

Executive Summary

- 1 National Grid welcomes the opportunity to comment on the draft licence modifications proposed in Ofgem's recent licence consultation¹.
- 2 It is important to note that this response is provided in the context of our previous responses to Ofgem's other TPCR consultations, which focussed on areas of policy. The content of this response does not reflect a change in our view in respect of policy matters.
- 3 We note Ofgem's comment that the proposed licence conditions are at a relatively early stage and therefore we have restricted our comments to the proposed licence drafting itself and not the underlying policies which we expect to be published in Ofgem's Final Proposals on 4th December.
- 4 This response is structured into the following seven sections:
 - (a) General comments in relation to the licence modifications;
 - (b) Areas where we expect Ofgem's policy to become clearer following the publication of their Final Proposals document on 4th December. In this case we have not provided comments on the drafting, except in the context of category (e) below;
 - (c) Comments relating to drafting that is inconsistent with Ofgem's previously stated policy;
 - (d) Comments relating to areas of omission within a specific section of the drafting, e.g. it does not cover all areas we were expecting;
 - (e) Comments relating to the specific licence drafting, such as:
 - (i) areas where the drafting could be changed to improve clarity and to ensure consistency with other parts of the licences or the equivalent sections of the licences of other companies, e.g. DNOs, and
 - (ii) typographical errors.
 - (f) Consequential changes in other parts of the licences arising from the proposed drafting; and
 - (g) Other licence changes which we believe could be made at this time in order to simplify it, e.g. removal of obsolete conditions.
- 5 We have provided marked-up versions of the drafting in Appendix 1 to address bullet point (e). However, unless specifically stated, this should not be taken as an implicit acceptance of the underlying policy.

¹ Transmission Price Control Review: Draft licence modifications (ref 197/06), Ofgem, November 2006.

- 6 In addition, as a general point, where this response is silent on any aspect of the proposals, we have no comments to make at this stage.

General Comments

- 7 We recognise that the licence changes resulting from the TPCR will be extensive as demonstrated in part by this consultation. We would also draw to Ofgem's attention that there will invariably be knock-on impacts from the proposals on the codes that sit under the licences, e.g. UNC, CUSC, etc. This is especially the case for the UNC in the context of the proposals on gas entry for NGG NTS as discussed below, but may also equally apply to other aspects of the proposals for both NGG NTS and NGET.

NGG NTS

Approach to gas entry licence drafting

- 8 In general, we agree with Ofgem's view that it is desirable to simplify the gas entry licence drafting if it is possible to do so. However, it should be remembered that the rationale for the current licence drafting was Ofgem's desire (at the time) to ensure that it was very clear what the obligations on NGG NTS were to release capacity at all points in time and to provide an automatic mechanism to deal with any failure to meet those obligations. If Ofgem now believes that this can be achieved in a simpler manner then we look forward to working with Ofgem to achieve this aim. However, we believe that any such simplification must ensure that all parties can be certain what the capacity obligations actually mean and how they will be interpreted, especially given the revenue implications for the licensees.

Capacity substitution obligation

- 9 We understand and agree with the principle that we should look for opportunities to identify 'spare' capacity on the NTS prior to undertaking investment to satisfy demand for obligated incremental entry capacity. However, we believe that there still needs to be further thought given to the details of how this will work in practice. In addition, there will need to be changes to the timetable outlined within the UNC (under which we must allocate capacity following a long-term auction within 60 days of the close of that auction) in order to allow for NGG NTS to fully explore the substitution opportunities in addition to the current investment requirements.

Withholding of entry capacity

- 10 We note that Ofgem is changing the amount of capacity to be withheld for the shorter-term auctions from the current 20% to just 10%. This has implications for the transition from this price control to the next in terms of capacity being offered in the various forthcoming auctions (e.g. the February 2007 AMSEC auction which covers the period from April 2007 to March 2009 inclusive), as does any proposal to change the actual baseline level of capacity to be offered. We believe we will need to agree a way of moving from the current regime to the proposed regime in order to deal with such issues.

Capacity transfer and trade facilitation obligations

- 11 We agree with Ofgem that NGG NTS should be able to charge shippers for the provision of exchange rates to support capacity transfer or trade opportunities. However, we do not agree that these charges should be netted off the shippers' payments for any capacity that is purchased using these exchange rates, unless Ofgem is planning to provide NGG NTS with additional funding via another mechanism to cover its costs for providing this additional service.

Revenue drivers for changes to NGG NTS's obligations to release capacity

- 12 As already noted, we believe that the introduction of the substitution obligation means that there will need to be a change to the timing of capacity allocation under the UNC in order to allow NGG NTS to fully explore such opportunities prior to investment. However, we are unclear as to the timing of the publication of the statement to which Ofgem refers to in paragraph 2.35 or the process by which this would be kept up to date or modified.

The incentive on NGG NTS regarding incremental buyback

- 13 We are not clear as to how Ofgem intends to achieve its objective of limiting the maximum price at which NGG NTS would pay for buying back obligated incremental entry capacity as the rules outlining the compensation mechanisms that currently exist reside within the UNC. In addition, we are not clear it is possible to distinguish (at existing entry points) which capacity is obligated incremental and which is baseline under the current long-term 'cleared price' auction framework. The concept behind this type of auction design was that shippers pay the same price for firm entry capacity and are indifferent as to whether it is existing capacity or new capacity as each provides them with the same capacity rights. Any change to this would require NGG NTS to effectively 'tag' which element of each type of capacity is owned by each shipper. We do not believe that this is possible without a full review of the current auction regime.
- 14 However, we believe that the current distinction between existing entry points and new entry points should be retained and it may be that the incremental buyback incentive can only apply to capacity released at new entry points.

Revenue entitlements accruing from the existing price control

- 15 We agree with Ofgem that it is simpler to include the monetary value of the revenue entitlements which are due from the release of obligated incremental entry capacity in this current price control period as a defined revenue stream rather than to retain the current Entry Investment Incentive drafting.

Additional issues that can be addressed without licence modifications

- 16 We agree with Ofgem's proposals (in paragraph 2.51) that NGG NTS should be able to retain as excluded revenue any income from the sales of entry capacity which is sold prior to the 42 month default lead time.

NGET

Minor Changes to Licence Conditions

- 17 For a number of licence conditions, the consultation states that Ofgem is “not currently proposing any substantive changes to this condition” or uses similar such wording. This is the case for:
- (a) Special Condition AA5B – Accuracy of revenue recovery;
 - (b) Special Condition AA5C – Information to be provided to the Authority in connection with the Transmission Network Revenue Restriction;
 - (c) Special Condition AA5H – TIRG reporting
- 18 We would welcome early clarification as to what changes, if any, Ofgem has in mind to make to these conditions.

Special Condition AA5A – Revised Restrictions on Revenue

- 19 We agree that Ofgem needs to modify existing terms and introduce new terms to allow for items such as the innovation funding initiative in the Part 1 of this condition (Transmission network revenue restriction).

Revenue recovery discrepancy

- 20 We welcome Ofgem’s intention to adjust allowed revenues to reflect differences in revenues arising from differences in the charging methodologies of NGET as GBSO and the Scottish TO’s. We consider there are benefits in such an adjustment being made on an annual basis and would support the inclusion of a separate term in the revenue restriction formula.

Inter TSO compensation (ITC)

- 21 We welcome Ofgem’s proposal to allow NGET to pass ITC costs through to customers via a separate term in the revenue restriction formula, though initially set at zero. We note that a letter from Ofgem to National Grid dated 22 November supports this position, but would comment that we have not yet seen the relevant drafting and would wish to ensure that all the costs (both internal and external) of participation in any such scheme and identified in our letter to Ofgem of 17 October are recoverable.

Recovering the costs of temporary physical disconnection

- 22 We welcome Ofgem’s intention to initiate an industry-wide consultation on this matter, with a view to implementing changes from April 2007. We consider there are benefits in such an adjustment being made on an annual basis and would support the inclusion of a separate term in the revenue restriction formula.

Other unforeseen issues

- 23 In addition to the specific issues raised in the consultation for which the licence will be future proofed, we believe that it would also be prudent to insert a generic 'future proofing' term in each of the revenue restrictions, initially with a zero value, but which could be given a non-zero value at the appropriate time if necessary.
- 24 We have provided separate comments in the section below entitled 'Areas of Omission' regarding other issues against which we believe the licence should be future-proofed.

SO Internal Costs

- 25 The draft licence modifications for NGET SO Internal Costs contain some of the changes required to represent Ofgem's proposals in licence form. We note the creation of new terms for tax and pensions and welcome the removal of redundant algebraic terms, subject to the comment below in respect of business rates. The published modifications clearly constitute 'work in progress' which require significant further development following updated SO proposals.
- 26 In terms of Ofgem's narrative, we have two specific comments:
- (a) The non-incentivised element of the NGET SO RAV includes investment prior to 2001 in assets with a 40 year life meaning that this element will not be fully depreciated by 2010/11 as stated; and
 - (b) It is not correct to state that there are "no rateable SO assets" as NGET SO property assets are considered in the calculation of NGET business rates.

Standard Condition B13 – BETTA Implementation

- 27 We agree that it is appropriate to remove this licence condition given that it ceased to have effect on 1st April 2006.

Standard Condition C18 – Requirement to offer terms for connection or use of the GB transmission system during the transition period System Operator Standard Conditions

- 28 We agree with Ofgem's proposal to remove this condition following the introduction of BETTA, though subject to there being no outstanding C18 determinations.
- 29 We provide further comments on the range of issues proposed to be treated in this way in the section below entitled 'Omissions

Regulatory Reporting

- 30 We are supportive of the approach being taken by Ofgem to collate all regulatory reporting obligations into one location in each licence and look forward to a constructive and pragmatic approach from Ofgem and the other licensees, where appropriate, in the development of the relevant reporting arrangements.
- 31 We believe the revised reporting arrangements should follow the following principles:
- (a) There should be a clear regulatory purpose in requiring the information; and
 - (b) The cost of providing that information should be proportionate to the regulatory benefit.
- 32 The developments in regulatory reporting should improve the transparency of the information available, for example our understanding is that future regulatory reporting will include an annual recording of cost performance compared to the regulatory allowances set. While we support this process in principle, we can only report and comment on performance against allowances to the level of detail provided on those allowances in the Final Proposals.
- 33 To the extent that we incur incremental costs in providing the reports as a result of subsequent changes by Ofgem to the regulatory instructions and guidance, we would expect such costs to be recoverable.

Areas Where We Expect Ofgem's Policy to Become Clearer

- 34 In the absence of firm policy, we do not believe it is appropriate to comment on the following sections of licence drafting, except in the context of typographical errors and for the purposes of improving clarity and consistency, where appropriate:
- (a) All of chapter 2 on NGG NTS gas entry, except the section on the approach to gas entry licence drafting;
 - (b) NGET Special Condition AA5F - Transmission network reliability incentive;
 - (c) NGET Schedule A Part A (Excluded services);
 - (d) NGET capex incentives and revenue drivers;
 - (e) NGET sulphur hexafluoride (SF₆) incentive;
 - (f) NGET innovation funding incentive.
- 35 Once we have been able to establish Ofgem's position on these issues following the publication of Final Proposals, we look forward to commenting on an updated draft.

Inconsistencies with Previously Stated Policy

NGG NTS

Capacity release obligation and interaction with auction regime

36 We are puzzled by the wording of this section as Ofgem seems to be implying (in paragraph 2.13) that it is proposing a change to the current capacity release obligations. For the avoidance of doubt, we believe that the current obligations to release capacity work in exactly the way that Ofgem suggests the new obligations will work, therefore we believe our obligations to release capacity will not change. We note that the only implication on the auction regime is Ofgem's policy to change the amount of capacity withheld for the shorter-term auctions.

The incentive on NGG NTS regarding operational buyback

37 We understand that Ofgem is not proposing to modify the scope of the current operational buyback incentive scheme, so we therefore believe that the comment made within paragraph 2.41 that interruptible entry capacity is not included within the incentive does not accurately reflect Ofgem's intentions. We would welcome clarification on this point. However, we do believe that it may be appropriate to revisit the wording of the costs which form part of this incentive in order to broaden the definition to allow more types of capacity management actions within the incentive. We look forward to discussing this further with Ofgem.

NGET

Business Rates

38 The proposed treatment of business rates described in paragraph 3.12 of the consultation differs from our understanding of the position as stated in Updated Proposals², which was that "the treatment of rates for 2010/11 and 2011/12 **would depend on our view of the licensees' input into the 2010 rating valuations**". The difference arises because we believe the current consultation completely removes our ability to recover all business rates even if the Authority judges our input to the business rates review to have been adequate.

39 We understand from subsequent communications with Ofgem that the current consultation was incorrect and should have read "we intend to remove the opportunity for licensees to pass through differences between outturn costs and ex-ante allowances **subject to NG's performance in the rating review**"³, which we understand would allow Ofgem to continue to allow pass through of these costs provided the Authority judges our input to the business rates review to have been adequate.

² Transmission Price Control: Updated Proposals (ref 170/06), Ofgem, September 2006

³ E-mail from Martin Rodgers dated 16 November 2006.

Telecoms revenues

- 40 Paragraph 3.46 of the consultation does not reflect our understanding of the outcome of their 2001 consultation on the treatment of revenue from the provision of telecoms services⁴. In particular, Ofgem proposes introducing a term to recover “*half of the revenue earned by NGET’s affiliate Gridcom.*” Gridcom is now a part of National Grid Wireless (NGW), which is separately regulated by Ofcom and was itself the subject of a recent announcement about its future within the wider National Grid group⁵.
- 41 NGET does, however, provide telecommunications services to NGW by allowing the installation of telecoms equipment on NGET assets, such as transmission towers. These are the services which we understand were intended to be covered by this proposed arrangement, and which have been the subject of ongoing reporting and discussions with Ofgem during this price control review. We believe, therefore, that Ofgem’s proposal in the current licence consultation paragraph should have read “*half of the revenue earned by NGET from its affiliate Gridcom.*”
- 42 It is also important to note that the outcome of the consultation in 2001 was that the recovery of this revenue would be subject to a **two year delay**.

⁴ Open letter from Andrew Walker entitled ‘Energy networks providing telecommunications services – a consultation document’, 30 October 2001.

⁵ National Grid interim results for 2006/07, 16 November 2006.

Areas of Omission

Issues Requiring Future Proofing

- 43 We note Ofgem's intention to 'future proof' the NGET licence against certain developments, such as telecoms revenues, etc. Our specific comments on those areas are given in the above section entitled 'General Comments'.
- 44 However, we have brought a number of other such issues to Ofgem's attention over the last few months for both licensees, and note that the consultation is silent in respect of NGG NTS and only includes a subset of the issues raised for NGET. We list the outstanding issues below, including those identified in Ofgem's Updated Proposals and look forward to commenting on them more fully at the earliest opportunity.
- 45 The outstanding issues for future proofing the NGG NTS licence are:
- (a) Independent undertakings cost recovery mechanism. This consultation makes no mention of the proposal in Ofgem's Updated Proposals document to introduce a separate term to allow NGG NTS to recover the costs it has incurred in relation to the 'independent undertakings' since DN sales; and
 - (b) Land decontamination. This relates to a mechanism to recover costs that may arise from claims in respect of gas sites that were sold before British Gas was privatised, as discussed in our response to Updated Proposals.
- 46 The outstanding issues for future proofing the NGET licence are:
- (a) Final sums liabilities. Because the generic final sums arrangements do not make a direct linkage between costs incurred and final sums revenue received, then both will need to be addressed within the price control. We anticipate that final sums revenue would not be an excluded service revenue but would count against the revenue restriction. Given this treatment, any partially completed investments or other costs arising as part of a subsequently terminated user agreement would need to be addressed in the capex incentive mechanism;
 - (b) Flooding of substations. This relates to costs associated with flood protection work that may be required following recent clarification by the DTi on ESQCR Reg. 3(1)(b), as discussed in our response to Updated Proposals.

Logging Up Mechanism

- 47 Our understanding is that Ofgem also intends to allow licensees to log up the costs of a number of other issues for subsequent regulatory recovery, which are not specified in the consultation.

- 48 We also note that there is currently no definition of what is meant by a logging up mechanism. It is our understanding that the logging up mechanism will keep us whole financially, i.e. it will take full account of the timing difference between the costs being incurred and subsequently recovered.
- 49 Without further detail on this matter it is not possible for us to determine whether some of these issues will require further licence terms to be added to 'future proof' the licence

Emissions trading revenues

- 50 We note that there is no mention in this consultation of how the proposal contained within paragraph 12.23 of Ofgem's Initial Proposals⁶ will be implemented, and we look forward to discussing this.

⁶ Transmission Price Control: Initial Proposals (ref 104/06), Ofgem, June 2006

Clarity and Consistency

- 51 In this section we provide comments on where the licence drafting could be amended to give greater clarity or consistency with other parts of the licence or with equivalent conditions in the licences of other parties, such as the electricity DNOs. This also covers typographical errors.
- 52 For the sake of simplicity we have included marked-up versions of the drafting in Appendix 1. This should be read in conjunction with the narrative below, which gives a more detailed explanation where required.
- 53 Any suggestions for changes to the licence drafting should not be read as an implicit acceptance of the underlying policies, especially where the relevant area of policy is not yet clear, as discussed in an earlier section of this response.

NGG NTS

- 54 The draft legal text provided in Appendix 6 of the consultation document covering is clearly at a very early stage of development and we have the following comments in addition to the marked-up text provided in Appendix 1.
- 55 The definitions of “giving point” and “receiving point” should be clearly defined in one place so that they apply to all relevant provisions.

Capacity substitution obligation

- 56 The text does not specify how the capacity to be substituted should be calculated.

Capacity transfer facilitation obligation

- 57 The text does not specify a formal process for shippers to request a capacity transfer. In particular, the licence should specify the time by which a request must be received by the licensee in order to give the licensee sufficient time to calculate the transfer rate. Also, it is not clear whether the licensee will be obliged to provide a transfer rate on all occasions when requested by a shipper and whether this transfer rate is physical or financial.
- 58 It is not clear what is meant by the phrase “for use in that auction” in paragraph 1.3.
- 59 The process for reviewing and updating the capacity transfer rate methodology should be made consistent with other similar provisions in other parts of the licence, e.g. charging (Standard Special Condition A5) or system management principles (Standard Special Condition C5).

Capacity trade facilitation obligation

- 60 It is not clear whether the capacity trade rate and the capacity transfer rate are the same and whether they should each have their own methodology.

NGET

Special Condition AA5F - Transmission network reliability incentive (TNRI)

- 61 The comments provided below for TNRI should not be interpreted as an implicit acceptance of a particular policy, given that Ofgem's policy has not yet been finalised.
- 62 We note that the drafting differs in substance from the drafting proposed in Appendix 9 for the Scottish licensees in relation to the metrics of the scheme and would welcome the opportunity to discuss this further with Ofgem. To the extent that there are similarities in the drafting, our comments below also apply.
- 63 We note that it is proposed to remove paragraphs 2 to 5 of the current condition, which require us to have in place a transmission reliability incentive methodology statement, which defines how energy volumes should be calculated for the purpose of this incentive. If the TNRI scheme is to be based on energy volumes, the requirement to have in place a methodology statement and the requirement to review the methodology should be reinstated in order to ensure an appropriate level of transparency.
- 64 The term RI_t is defined in the current licence, but has been removed in the proposed text. We believe that the inclusion of a definition is helpful and propose a suitably revised definition in Appendix 1.
- 65 In the tables where the values of the various terms are specified, e.g. RILT, RIUT, etc, there is a risk of confusion by referring to the incentive period in terms of 2007/08, 2008/09 etc. We propose that an additional row is added to each of the tables for the various terms and that the incentive period is referred to as in the current licence. This clearly identifies that the incentive period relates to the previous relevant year.
- 66 In para 7, in order to provide greater consistency with other force majeure provisions, we have proposed some additional text.

Sulphur hexafluoride (SF_6) incentive (new special condition)

- 67 We note that the drafting is similar to the drafting proposed in Appendix 9 for the Scottish licensees, to which our comments below also apply.
- 68 The comments provided below for the SF_6 incentive should not be interpreted as an implicit acceptance of a particular policy, given that Ofgem's policy has not yet been finalised.
- 69 Ofgem's draft text was provided in Appendix 7 of the consultation. In addition to the change-marked text in our Appendix 1, we have a number of other comments given below.
- 70 Para 1 is not necessary, given the wording of para 3.
- 71 The term SF_t needs to be defined and included in the revenue restriction in special condition AA5A.

Innovation funding incentive (new special condition)

- 72 The comments provided below for the innovation funding incentive should not be interpreted as an implicit acceptance of a particular policy, given that Ofgem's policy has not yet been finalised.
- 73 We note that the drafting is similar to the drafting proposed in Appendix 9 for the Scottish licensees, to which our comments below also apply.
- 74 Ofgem's draft text was provided in Appendix 7 of the consultation. In addition to the change-marked text in our Appendix 1, we have compared the draft licence text with the equivalent DNO licence obligation and have a number of other comments given below.
- 75 The term IFI_t needs to be defined and included in the revenue restriction in special condition AA5A.
- 76 In para 2 the term ptr_t is not assigned a value.
- 77 The following terms need to be defined:
- (a) "IFI annual report"; and
 - (b) "eligible IFI projects".
- 78 The equivalent DNO licence condition (Special Condition 3) refers to "regulatory instructions and guidance for the time being in force under Standard Condition 51 in relation to the incentive schemes established under that condition. We would welcome clarity about whether Ofgem intends to put in place similar RIGS for NGET.
- 79 We believe it may also be appropriate to include a reference to the 'Good Practice Guide G85, which is an ENA document. It is currently being redrafted to include the 'eligibility' criteria referred to in this condition.

SO Internal Costs

- 80 The NETA adjustment terms ASO_t and NPI which previously applied to the SO internal cost calculation are now redundant and can now be removed. This now means that the terms $BXint_t$ and $SOint_t$ are equal in value. All references to NPI and ASO_t need to be removed.
- 81 The depreciation calculation specified for NGET SO assets is inconsistent with the depreciation calculations specified in used across NGET and NGG. We therefore recommend this is amended to a 'straight-line' depreciation calculation.
- 82 Drafting in relation to the 'NSOC_t' term could be amended to include BETTA costs.
- 83 It would be helpful for readers of the licence if the formulae used to derive ISF_t in para 16 were inserted directly after the definition of ISF_t instead of at the end of para 16.

- 84 Given that the proposed para 20 of AA5A is not used, we propose that it is deleted, thereby removing the need to renumber existing paras 20 to 24. This means that the proposed reference to para 25 in the definition of IONT_t in para 14 should be (as in the existing licence) to para 24.

Standard Condition B1 – Regulatory accounts

- 85 We note Ofgem's intention to bring this condition up to date and the associated additional elements of the regulatory accounts. We would prefer that references to the consolidated transmission business are retained for consistency.
- 86 We also propose that the full definition of "consolidated transmission business" is moved from this condition to Standard Condition A1 (Definitions and Interpretation), and that its use is not limited to Standard Condition B1, as currently, given that it is also proposed to be used in the new Standard Conditions B15 and B16.

Standard Condition B2 – Change of financial year

- 87 There are a few minor typographical errors, including the correction of the title of Standard Condition A4 (Payments to the Authority).

Standard Condition B6 – Restriction on activity and financial ringfencing

- 88 We note the changes proposed by Ofgem. However, we would prefer to retain the existing wording in paragraphs 4(b)(ii) and 4(d)(i) of "the date this condition comes into effect in the licensee's transmission licence" instead of "the date this condition comes into effect in the transmission licence of the licensee". The two phrases are identical in meaning, but both instances are currently amended in NGET's licence by paragraph 4 of Special Condition H (Amended standard conditions) to read "31 March 2001". Using the wording in the consultation would therefore require making a consequential change to Special Condition H, which is an avoidable addition to what will already be a complex suite of licence changes.
- 89 In addition, we note that the second half of paragraph 4(d)(iii), which is currently inserted into our licence by paragraph 3 of Special Condition H, is being introduced as part of the standard licence condition, by implication, to all transmission licensees. If this is Ofgem's intention, then it will require a consequential amendment to Special Condition H.

Standard Condition B7 – Availability of resources

- 90 In relation to paragraphs 2 (a), (b) and (c), the sufficiency of resources certificate should only be made in respect of the licensee's transmission business, i.e. the "transmission business". Unlike the equivalent condition in the NTS licence, references to "activities authorised by the licence" are not appropriate given that other authorised activities such as metering and meter reading are not undertaken by the licensee. We believe that such references should be deleted.

- 91 In paragraph 3(ii) the licence will require the submission of a cashflow forecast, movement in net debt and analysis of net debt, whereas the NTS licence requires a working capital statement. We assume that the NTS licence will also need to be updated to reflect this change.

Standard Condition B9 – Indebtedness

- 92 We note the introduction of a cash lock-up mechanism, which will not come into effect until April 2008, as stated in Ofgem's Initial Proposals document.
- 93 We propose that the definitions as proposed in this condition for "investment grade" and "issuer credit rating" should be deleted from this condition.

Standard Condition B10 – Credit rating

- 94 As a result of the addition of the separate definitions of "investment grade" and "issuer credit rating" in this condition, the definition of "investment grade issuer credit rating" can be deleted from Standard Condition A1 (Definitions and interpretation).

Standard Condition B15

- 95 If this licence condition is to be effective from the date of its introduction into the licence, then paragraph 1 does not need to refer to when it takes effect. The proposed wording is based on the condition being dormant until activated by Ofgem, as is currently the case for the equivalent condition in the NTS licence (Standard Special Condition A40).
- 96 The obligation of paragraph 2(b) is to develop a common set of reporting rules with other licensees by 1st April 2007, i.e. the date on which we expect this condition to be effective. However, it may not be practicable to do this before the condition takes effect, with the result that all licensees could be in breach of licence from 1st April 2007. In addition, this date does not take into account the requirement in paragraph 9 for the Authority to give the licensees at least 28 days within which to make representations or objections with respect to those rules. It is not clear from the current provisions how or who is ultimately responsible for the development of the reporting rules; this needs to be further clarified.
- 97 Paragraph 3(a) should refer to the consolidated transmission business.
- 98 The date to be inserted in paragraph 10 should be consistent with the amendment proposed to paragraph 2(b) above.
- 99 The definitions of "consolidated transmission business" and "relevant year" should be deleted if they are to be defined elsewhere.

Standard Condition B16

- 100 The acronym 'rigs' should be in upper case, i.e. 'RIGS', to aid the reader. Alternatively, the expression "regulatory instructions and guidance" should be used consistently throughout as it is in the DN GT licences.

- 101 Paragraph 2(a) refers to a direction given under paragraph 11 and subject to paragraphs 12 and 14. As paragraph 11 specifies that the direction is subject to these paragraphs, we suggest that this reference is deleted.
- 102 Clarity is needed in relation to the definition of “specified information”, which is referred to in paragraph 2(a)(i) but not defined anywhere.
- 103 The obligations concerning the timing of the provision of information could be dealt with in paragraph 2(a) by the inclusion of an additional subparagraph 2(a)(v).
- 104 We believe the external audit requested in paragraph 7 should relate only to the information supplied under paragraph 6(a) and not to all of paragraph 6 as suggested by the drafting.
- 105 Paragraph 13 should be amended to be consistent with Standard Special Condition D10 of the DN gas transporter licences.
- 106 We suggest a new paragraph 15 in respect of limiting the information that could be required to be produced. This is consistent with the approach taken in paragraph 7 of Standard Condition B4 and also in Standard Special Condition D10 of the DN gas transporter licences.
- 107 The definitions of “consolidated transmission business” and “relevant year” should be deleted if they are to be defined elsewhere, thereby removing the need for paragraph 15 of the condition as it appears in the consultation.
- 108 Paragraphs 7 & 8 could be dealt with in the RIGS as they constitute requirements as to the form and manner in which the information shall be provided to the Authority.
- 109 There should be a safeguard for licensees equivalent to that in paragraph 12 of Standard Special Condition D9 of the DN gas transporter licences, i.e. changes to RIGS to require an additional category of specified information or a greater level of accuracy of specified information are subject to the collective licence modification procedure.

Consequential Changes

- 110 There are several conditions which will be affected by the proposed licence drafting. Any consequential changes that we have identified to date are specified below, though this should not be seen as being an exhaustive list.

NGET

Standard Condition A1 (Definitions and Interpretation)

- 111 Incorporate full definition of “consolidated transmission business” without reference to where it can be used, thereby allowing deletion of definitions from standard conditions B1 (Regulatory accounts), B15 (Price Control Review Information) and B16 (Price Control Revenue Reporting and Associated Information). We propose the following definition:

- (a) “consolidated transmission business” means the consolidation, for regulatory accounting purposes, of the businesses referred to in the definition of “transmission business”.

- 112 Delete existing definition of “investment grade issuer credit rating”.
- 113 Include separate definitions for “investment grade” and “issuer credit rating” as proposed for standard condition B9 (Indebtedness) and remove these definitions from Standard Condition B9.
- 114 The term “relevant year” is restricted for use in Standard Condition A4, but is different from the definition given in Special Condition AA5, which also restricts the use of that term to various other special conditions and schedules. We suggest that the use of the term “relevant year” in the new Standard Conditions B15 and B16 will require its definition to be amended in Standard Condition A1, together with the deletion of the definitions in Standard Conditions B15 and B16.

Special Condition AA5 – Definition of terms

- 115 We agree with Ofgem that consequential changes are likely to be necessary to this condition.

Special Condition AA5A – Revised restrictions on revenue

- 116 Include a definition of RI_t for the purposes of Special Condition AA5F (Transmission network reliability incentive).
- 117 Include a definition of SF_t for the purposes of the new special condition for the SF_6 incentive.
- 118 Include a definition of IFI_t for the purposes of the new special condition for the innovation funding incentive.

Special Condition H – Amended standard conditions

- 119 Delete paragraph 3 in respect of paragraph 4(d)(iii) of Standard Condition B6 (Restriction on activity and financial ringfencing) if the wording currently added by that section is to be applied to all transmission licensees.

Schedule A – Supplementary provisions of the charge restriction conditions

- 120 There are significant consequential changes required to part B (Terms used in the balancing services activity revenue restriction) to reflect the changes to the licence proposed in Appendix 8 of the consultation document. We have identified a number of these in the section below on consequential changes to the NGET licence. We look forward to reviewing these as part of the next licence consultation.
- 121 Many of Ofgem's proposed changes to the NGET licence have a knock-on effect on other parts of the licence, as identified below, though our comments below are not the result of an exhaustive analysis of the relevant conditions and should not be treated as such.

Other NGET Licence Changes

- 122 We have reviewed the NGET licence and identified a number of special conditions that we believe are now obsolete and could be removed. An explanation is given for each of these in turn below.
- 123 Special Condition C (Pooling and Settlement Agreement run-off) places obligations on NGET in respect of information retention and provision which relate to a period of 6 years from the introduction of NETA, which occurred in March 2001. We believe that our obligations will expire on 31 March 2007 with the result that this condition can be removed.
- 124 Special Condition I (Restriction of information deriving from the EnMo business)_concerns the ownership of EnMo within the same group as NGET and requires that provisions are put in place relating to the sharing of certain information about the gas market. EnMo is no longer a part of the National Grid group with the result that NGET and EnMo no longer have a common ultimate holding company. We believe that this licence condition is therefore obsolete and can therefore be removed, consistent with its removal from the NTS gas transporter licence at the time of DN sales in 2005.
- 125 Special Condition J (NETA implementation) addresses the implementation of NETA and refers to the Pooling and Settlement Agreement run off arrangements. Given our comments on special condition C (see above) we believe that this condition is obsolete and can be removed.
- 126 Para 5 of Special Condition L (Change coordination for the Utilities Act 2000) states that that special condition shall cease to have effect no later than 30 June 2002. We therefore propose that this licence condition is removed.