use when undertaking a CLM.³⁴
- 2.4 There is a statutory requirement for Ofgem to allow a period of at least 28 days for responses to its statutory notice before it directs a CLM. Ofgem will consider whether, in the light of any objections or representations received, it can direct a CLM. However, where the Secretary of State directs Ofgem not to make a modification it must comply with this direction.
- 2.5 Should a relevant licence holder choose to make a statutory objection to a CLM proposal, such objection must be registered by formally objecting to the proposed modification within the time set out in the published statutory notice.

³⁴ Guidance on modifying the standard licence conditions of gas and electricity licences; Ofgem; September 2003.

- 2.6 In the case of each CLM proposal detailed below, where a relevant licence holder has made a statutory objection to a proposed CLM, Ofgem will carry out two tests of the extent of those objections.³⁵ If either of the two blocking minority thresholds prescribed in the Electricity and Gas (Modification of Standard Conditions of Licences) Order 2003 in relation to those tests is met the modification may not be made.
- 2.7 The first test will consider the number of relevant licence holders that object to the proposal, who will be counted and compared to the total number of relevant licence holders. If the number of relevant licence holders that have made a statutory objection is equal to or greater than 20 per cent of the total number of relevant licence holders, the proposed modification cannot be made. If the number of relevant licence holders that have made a statutory objection is less than 20 per cent then the second test will be considered.
- 2.8 The second test will consider the market share of relevant licence holders that have made a statutory objection to the proposal. In this second test, the market share of licence holders will be calculated. If the market share of objectors so calculated is equal to or exceeds 20 per cent the proposed modification cannot be made.

Proposed licence modifications

- 2.9 The following sections detail the proposed licence modifications and their rationale as a result of the introduction of the electricity and gas interconnector licences.

Individual licence modifications

Special conditions of National Grid Electricity Transmission's transmission licence

- 2.10 The majority of the licence amendments that are required as a result of the introduction of the interconnector licences are to National Grid Electricity Transmission's (NGET) transmission licence. This is as a result of the

³⁵ Except in the case of a CLM proposal to the transmission licence, where if any of the three relevant licence holders makes a statutory objection the blocking minority threshold will be met.

Interconnexion France Angleterre (IFA) link between England and France currently being regulated by special conditions within NGET's transmission licence.

- 2.11 The Energy Act provides that the same person may not be the holder of an interconnector licence and the holder of any other licence under either the Gas Act 1986 or the Electricity Act, as appropriate.³⁶ This means that NGET may not be the holder of a transmission licence and an interconnector licence. As a consequence, National Grid plc (NG) has decided that NGET will continue to hold the transmission licence and its interconnector business will become a separate legal entity holding an interconnector licence, pursuant to which it will undertake the interconnector business. Therefore all references to the regulation of the interconnector and to NG's interconnector business need to be removed from NGET's transmission licence.
- 2.12 **Appendix 1** contains the statutory notice issued under section 11 of the Electricity Act detailing the proposed modifications to the special conditions of NGET's transmission licence discussed in this section. These licence modifications must be made by agreement with NGET.
- 2.13 The main changes to NGET's transmission licence are in relation to special condition D (Basis of charges for use of interconnector(s) and requirement to offer terms), special condition E (Non-discrimination in the provision of use of an interconnector) and special condition F (Functions of the Authority). These licence conditions are interconnector specific and, as a consequence of the introduction of interconnector licences, it is necessary to remove them from NGET's transmission licence. In their place, the interconnector licence contains the following conditions: standard condition 10 (Charging methodology to apply to third party access to the licensee's interconnector), standard condition 11 (Requirement to offer terms for access to the licensee's interconnector) and standard condition 14 (Dispute resolution).
- 2.14 Special Condition H (Amended standard conditions) in NGET's licence currently includes a reference to the interconnector business in the definition of separate business. In NGET's current licence the definition of separate business is only used in the definition of the transmission business. Following the introduction of

separate licences for the activity of participating in the operation of an interconnector, the transmission and interconnector businesses (that were previously regulated via NGET's transmission licence) will be licensed separately. Therefore it is proposed that references to the interconnector business are no longer needed in NGET's licence as it is no longer the licensee in respect of the separate interconnector business.

- 2.15 However, it should be noted that whilst it is proposed that restrictions on NGET's activities in respect of NG's interconnector business are removed from its licence, the proposed modification will require NGET's activities to be restricted only to its transmission business.
- 2.16 Therefore, in Ofgem's view the clearest modification to achieve removal of the reference to NG's interconnector business from NGET's licence is to remove the definition of separate business in its entirety rather than removing the definition of interconnector business from the definition of separate business. It should also be noted that the definition of transmission business in the standard conditions of the transmission licence excludes the interconnector business of an affiliate of the licensee in sub-paragraph (ii) which refers to "any other business of the licensee or any affiliate or related undertaking in the provision of services to or on behalf of any one or more persons".
- 2.17 It should be noted that there are differences to the proposed modifications to NGET's licence and to that of SPT's and SHETL's licences, described below. This is due to the current drafting of the relevant licence conditions within these licences containing different definitions of the term separate business as a result of the different purposes of the relevant licence condition.

Scottish Power Transmission Limited's transmission licence special conditions and Scottish Hydro-Electric Transmission Limited's transmission licence special conditions

- 2.18 The proposed modifications to Scottish Power Transmission Limited's (SPT) and Scottish Hydro-Electric Transmission Limited's (SHETL) transmission licences special conditions are also as a consequence of the Energy Act provision that the same

³⁶ S145(6) and s149(6) (2) of the Energy Act 2004.

person may not be the holder of an electricity interconnector licence and the holder of any other licence under the Electricity Act. Accordingly, neither SPT nor SHETL will be able to own or operate interconnectors via their transmission licences.

- 2.19 It is proposed that the definition of separate business in SPT's and SHETL's special condition F (Amended standard conditions) is amended to include an interconnector business, as interconnector businesses will be separate licensed activities.
- 2.20 As noted above, there are differences to the proposed modifications of SPT's and SHETL's licences compared to NGET's. This is due to the current drafting of the relevant licence conditions within these licences containing different definitions of the term separate business as a result of the different purposes of the relevant licence condition.
- 2.21 **Appendix 2** contains the statutory notice issued under section 11 of the Electricity Act detailing the proposed modifications to the special conditions of SPT's transmission licence discussed in this section. These licence modifications must be made by agreement with SPT.
- 2.22 **Appendix 3** contains the statutory notice issued under section 11 of the Electricity Act detailing the proposed modifications to the special conditions of SHETL's transmission licence discussed in this section. These proposed modifications must be made by agreement with SHETL.

Collective licence modifications

Electricity transmission licence

- 2.23 At present, standard licence condition C7 (Prohibition on discriminating between users) paragraph 4 of the electricity transmission licence requires the licensee not to restrict, distort or prevent competition in the participation in the operation of the following licensable activities: generation; transmission; supply; and distribution. Given that the Energy Act has now created the separate licensable activity of interconnection and that interconnectors are now defined within the transmission licence along with generation, transmission, supply and distribution, it is proposed that this licence condition also includes the requirement not to restrict, distort or prevent competition in the participation in the operation of an interconnector licence when setting use of system charges.

- 2.24 It is also proposed that the definition of "authorised electricity operator" within the transmission licence be amended to include those participating in the operation of an interconnector, in order to recognise that this is now a separately licensed activity and interconnectors will no longer be captured by the transmission licence. Modifications are also proposed to a number of definitions to reflect the introduction of the interconnector licences and the revised definition of interconnector under the Energy Act.
- 2.25 **Appendix 4** contains the statutory notice issued under section 11A of the Electricity Act detailing the proposed amendments to the standard conditions of transmission licences discussed in this section. These licence modifications are subject to the CLM process.

Electricity distribution / generation / supply licences

- 2.26 The proposed modifications required to be made to the standard conditions of the distribution licence, the generation licence and the supply licence are subject to the CLM process. The proposed modifications may be summarised as follows:
- ◆ modifications of the definition of "interconnector" to be consistent with the Energy Act;
 - ◆ inclusion in standard licence condition 1 of a reference to the standard licence conditions of electricity interconnector licences; and
 - ◆ modification of the definition of "authorised electricity operator" to include those participating in the operation of an interconnector.
- 2.27 It is also proposed that standard licence condition 1 of the generation licence will be amended to include any interconnector business in the definition of separate business. This proposed modification is required as the electricity generation standard condition 16 (Regulatory accounts) refers to a separate business. As any interconnector business will be a separate licensed activity, an amendment to the definition of separate business to include an interconnector business is required.
- 2.28 In addition, in standard licence condition 4C(4) of the distribution licence a requirement has been included such that licensees can not restrict, distort or prevent competition in the participation in the operation of an interconnector when setting

charges for connection or use of system. The reasons for this amendment are the same as those for introducing a similar requirement in standard licence condition C7(4) of the transmission licence discussed above.

- 2.29 **Appendix 5** contains the statutory notice issued under section 11A of the Electricity Act which details the proposed modifications to the standard licence conditions of distribution licences discussed in this section. These proposed modifications are subject to the CLM process.
- 2.30 **Appendix 6** contains the statutory notice issued under section 11A of the Electricity Act which details the proposed modifications to the standard conditions of generation licences discussed in this section. These proposed modifications are subject to the CLM process.
- 2.31 **Appendix 7** contains the statutory notice issued under section 11A of the Electricity Act which details the proposed modifications to the standard conditions of electricity supply licences discussed in this section. These proposed modifications are subject to the CLM process.
- 2.32 Ofgem has limited itself to proposing changes to the transmission and distribution licences which in its view are required as a direct and immediate consequence of the introduction of interconnector licences. On this basis, Ofgem has limited changes to transmission and distribution licences to obligations relating to use of system charges (which, it should be noted do not have relevance to electricity supply or generation licences). The need for any further refinements in the regulatory regime, for example relating to any future connection offers affecting new or prospective interconnector licensees, will be considered in the light of the practical operation of the licence conditions proposed in this (and related) documents.

Gas transporter / shipper / gas supplier licences

- 2.33 Ofgem does not consider that there are consequential changes to gas transporter licences (both NTS and DN) analogous to those proposed in the electricity transmission and distribution licences. This view is based on differences in the nature of the relationship an interconnector licensee will have with network operators in gas compared with electricity. For example, the ongoing relationship for transmission and distribution use of system in electricity is between the network

operator and the interconnector operator, while in gas the equivalent relationship, including the obligation on the network operator not to engage in discriminatory behaviour, is between the network operator and shippers (and suppliers).

2.34 Ofgem considers that the more limited relationship between gas interconnector licensees and gas transporters will be such that consequential changes to gas transporter licences are not warranted as being strictly necessary for the purpose of implementing the interconnector licensing regime.

2.35 For completeness, it should be noted that there are no analogous conditions in the gas shipper and gas supplier licences.

3. Way forward

3.1 The statutory notices detailing the consequential changes that Ofgem is proposing to the electricity transmission, distribution, generation and supply licences following the introduction of gas and electricity interconnector licences are published in the Appendices to this document. Responses to the statutory notices should be received by close of business on 7 October 2005.

3.2 **Appendix 8** contains a suggested pro forma that it would be helpful for relevant licensees to use if submitting a statutory objection to a section 11A statutory notice.

3.3 All representations and/or objections will normally be published on Ofgem's website and held in the Research and Information Centre unless they are clearly marked as confidential. Ofgem prefers to receive representations and objections in an electronic format so they can be placed easily on the Ofgem website.

3.4 Representations and/or objections should be addressed to:

Sonia Brown

Director, Markets

Office of Gas and Electricity Markets

9 Millbank

London

SW1P 3GE

3.5 Electronic representations and/or objections should be sent to wholesale.markets@ofgem.gov.uk

3.6 If you wish to discuss any part of this document, Jo Witters (telephone 020 7901 7159) or Colin Sausman (telephone 020 7901 7339) would be pleased to help.

3.7 Ofgem will carefully consider representations/ objections received to the statutory notices. In the case of each CLM proposal where any statutory objections are received, Ofgem will calculate the proportion of relevant licence holders (i.e. the holders of the particular licence type in which the licence condition in issue is

switched on when the statutory notice expires) that have raised a “statutory objection” to the proposal. This will determine whether the proposed modifications may proceed.³⁷ Where a voting calculation has been made Ofgem will publish the results of that calculation.

- 3.8 If the proposed modifications may proceed, they will take effect on the date of commencement of the prohibition on the participation in the operation of an interconnector without an interconnector licence under the Energy Act. This is currently anticipated to be in Autumn 2005.

³⁷ Guidance on modifying the standard licence conditions of gas and electricity licences; Ofgem; September 2003.

Appendix 1 Statutory notice of changes required to NGET special conditions

NOTICE UNDER SECTION 11 (2) OF THE ELECTRICITY ACT 1989

The Gas and Electricity Markets Authority (“the Authority”) hereby gives notice pursuant to section 11 (2) of the Electricity Act 1989 (“the Act”) as follows:

1. The Authority proposes to modify special conditions A (Definitions and interpretation), D (Basis of charges for use of interconnector(s) and requirement to offer terms), E (Non-discrimination in the provision of use of interconnector(s)), F (Functions of the Authority), H (Amended standard conditions) and K (Requests for transit) of the electricity transmission licence granted, or treated as granted, to National Grid Electricity Transmission plc, pursuant to section 6(1)(b) of the Act, in the manner set out in schedule 1 to this notice (“the proposed modifications”).
2. The reasons why the Authority proposes to modify the special conditions referred to in paragraph 1 of this notice and the effect of the proposed modifications are set out in the following documents:
 - (a) Interconnector licences: Determination of Standard Licence Conditions and Proposed Exemption Regime, Department of Trade and Industry (“DTI”), July 2004; and
 - (b) Proposed licence modifications required as a consequence of the introduction of interconnector licences: Statement of reasons and statutory notices under section 11 and section 11A of the Electricity Act 1989 (“the Statement of Reasons”) (which accompanies this notice).
3. Copies of the proposed modifications, the Statement of Reasons and other documents referred to in this notice prepared by Ofgem are available (free of charge) from the Ofgem Research and Information Centre (telephone 020 7901 7003) or are available on the Ofgem website (www.ofgem.gov.uk) and documents prepared by the DTI are available from the energy section of the DTI website (www.dti.gov.uk/energy).

4. It is proposed that the proposed modifications shall have effect on and from the date that section 145(2) of the Energy Act 2004 is commenced.
5. Any representations or objections to the proposed modifications may be made in writing on or before 10 October 2005 to:

Sonia Brown
Office of Gas and Electricity Markets
9 Millbank
London
SW1P 3GE

or by email to wholesale.markets@ofgem.gov.uk

David Gray

Duly authorised on behalf of the Authority

12 September 2005

SCHEDULE 1

Special Condition A. Definitions and interpretation

1. ~~In these special conditions unless~~ Unless the context otherwise requires:

~~“interconnector(s)”~~

means, as appropriate, either:

~~(a) the electric lines and electrical plant and meters owned or operated by the licensee solely for the transfer of electricity to or from the GB transmission system into or out of Great Britain; or~~

~~(b) the electric lines and electrical plant and meters owned or operated by the licensee solely for the transfer of electricity to or from the licensee's transmission system into or out of England and Wales.~~

~~“interconnector(s) business”~~

~~means the business of the licensee or any affiliate or related undertaking in the operation of any interconnector.~~

~~2.~~ ~~Subject to paragraph 1, unless the context otherwise requires,~~ words and expressions used in the standard conditions of this licence shall bear the same meaning in these special conditions.

~~3.~~ 2. Where a term is used in these special conditions and is also used in Section C of the standard conditions for electricity transmission licences then, unless the context otherwise requires, it shall have the same meaning in these special conditions as is ascribed to that term in Section C of the standard conditions.

~~4.~~ 3. Any reference in these special conditions to:

- (a) a provision thereof;
- (b) a provision of the standard conditions of electricity transmission licences;

- (c) a provision of the standard conditions of electricity supply licences;
- (d) a provision of the standard conditions of electricity distribution licences;
- (e) a provision of the standard conditions of electricity generation licences;
- (f) a provision of the standard conditions of electricity interconnector licences;

shall, if these or the standard conditions in question come to be modified, be construed, so far as the context permits as a reference to the corresponding provision of these or the standard conditions in question as modified.

Special Condition D. ~~Basis of charges for use of interconnector(s) and requirement to offer terms~~ Not used.

- ~~1. Charges for use of interconnector (s) shall be set at a level which will enable the licensee to recover no more than a reasonable rate of return on the capital represented by the interconnector (s).~~
- ~~2. On application made by any person (and subject to constraints imposed by the capacity of any interconnector (s) and the amount of that capacity already contracted to third parties) the licensee shall (subject to paragraph 3) offer to enter into an agreement for use of interconnector(s) to convey across any interconnector(s) electricity to be provided by or on behalf of such person.~~
- ~~3. The licensee shall not be obliged pursuant to this condition to offer to enter or to enter into an agreement with any person if:
 - ~~(a) to do so would be likely to involve the licensee
 - ~~(i) in breach of its duties under section 9 of the Act;~~
 - ~~(ii) in breach of the conditions; or~~~~
 - ~~(b) if the person making the application does not undertake to be bound by the terms of any code of general application or agreement made with the co-operator of any interconnector (s) governing the operation and maintenance of interconnector (s) approved for the time being by the Authority.~~~~
- ~~4. For the purposes of this condition:~~

~~"co-operator" means any person other than the licensee who owns assets which are used in conjunction with an interconnector (s) or who is able to exercise jointly with the licensee control over the use made of the interconnector (s).~~

Special Condition E. ~~Non-discrimination in the provision of use of interconnector(s)~~

- ~~1. In the provision of use of interconnector(s) the licensee shall not discriminate between any persons or class or classes of persons.~~
- ~~2. Without prejudice to paragraph 1, the licensee shall not make, provide, or offer to provide an agreement for use of interconnector(s) to any person or class or classes of persons on terms as to price which are materially more or less favourable than those on which it makes, provides or offers to provide an agreement for use of Interconnector(s) to any other comparable person or group of persons. For those purposes, due regard shall be had to the circumstances of provision, including volumes, conditions of interruptibility, and the date and duration of the agreement.~~
- ~~3. The licensee shall not in setting its charges for use of interconnector(s) restrict, distort or prevent competition in the transmission, supply, distribution or generation of electricity.~~
- ~~4. The licensee shall not be in breach of this condition where by reason of having previously granted use of interconnector(s), there is no further available capacity in respect of which to grant use of interconnector(s).~~

[Not used.](#)

Special Condition F. ~~Functions of the Authority~~

~~1. Upon the application of any person wishing to question the terms of an agreement for use of interconnector(s) offered pursuant to special condition D (Basis of charges for use of interconnector(s) and requirement to offer terms) or required to be offered under the terms of any agreement previously entered into for use of interconnector(s) by the person or persons entitled to use thereunder or upon application of the licensee, the Authority may, pursuant to section 7(3)(c) of the Act, settle any terms of the agreement in dispute between the licensee and that person or between such persons (as the case may be) in such manner as appears to the Authority to be reasonable having (in so far as relevant) regard in particular to the following considerations:~~

~~(a) that the performance by the licensee of its obligations under the agreement should not cause it to be in breach of those provisions referred to at paragraph 3 of special condition D (Basis of charges for use of interconnector(s) and requirement to offer terms); and~~

~~(b) that the terms and conditions of the agreement so settled by the Authority and of any other agreements entered into by the licensee pursuant to a request under special condition D (Basis of charges for use of interconnector(s) and requirement to offer terms) or the person or persons entitled to use of interconnector(s) under any agreement previously made with the licensee (as the case may be) should be, so far as circumstances allow, in as similar a form as practicable.~~

~~2. In so far as any person entitled to an offer under special condition D (Basis of charges for use of interconnector(s) and requirement to offer terms) wishes to proceed on the basis of the agreement as settled by the Authority, the licensee shall forthwith enter into and implement such agreement in accordance with its terms.~~

[Not used.](#)

Special Condition H. Amended standard conditions

1. Standard condition A1 (Definitions and interpretation) shall be amended by the addition of the following text between the definitions of "relinquishment of operational control" and "Retail Price Index":

"remote transmission assets" means any electric lines, electrical plant or meters in England and Wales owned by the licensee which:

- (a) are embedded in a distribution system of an authorised electricity operator within the transmission area of the licensee and are not directly connected by lines or plant owned by the licensee to a sub-station owned by the licensee; and
- (b) are, by agreement between the licensee and such authorised electricity operator, operated under the direction and control of such authorised electricity operator.

~~and the following text between the definitions of "Section D (transmission owner standard conditions) Direction" and "statutory accounts":~~

~~"separate business" means each of:~~

- ~~(a) the transmission business of the licensee;~~
- ~~and~~
- ~~(b) the interconnector(s) business of~~

~~the licensee,~~

~~taken separately from one another and
from any other business of the
licensee, but so that where all
or any part of such business is
carried on by an affiliate or
related undertaking of the
licensee such part of the
business as is carried on by that
affiliate or related undertaking
shall be consolidated with any
other part of such business of
the licensee (and of any other
affiliate or related undertaking)
so as to form a single separate
business.~~

2. Standard condition A1 (Definitions and interpretation) shall be amended as follows:
- (a) by the addition of the following text after "and includes" in the definition of "distribution system": "remote transmission assets (owned by the licensee within England and Wales) operated by such distributor and any";
 - (b) by the addition of the following text at the end of the definition of "GB transmission system": "but shall not include any remote transmission assets";
 - ~~(c) — by the addition of the following text after "the transmission business" in paragraph (a) of the definition of "permitted purpose": "or the interconnector(s) business";~~
 - (c) not used;
 - (d) in the definition of "transmission business":

~~(aa) — the following text shall be added as sub-paragraph (i): "any other separate business";~~

~~(bb) — the existing sub-paragraphs (i) and (ii) shall be renumbered as (ii) and (iii) respectively;~~

(aa) not used;

(bb) not used;

(cc) the words "or commercial management" shall be inserted after "maintenance";

(dd) the words "the transmission owner activity," shall be inserted before "the balancing services activity"; and

~~(ee) — in sub-paragraph (iii), the words "(not being a separate business)" are inserted after "any other business".~~

(ee) not used.

3. Standard condition B6 (Restriction on activity and financial ringfencing) shall be amended by the addition of the following text:

~~(a) — at the end of paragraph 1:~~

~~"and the interconnector(s) business";~~

~~— (b) — at the end of paragraph 2(b):~~

~~— "or the interconnector(s) business";~~

~~— (c) — at the end of paragraph 4(a)(i):~~

~~— "and the interconnector(s) business";~~

~~(d) — after "transmission business" and before "and business activities" in paragraph 4(b):~~

~~— "and interconnector(s) business";~~

~~(e) — after "transmission business" and before "as shown by" in paragraph 4(b)(i):~~

~~— "and the interconnector(s) business"; and (f) — at the end of paragraph 4, after paragraph 4(d)(iii), insert additional text as follows: .~~

"less the sum of:

the aggregate gross amount of all income (whether of a capital or revenue nature) howsoever received by the licensee in respect of such investment in all completed accounting reference periods since such accounting reference date."

4. Standard condition B6 (Restriction on activity and financial ringfencing) shall be amended as follows:

- (a) in paragraph 4(b)(ii), the words "the date this condition comes into effect in the licensee's transmission licence" are deleted and the words "31 March 2001" are inserted; and
- (b) in paragraph 4(d)(i), the words "the date this condition comes into effect in the licensee's transmission licence" are deleted and the words "31 March 2001" are inserted.

5. ~~Standard condition B7 (Availability of resources) shall be amended by the addition of the following text:~~

~~(a) — after the words "transmission business" in paragraph 1(a), insert the words: "and the interconnector(s) business";~~

~~(b) — between "transmission business" and "including, without limitation," in paragraph 1(b):~~

~~"and the interconnector(s) business";~~

~~(c) — between "transmission business" and "for a period of 12 months," in paragraph 2(a):~~

~~"and the interconnector(s) business";~~

~~(d) between "transmission business" and "for a period of twelve months" in paragraph 2(b):~~

~~— "and the interconnector(s) business";~~

~~(e) after the words "transmission business" at the end of paragraph 2(b) insert the words "or the interconnector(s) business"; and~~

~~(f) between "transmission business" and "for a period of 12 months," in paragraph 2(e):~~

~~"and the interconnector(s) business".~~ Paragraph 1(d) of standard condition B9 (Indebtedness) shall be amended by deleting the words, "date this condition comes into effect in the licensee's transmission licence" and inserting the words "31 March 2001".

7.6. Standard condition C1 (Interpretation of Section C) shall be amended by the addition of the following text between the definition of "transmission network services" and the definition of "use of system":

"transmission owner activity"	means
	(i) the activity of the licensee or any affiliate or related undertaking relating to the medium to long term planning, development, construction, maintenance and commercial management of the licensee's transmission system or the GB transmission system which is remunerated under special condition AA5A Part 1, and

- (ii) excluded services.

Special Condition K. Requests for transit

No modifications are proposed to paragraphs 1-2 (inclusive) of this condition.

3. The licensee shall, after receiving in connection with transit for a minimum duration of one year an application by any entity for an agreement for -
- (a) use of system; or
 - (b) connection to the GB transmission system or modification to an existing connection; ~~or~~
 - ~~(c) use of interconnector(s);~~
- notify the Secretary of State, the Authority and the Commission of the European Communities without delay of the matters set out in paragraph 4 below.

No modifications are proposed to paragraphs 4-5 (inclusive) of this condition.

Appendix 2 Statutory notice of changes required to SPT special conditions

NOTICE UNDER SECTION 11 (2) OF THE ELECTRICITY ACT 1989

The Gas and Electricity Markets Authority (“the Authority”) hereby gives notice pursuant to section 11 (2) of the Electricity Act 1989 (“the Act”) as follows:

1. The Authority proposes to modify special conditions A (Definitions and interpretation), F (Amended standard conditions) and G (Requests for transit) of the electricity transmission licence granted, or treated as granted, to ScottishPower Transmission Limited, pursuant to section 6(1)(b) of the Act, in the manner set out in schedule 1 to this notice (“the proposed modifications”).
2. The reasons why the Authority proposes to modify the special conditions referred to in paragraph 1 of this notice and the effect of the proposed modifications are set out in the following documents:
 - (a) Interconnector licences: Determination of Standard Licence Conditions and Proposed Exemption Regime, Department of Trade and Industry (“DTI”), July 2004; and
 - (b) Proposed licence modifications required as a consequence of the introduction of interconnector licences: Statement of reasons and statutory notices under section 11 and section 11A of the Electricity Act 1989 (“the Statement of Reasons”) (which accompanies this notice).
3. Copies of the proposed modifications, the Statement of Reasons and other documents referred to in this notice prepared by Ofgem are available (free of charge) from the Ofgem Research and Information Centre (telephone 020 7901 7003) or are available on the Ofgem website (www.ofgem.gov.uk) and documents prepared by the DTI are available from the energy section of the DTI website (www.dti.gov.uk/energy).
4. It is proposed that the proposed modifications shall have effect on and from the date that section 145(2) of the Energy Act 2004 is commenced.

5. Any representations or objections to the proposed modifications may be made in writing on or before 10 October 2005 to:

Sonia Brown
Office of Gas and Electricity Markets
9 Millbank
London
SW1P 3GE

or by email to wholesale.markets@ofgem.gov.uk

David Gray

Duly authorised on behalf of the Authority

12 September 2005

SCHEDULE 1

Special Condition A. Definitions and interpretation

No modifications are proposed to paragraphs 1-3 (inclusive) of this condition.

4. Any reference in these special conditions to -
- (a) a provision thereof;
 - (b) a provision of the standard conditions of electricity transmission licences;
 - (c) a provision of the standard conditions of electricity supply licences;
 - (d) a provision of the standard conditions of electricity distribution licences;
 - (e) a provision of the standard conditions of electricity generation licences;
 - (f) [a provision of the standard conditions of electricity interconnector licences;](#)

shall, if these or the standard conditions in question come to be modified, be construed, so far as the context permits, as a reference to the corresponding provision of these or the standard conditions in question as modified.

Special Condition F. Amended standard conditions

No modifications are proposed to paragraph 1 of this condition, except as shown below:

1. Standard condition A1 (Definitions and interpretation) shall be amended as follows:
 - (a) the following text shall be inserted between the definition of "Section D (transmission owner standard conditions) Directions" and the definition of "statutory accounts":

"separate business" means each or any of:

- (a) any supply business of (i) the licensee or (ii) an affiliate or related undertaking of the licensee;
- (b) any distribution business of (i) the licensee or (ii) an affiliate or related undertaking of the licensee;
- (c) any generation business of (i) the licensee or (ii) an affiliate or related undertaking of the licensee.~~":~~

(d) any interconnector business of (i) the licensee or (ii) an affiliate or related undertaking of the licensee."

No modifications are proposed to paragraphs 2-4 (inclusive) of this condition.

Special Condition G: Requests for transit

No modifications are proposed to paragraph 1 of this condition.

2. The licensee shall, after receiving in connection with transit for a minimum duration of one year an application by an entity for an agreement for:

- (a) use of system; or
- (b) connection to the GB transmission system or modification to an existing connection; ~~or,~~

~~(c) use of interconnector(s);~~

notify the Secretary of State, the Authority and the European Commission without delay of the matters set out in paragraph 3 below.

No modifications are proposed to paragraphs 3-4 (inclusive) of this condition.

Appendix 3 Statutory notice of changes required to SHETL special conditions

NOTICE UNDER SECTION 11 (2) OF THE ELECTRICITY ACT 1989

The Gas and Electricity Markets Authority (“the Authority”) hereby gives notice pursuant to section 11 (2) of the Electricity Act 1989 (“the Act”) as follows:

1. The Authority proposes to modify special conditions A (Definitions and interpretation), F (Amended standard conditions) and G (Requests for transit) of the electricity transmission licence granted, or treated as granted, to Scottish Hydro-Electric Transmission Limited, pursuant to section 6(1)(b) of the Act, in the manner set out in schedule 1 to this notice (“the proposed modifications”).
2. The reasons why the Authority proposes to modify the special conditions referred to in paragraph 1 of this notice and the effect of the proposed modifications are set out in the following documents:
 - (a) Interconnector licences: Determination of Standard Licence Conditions and Proposed Exemption Regime, Department of Trade and Industry (“DTI”), July 2004; and
 - (b) Proposed licence modifications required as a consequence of the introduction of interconnector licences: Statement of reasons and statutory notices under section 11 and section 11A of the Electricity Act 1989 (“the Statement of Reasons”) (which accompanies this notice).
3. Copies of the proposed modifications, the Statement of Reasons and other documents referred to in this notice prepared by Ofgem are available (free of charge) from the Ofgem Research and Information Centre (telephone 020 7901 7003) or are available on the Ofgem website (www.ofgem.gov.uk) and documents prepared by the DTI are available from the energy section of the DTI website (www.dti.gov.uk/energy).
4. It is proposed that the proposed modifications shall have effect on and from the date that section 145(2) of the Energy Act 2004 is commenced.

5. Any representations or objections to the proposed modifications may be made in writing on or before 10 October 2005 to:

Sonia Brown
Office of Gas and Electricity Markets
9 Millbank
London
SW1P 3GE

or by email to wholesale.markets@ofgem.gov.uk

David Gray

Duly authorised on behalf of the Authority

12 September 2005

SCHEDULE 1

Special Condition A. Definitions and interpretation

No modifications are proposed to paragraphs 1-3 (inclusive) of this condition.

4. Any reference in these special conditions to -
- (a) a provision thereof;
 - (b) a provision of the standard conditions of electricity transmission licences;
 - (c) a provision of the standard conditions of electricity supply licences;
 - (d) a provision of the standard conditions of electricity distribution licences;
 - (e) a provision of the standard conditions of electricity generation licences;
 - (f) [a provision of the standard conditions of electricity interconnector licences;](#)

shall, if these or the standard conditions in question come to be modified, be construed, so far as the context permits, as a reference to the corresponding provision of these or the standard conditions in question as modified.

Special Condition F. Amended standard conditions

No modifications are proposed to paragraph 1 of this condition, except as shown below:

1. Standard condition A1 (Definitions and interpretation) shall be amended as follows:
 - (a) the following text shall be inserted between the definition of "Section D (transmission owner standard conditions) Directions" and the definition of "statutory accounts":

"separate business" means each or any of:

- (a) any supply business of (i) the licensee or (ii) an affiliate or related undertaking of the licensee;
- (b) any distribution business of (i) the licensee or (ii) an affiliate or related undertaking of the licensee;
- (c) any generation business of (i) the licensee or (ii) an affiliate or related undertaking of the licensee.~~":~~

(d) any interconnector business of (i) the licensee or (ii) an affiliate or related undertaking of the licensee."

No modifications are proposed to paragraphs 2-4 (inclusive) of this condition.

Special Condition G: Requests for transit

No modifications are proposed to paragraph 1 of this condition.

2. The licensee shall, after receiving in connection with transit for a minimum duration of one year an application by an entity for an agreement for:
- (a) use of system; or
 - (b) connection to the GB transmission system or modification to an existing connection; ~~or~~
 - ~~(c) — use of interconnector(s);~~ (d) notify the Secretary of State, the Authority and the European Commission without delay of the matters set out in paragraph 3 below.

No modifications are proposed to paragraphs 3-4 (inclusive) of this condition.

Appendix 4 Statutory notice of changes required to transmission licence standard conditions

NOTICE UNDER SECTION 11A (3) OF THE ELECTRICITY ACT 1989

The Gas and Electricity Markets Authority (“the Authority”) hereby gives notice pursuant to section 11A (3) of the Electricity Act 1989 (“the Act”) as follows:

1. The Authority proposes to modify standard licence conditions (“SLCs”) A1 (Definitions and Interpretation), B3 (Disposal of relevant assets), C1 (Interpretation of Section C) and C7 (Prohibition on discriminating between users) of electricity transmission licences granted, or treated as granted, pursuant to section 6(1)(b) of the Act, in the manner set out in schedule 1 to this notice (“the proposed modifications”).
2. The reasons why the Authority proposes to modify the SLCs referred to in paragraph 1 of this notice and the effect of the proposed modifications are set out in the following documents:
 - (a) Interconnector licences: Determination of Standard Licence Conditions and Proposed Exemption Regime, Department of Trade and Industry (“DTI”), July 2004; and
 - (b) Proposed licence modifications required as a consequence of the introduction of interconnector licences: Statement of reasons and statutory notices under section 11 and section 11A of the Electricity Act 1989 (“the Statement of Reasons”) (which accompanies this notice).
3. Copies of the proposed modifications, the Statement of Reasons and other documents referred to in this notice prepared by Ofgem are available (free of charge) from the Ofgem Research and Information Centre (telephone 020 7901 7003) or are available on the Ofgem website (www.ofgem.gov.uk) and documents prepared by the DTI are available from the energy section of the DTI website (www.dti.gov.uk/energy).
4. It is proposed that the proposed modifications shall have effect on and from the date that section 145(2) of the Energy Act 2004 is commenced.

5. Any representations or objections to the proposed modifications may be made in writing on or before 10 October 2005 to:

Sonia Brown
Office of Gas and Electricity Markets
9 Millbank
London
SW1P 3GE

or by email to wholesale.markets@ofgem.gov.uk

David Gray

Duly authorised on behalf of the Authority

12 September 2005

SCHEDULE 1

Condition A1. Definitions and interpretation

No modifications are proposed to paragraph 1 of this condition, except as shown below:

"authorised electricity operator" means any person (other than the licensee in its capacity as operator of the licensee's transmission system or the GB transmission system) who is authorised to generate, participate in the transmission of, distribute, or supply electricity or participate in the operation of an interconnector and for the purposes of standard conditions C7 (Prohibition on discriminating between users) to C9 (Functions of the Authority) inclusive shall include any person who has made an application to be so authorised which application has not been refused and any person transferring electricity to or from the GB transmission system across any interconnector (or who has made an application for use of an interconnector which has not been refused).

"use of interconnector" means use of any interconnector for the ~~transfer~~conveyance of electricity (whether in both directions or in only one).

No modifications are proposed to paragraphs 2-5 (inclusive) of this condition.

6. Any reference in these conditions to
- (a) a provision thereof;
 - (b) a provision of the standard conditions of electricity generation licences;
 - (c) a provision of the standard conditions of electricity distribution licences;
 - (d) a provision of the standard conditions of electricity supply licences~~;~~[;]
 - (e) a provision of the standard conditions of electricity interconnector licences.

shall, if these standard conditions or the standard conditions in question come to be modified, be construed so far as the context permits, as a reference to the corresponding provision of these standard conditions or the other standard conditions in question as modified.

No modifications are proposed to paragraphs 7-11 (inclusive) of this condition.

Condition B3. Disposal of relevant assets

No modifications are proposed to paragraphs 1-4 (inclusive) of this condition.

No modifications are proposed to paragraph 5 of this condition, except as shown below:

"relevant asset"	means any asset for the time being forming part of the GB transmission system or of any interconnector owned or operated by the licensee , any control centre for use in conjunction therewith and any legal or beneficial interest in (or right, title or interest in) land upon which any <u>either</u> of the foregoing is situate (which for the purposes of property located in Scotland means any estate, interest, servitude or other heritable or leasehold right in or over land including any leasehold interests or other rights to occupy or use and any contractual or personal rights in favour of the licensee relating to the occupation, use or acquisition of such property).
------------------	---

Condition C1. Interpretation of Section C

No modifications are proposed to paragraph 1 of this condition, except as shown below:

"interconnector(s)"

~~means the electric lines and electrical plant and meters used solely for the transfer of electricity to or from the GB transmission system into or out of Great Britain~~has the meaning given in section 4(3E) of the Act.

Condition C7. Prohibition on discriminating between users

No modifications are proposed to paragraphs 1-3 (inclusive) of this condition.

4. The licensee shall not in setting use of system charges restrict, distort or prevent competition in the generation, transmission, supply or distribution of electricity: ~~or in~~ [the participation in the operation of an interconnector.](#)

No modifications are proposed to paragraph 5 of this condition.

Appendix 5 Statutory notice of changes required to distribution licence standard conditions

NOTICE UNDER SECTION 11A (3) OF THE ELECTRICITY ACT 1989

The Gas and Electricity Markets Authority (“the Authority”) hereby gives notice pursuant to section 11A (3) of the Electricity Act 1989 (“the Act”) as follows:

1. The Authority proposes to modify standard licence conditions (“SLCs”) 1 (Definitions and Interpretation) and 4C (Non-Discrimination in the Provision of Use of System and Connection to the System) of electricity distribution licences granted, or treated as granted, pursuant to section 6(1)(c) of the Act, in the manner set out in schedule 1 to this notice (“the proposed modifications”).
2. The reasons why the Authority proposes to modify the SLCs referred to in paragraph 1 of this notice and the effect of the proposed modifications are set out in the following documents:
 - (a) Interconnector licences: Determination of Standard Licence Conditions and Proposed Exemption Regime, Department of Trade and Industry (“DTI”), July 2004; and
 - (b) Proposed licence modifications required as a consequence of the introduction of interconnector licences: Statement of reasons and statutory notices under section 11 and section 11A of the Electricity Act 1989 (“the Statement of Reasons”) (which accompanies this notice).
3. Copies of the proposed modifications, the Statement of Reasons and other documents referred to in this notice prepared by Ofgem are available (free of charge) from the Ofgem Research and Information Centre (telephone 020 7901 7003) or are available on the Ofgem website (www.ofgem.gov.uk) and documents prepared by the DTI are available from the energy section of the DTI website (www.dti.gov.uk/energy).
4. It is proposed that the proposed modifications shall have effect on and from the date that section 145(2) of the Energy Act 2004 is commenced.

5. Any representations or objections to the proposed modifications may be made in writing on or before 10 October 2005 to:

Sonia Brown
Office of Gas and Electricity Markets
9 Millbank
London
SW1P 3GE

or by email to wholesale.markets@ofgem.gov.uk

David Gray

Duly authorised on behalf of the Authority

12 September 2005

SCHEDULE 1

Standard Condition 1. Definitions and Interpretation

No modifications are proposed to paragraph 1 of this condition, except as shown below:

“authorised electricity operator” means any person (other than the licensee) who is authorised to generate, participate in the transmission of, distribute, or supply electricity or participate in the operation of an interconnector and includes any person who has made an application to be so authorised which has not been refused and any person transferring electricity to or from or across an interconnector or who has made an application for use of an interconnector which has not been refused.

“interconnector” ~~means the electric lines and electrical plant and meters owned or operated by a transmission licensee solely for the transfer of electricity to or from the GB transmission system into or out of Great Britain~~ has the meaning given in section 4(3E) of the Act.

No modifications are proposed to paragraphs 2-5 (inclusive) of this condition.

6. Any reference in these standard conditions to:

(a) a provision thereof;

(b) a provision of the standard conditions of electricity supply licences;

- (c) a provision of the standard conditions of electricity generation licences; ~~or~~
- (d) a provision of the standard conditions of electricity transmission licences; ~~or~~ [or](#)
- (e) a provision of the standard conditions of electricity interconnector licences.

shall, if these standard conditions or the standard conditions in question come to be modified, be construed, so far as the context permits, as a reference to the corresponding provision of these standard conditions or of the other standard conditions in question as modified.

No modifications are proposed to paragraphs 7-11 (inclusive) of this condition.

Standard Condition 4C. Non-Discrimination in the Provision of Use of System and Connection to the System

No modifications are proposed to paragraphs 1-3 (inclusive) of this condition.

4. In setting its charges for connection or use of system, the licensee shall not restrict, distort, or prevent competition in the generation, transmission, distribution, or supply of electricity ~~or in the participation in the operation of~~ [an interconnector.](#)

Appendix 6 Statutory notice of changes required to generation licence standard conditions

NOTICE UNDER SECTION 11A (3) OF THE ELECTRICITY ACT 1989

The Gas and Electricity Markets Authority (“the Authority”) hereby gives notice pursuant to section 11A (3) of the Electricity Act 1989 (“the Act”) as follows:

1. The Authority proposes to modify standard licence condition (“SLC”) 1 (Definitions and Interpretation) of electricity generation licences granted, or treated as granted, pursuant to section 6(1)(a) of the Act, in the manner set out in schedule 1 to this notice (“the proposed modifications”).
2. The reasons why the Authority proposes to modify the SLC referred to in paragraph 1 of this notice and the effect of the proposed modifications are set out in the following documents:
 - (a) Interconnector licences: Determination of Standard Licence Conditions and Proposed Exemption Regime, Department of Trade and Industry (“DTI”), July 2004; and
 - (b) Proposed licence modifications required as a consequence of the introduction of interconnector licences: Statement of reasons and statutory notices under section 11 and section 11A of the Electricity Act 1989 (“the Statement of Reasons”) (which accompanies this notice).
3. Copies of the proposed modifications, the Statement of Reasons and other documents referred to in this notice prepared by Ofgem are available (free of charge) from the Ofgem Research and Information Centre (telephone 020 7901 7003) or are available on the Ofgem website (www.ofgem.gov.uk) and documents prepared by the DTI are available from the energy section of the DTI website (www.dti.gov.uk/energy).

4. It is proposed that the proposed modifications shall have effect on and from the date that section 145(2) of the Energy Act 2004 is commenced.
5. Any representations or objections to the proposed modifications may be made in writing on or before 10 October 2005 to:

Sonia Brown
Office of Gas and Electricity Markets
9 Millbank
London
SW1P 3GE

or by email to wholesale.markets@ofgem.gov.uk

David Gray

Duly authorised on behalf of the Authority

12 September 2005

SCHEDULE 1

Condition 1. Definitions and Interpretation

No modifications are proposed to paragraph 1 of this condition, except as shown below:

"authorised electricity operator"	means any person (other than the licensee) who is authorised to generate, participate in the transmission of, distribute or supply electricity <u>or participate in the operation of an interconnector</u> and, for the purposes of the standard conditions shall include any person who has made an application to be so authorised which application has not been refused and any person lawfully transferring electricity to or from or across Great Britain or any part thereof or to or from across an interconnector (or who has made application for use of an interconnector which has not been refused).
"interconnector"	means the electric lines and electrical plant and meters owned or operated by a transmission licensee solely for the transfer of electricity to or from the GB transmission system into or out of Great Britain <u>has the meaning given in section 4(3E) of the Act.</u>
"separate business"	means each and any of (a) the generation business of the licensee;

- (b) the supply business of the licensee;
- (c) any distribution business of an affiliate or related undertaking of the licensee; ~~and~~
- (d) any transmission business of an affiliate or related undertaking of the licensee; and
- (e) any interconnector business of an affiliate or related undertaking of the licensee

taken separately from one another (but so that where all or any part of such business is carried on by an affiliate or related undertaking of the licensee, such part of the business as is carried on by that affiliate or related undertaking shall be consolidated with any such other business of the licensee and of any other affiliate or related undertaking of the licensee so as to form a single separate business).

No modifications are proposed to paragraphs 2-5 (inclusive) of this condition.

Appendix 7 Statutory notice of changes required to electricity supply licence standard conditions

NOTICE UNDER SECTION 11A (3) OF THE ELECTRICITY ACT 1989

The Gas and Electricity Markets Authority (“the Authority”) hereby gives notice pursuant to section 11A (3) of the Electricity Act 1989 (“the Act”) as follows:

1. The Authority proposes to modify standard licence condition (“SLC”) 1 (Definitions and Interpretation) of electricity supply licences granted, or treated as granted, pursuant to section 6(1)(d) of the Act, in the manner set out in schedule 1 to this notice (“the proposed modifications”).
2. The reasons why the Authority proposes to modify the SLC referred to in paragraph 1 of this notice and the effect of the proposed modifications are set out in the following documents:
 - (a) Interconnector licences: Determination of Standard Licence Conditions and Proposed Exemption Regime, Department of Trade and Industry (“DTI”), July 2004; and
 - (b) Proposed licence modifications required as a consequence of the introduction of interconnector licences: Statement of reasons and statutory notices under section 11 and section 11A of the Electricity Act 1989 (“the Statement of Reasons”) (which accompanies this notice).
3. Copies of the proposed modifications, the Statement of Reasons and other documents referred to in this notice prepared by Ofgem are available (free of charge) from the Ofgem Research and Information Centre (telephone 020 7901 7003) or are available on the Ofgem website (www.ofgem.gov.uk) and documents prepared by the DTI are available from the energy section of the DTI website (www.dti.gov.uk/energy).

4. It is proposed that the proposed modifications shall have effect on and from the date that section 145(2) of the Energy Act 2004 is commenced.
5. Any representations or objections to the proposed modifications may be made in writing on or before 10 October 2005 to:

Sonia Brown
Office of Gas and Electricity Markets
9 Millbank
London
SW1P 3GE

or by email to wholesale.markets@ofgem.gov.uk

David Gray

Duly authorised on behalf of the Authority

12 September 2005

SCHEDULE 1

Condition 1. Definitions and Interpretation

No modifications are proposed to paragraph 1 of this condition, except as shown below:

“authorised electricity operator” means any person (other than the licensee) who is authorised to generate, participate in the transmission of, distribute, or supply electricity or participate in the operation of an interconnector and shall include any person who has made an application to be so authorised which application has not been refused and any person transferring electricity to or from or across an interconnector or who has made an application for use of an interconnector which has not been refused.

“interconnector(s)” ~~means the electric lines and electrical plant and meters owned or operated by a transmission licensee solely for the transfer of electricity to or from the GB transmission system into or out of Great Britain~~ has the meaning given in section 4(3E) of the Act.

No modifications are proposed to paragraphs 2-5 (inclusive) of this condition.

6. Any reference in these standard conditions to –

- (a) a provision thereof;
- (b) a provision of the standard conditions of distribution licences, or
- (c) a provision of the standard conditions of generation licences, or
- (d) a provision of the standard conditions of transmission [licences, or](#)
- (e) [a provision of the standard conditions of electricity interconnector](#)
licences,

shall, if these standard conditions or the standard conditions in question come to be modified, be construed, so far as the context permits, as a reference to the corresponding provision of these standard conditions or the other standard conditions in question as modified.

No modifications are proposed to paragraphs 7-11 (inclusive) of this condition.

Appendix 8 Pro forma for statutory objections

Suggested pro forma to register a statutory objection

Ofgem has no power to specify a pro forma to be used for registering statutory objections. However, a suggested pro forma is set out below that relevant licence holders are encouraged to use. Failure to use the pro forma will not prevent a clearly expressed objection being treated as a valid statutory objection, nor will the use of the form constitute a statutory objection where the licensee is not a relevant licence holder.

Proposed Modification of Standard Licence Condition(s) [insert number(s) in [type of licence]

In response to the statutory notice dated [] in respect of the above proposed modification(s), this notice constitutes a statutory objection to that proposal on behalf of [state full name of each relevant licence holder making the objection].

I confirm that I am duly authorised to give this notice on behalf of each of the above named companies.

[signed]

Date: []

[Address for acknowledgement, preferably including email address]