

Special Condition E1: Revenue restriction definitions in respect of the Distribution Network

1. In this Part E: Special Conditions applicable to the licensee (DN):

approved market price report means the European Spot Gas Market (ESGM) report published by Heren Energy Limited or another published market price report (published by a comparable price reporting service) which, in the opinion of the Authority, notified in writing to the licensee is equivalent to ESGM in the United Kingdom;

connected system exit point has the meaning given to that term in the network code;

curtailment day means any day in formula year t in respect of which rights to offtake gas at a given supply point, connected system exit point or storage connection point have been curtailed by the licensee;

daily metered supply meter points means a supply meter point which is read on a daily basis in accordance paragraph 1.3.1 of Section M (Supply Point Metering) or paragraphs 1.5.1(b) and 1.5.3 of section G (Supply Points) of the network code having effect on 1 April 2002 as defined within Amended Standard Condition 9 (Network Code) of Transco plc's gas transporter licence on that date;

day has the meaning given to that term in the network code;

deemed cost means the cost of the actual quantity allocated to the

licensee in each year, priced in accordance with subparagraphs 11 and 12 of Special Condition E6 (Distribution Network Exit Capacity costs and incentive revenue (Ext));

Distribution Network means the relevant gas distribution network defined with reference to the aggregate of its constituent Local Distribution Zones (LDZs) as set out in the table below:

Distribution Network	Local Distribution Zone (LDZ)

[N.B. THE PROHIBITION ON CONSOLIDATION OF DNS FOR REPORTING IN THE CURRENT DEFINITION HAS BEEN DELETED. WHY?]

Distribution Network capacity means LDZ capacity (having the meaning given to that term in the network code) within the relevant Distribution Network;

Distribution Network capacity curtailment rights means exit capacity curtailment rights held by the licensee in respect of Distribution Network capacity within the relevant Distribution Network;

Distribution Network exit zone has the meaning given to the term DN exit zone in the NTS gas transportation statement;

Distribution Network transportation activity means the activities of the licensee connected with the development, administration, maintenance and operation of the Distribution Network and with the supply of Distribution Network services;

Distribution Network transportation activity revenue	<p>means the revenue derived by the licensee from the supply of Distribution Network services to gas shippers in respect of the Distribution Network transportation activity (such revenue to be measured on an accruals basis);</p> <p>[N.B SUGGEST INSERTION OF DEFINITION OF DISTRIBUTION NETWORK TRANSPORTATION ACTIVITY REVENUE RESTRICTION CONDITIONS” – SEE NOTE IN SPECIAL CONDITION E10.]</p>
Distribution Network transportation quantity	<p>means the aggregate quantity of gas in kilowatt hours introduced into the Distribution Network as a result of arrangements with gas shippers and the licensee in respect of formula year t less LDZ shrinkage calculated in accordance with the network code;</p>
domestic credit meter	<p>means a domestic sized Supply Meter comprised in a Supply Meter Installation within the meaning in paragraph 1.2.2(a) of section M (Supply Point Metering) of the network code and is not a prepayment meter;</p> <p>[WHY HAS THIS BEEN CHANGED FROM THE EXISTING DEFINITION OF “DOMESTIC CREDIT METER INSTALLATION”? SUGGEST REINSERTION OF EXISTING DEFINITION.]</p>
domestic sized	<p>means designed for a maximum rate of gas flow which does not exceed six (6) cubic metres per hour;</p>
excluded services	<p>means any activity or engagement undertaken by the licensee or any affiliate or related undertaking of the licensee that has been determined by the Authority to be an excluded service in line with the principles outlined in</p>

Special Condition E12 (Excluded Services)

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Exit capacity curtailment rights	means rights held by the licensee to curtail rights to off-take gas from the transportation system, other than rights conferred on the licensee solely for the purpose of taking emergency steps or <i>force majeure</i> (having the meanings given to those terms in the network code);
formula year	means a period of twelve months commencing on 1 April at 06:00 hours, the first such formula year (t=1) commencing 1 April 2008 at 06:00 hours;
gigawatt hour or GWh	means one million kilowatt hours;
kilowatt hour or kWh	means 3,600,000 Joules;
LDZ allowed shrinkage factor	means the maximum level of LDZ shrinkage as a percentage of LDZ throughput quantity and has the value set out in the Annex M to Special Condition E8 (Distribution Network shrinkage incentive revenue) (Sh_t);
LDZ shrinkage	means the sum of LDZ own use gas and LDZ unaccounted for gas (both having the meanings given to those terms in the network code);
LDZ throughput quantity	means the aggregate quantity of gas measured in gigawatt hours introduced into the LDZ as a result of arrangements with gas shippers and [the licensee][N.B. PREVIOUSLY THIS WAS “DN OPERATORS”, HOWEVER, IS THIS CHANGE CORRECT IF MEASURED ON AN

INDIVIDUAL LDZ BASIS RATHER THAN AGGREGATED?] in each month of the formula year;

Local Distribution Zone or LDZ has the meaning given in Section A 1.2.2(a) of the network code as at 1 January 2006;

mains replacement In relation to a pipe-line system to which this licence relates, means the replacement of any distribution main (within the meaning given to those words in section 48(1) of the Act) and any associated works; **[N.B. “THE ACT” DEFINED TERM IN STSPC A3.]**

maximum actual allocation means the maximum quantity over the relevant formula year in GWh/d allocated to the relevant Distribution Network by the NTS operator;

National Balancing Point has the meaning given to that term in the approved market price report;

National Grid Gas plc means the company (registered in England and Wales under company number 2006000) which had that name on 10 October 2005 and was previously known as “Transco plc”;

NTS baseline firm exit capacity **[N.B. THIS TERM NO LONGER APPEARS IN THE NTS LICENCE]** means in respect of each period the NTS firm exit capacity specified in Table A3: NTS baseline firm exit capacity (GWh/day) of Schedule A (NTS Output Measures for the Price Control) to Part C: Special Conditions Applicable to the Licensee (NTS) within the NTS gas transporter licence of National Grid Gas plc or subsequently modified (subject to the prior written consent of the Authority) within the

statement produced by National Grid Gas plc in accordance with Standard Special Condition A4 (Charging – General);

NTS baseline interruptible exit capacity **[N.B. THIS TERM NO LONGER APPEARS IN THE NTS LICENCE]**

means in respect of each period the NTS interruptible exit capacity specified in Table A4: NTS baseline interruptible exit capacity (GWh/day) of Schedule A (NTS Output Measures for the Price Control) to Part C: Special Conditions Applicable to the Licensee (NTS) within the NTS gas transporter licence of National Grid Gas plc or subsequently modified (subject to the prior written consent of the Authority) within the statement produced by National Grid Gas plc in accordance with Standard Special Condition A4 (Charging – General);

NTS firm exit capacity **[N.B. THIS TERM NO LONGER APPEARS IN THE NTS LICENCE]**

means NTS exit capacity other than NTS interruptible exit capacity;

NTS gas transportation statement

means that statement produced by National Grid Gas plc in accordance with Standard Special Condition A4 (Charging – General) of its gas transporter licence in respect of the NTS;

NTS incremental exit capacity

means that NTS exit capacity in excess of NTS baseline firm exit capacity and NTS baseline interruptible exit capacity;

NTS interruptible exit capacity **[N.B. THIS**

means NTS exit capacity subject to exit capacity curtailment rights;

**TERM NO LONGER
APPEARS IN THE
NTS LICENCE]**

NTS (TO) Exit capacity charge means the charge in p/peak day kWh/d for NTS exit capacity as set out in the NTS gas transportation statements published pursuant to Standard Special Condition A4 (Charging – General) and Standard Special Condition A5 (Obligations as Regard Charging Methodology) of the National Grid Gas plc gas transporter licence;

plus 15 curtailment day means any curtailment day in formula year t at a given supply point, connected system exit point or storage connection point after the first 15 curtailment days in that formula year for the given supply point, connected system exit point or storage connection point connected to the transportation system to which this licence relates;

prepayment meter installation means a domestic sized Supply Meter comprised in a Supply Meter Installation within the meaning in paragraph 1.2.2(a) of Section M (Supply Point Metering) of the network code through which gas, which is charged for as it is used, is supplied; **[N.B. IT IS NOT CLEAR WHY THIS DEFINITION HAS CHANGED – SHOULD IT REVERT TO THE DEFINITION IN THE EXISTING SPECIAL CONDITION E5?]**

[N.B. A DEFINITION OF “RECHARGEABLE DIVERSIONS” (USED IN SPC E5) IS REQUIRED. THIS TERM IS DEFINED IN SPECIAL CONDITION C16 OF NGG’S NTS LICENCE.]]

services replacement in relation to a pipe-line system to which this licence

	relates, means the replacement of a service pipe (within the meaning given in section 48(1) of the Act), and any associated works;
specified rate	means the base rate of Barclays Bank plc current from time to time during the period in respect of which the calculation falls to be made;
storage connection point	has the meaning given to that term in paragraph 1.5.1 of Section A (System Classification) of the network code;
subscript t	means the relevant formula year;
supply of Distribution Network services	means the undertaking and performance for gain or reward of engagements: <ul style="list-style-type: none"> (a) in connection with the conveyance of gas through the transportation system; (b) for the prevention of the escape of gas which has been taken off the transportation system; and (c) relating to the acquisition of capacity rights, gas or gas derivatives for the purpose of: <ul style="list-style-type: none"> (i) the balancing of the transportation system through the acquisition or disposal of gas to replace gas lost from the transportation system; and (ii) facilitating constraint management;
supply point	has the meaning given to that term in the network code;

tariff capped metering activities means those activities provided by the licensee listed in paragraph 3 of Special Condition E13 (Restriction of prices in respect of tariff capped metering activities);

transportation business means any activity or engagement undertaken by the licensee or any affiliate or related undertaking of the licensee related to the operation, planning, expansion and maintenance of its transportation system and shall include the Distribution Network transportation activity, the metering and meter reading activity and excluded services; and **[N.B. THIS TERM IS DEFINED IN STANDARD SPECIAL CONDITION A3 AND WE SUGGEST THAT THIS DEFINITION SHOULD BE REMOVED. IT WOULD BE BETTER TO INCLUDE A PARAGRAPH 3 BELOW STATING THAT THE TERMS DEFINED IN STSPC A3 HAVE THE SAME MEANING IN SECTION E UNLESS THE RELEVANT SPECIAL CONDITION STATES OTHERWISE?]**

transportation system means the system (having the meaning given to that term in the network code) to which this licence relates.

2. Any values derived by reference to the value of revenues accrued, received or paid by or to the licensee shall be the actual sum accrued, received or paid by or to the licensee on the date of such accrual, receipt or payment without any adjustment for inflation or interest after deduction of value added tax (if any) and any other taxes based directly on the amounts so derived.

Special Condition E10: Disapplication of the Distribution Network transportation activity revenue restriction

1. The purpose of this condition is to set out the procedures for the disapplication of the DN transportation activity revenue restriction.

[N.B. THE TERM “DISTRIBUTION NETWORK TRANSPORTATION ACTIVITY REVENUE RESTRICTION CONDITIONS” OUGHT TO BE DEFINED FOR CLARITY. IT SHOULD BE DEFINED AS “Special Conditions E2 (Restriction of revenue in respect of the Distribution Network Transportation Activity) to E9:Discretionary Reward Scheme (DRS₁)”. IF THIS DEFINITION IS PLACED IN E1, IT CAN ALSO BE USED IN E11.]

2. The Distribution Network transportation activity revenue restriction conditions shall apply so long as this licence continues in force but shall cease to have effect in such circumstances and at such times as are described in paragraphs 3 to 8 of this condition.
3. The Distribution Network transportation activity revenue restriction conditions or any part of them shall cease to have effect (in whole or in part as the case may be) if the licensee delivers to the Authority a disapplication request made in accordance with paragraph 4 of this condition or notice is given to the Authority by the licensee in accordance with either paragraph 7 or paragraph 8 of this condition.
4. A disapplication request may be delivered at any time and shall:
 - (a) be in writing addressed to the Authority;
 - (b) specify the Distribution Network transportation activity revenue restriction conditions (or any part or parts thereof) to which the request relates;
 - (c) specify the Distribution Network (or any part or parts thereof) to which the request relates; and

(d) state the date (being not earlier than the date referred to in paragraph 6 of this condition) from which the licensee wishes the Authority to agree that the conditions shall cease to have effect, (the disapplication date).

5. The licensee may withdraw a disapplication request at any time.
6. Save where the Authority otherwise agrees, no disapplication following delivery of a disapplication request pursuant to paragraph 7 of this condition shall have effect until a date being not less than 18 months after delivery of the disapplication request.
7. If the Authority has not made a reference to the Competition Commission under section 24 of the Act relating to the modification of any of the Distribution Network transportation activity revenue restriction conditions (or the part or parts thereof specified in the disapplication request) before the beginning of the period of 6 months which will end with the disapplication date and the licensee has not withdrawn this disapplication request, the licensee may deliver written notice to the Authority terminating the application of the Distribution Network transportation activity revenue restriction conditions or the part or parts thereof specified in the disapplication request with effect from the disapplication date or a later date.
8. If the Competition Commission makes a report on a reference made by the Authority relating to the modification of the Distribution Network transportation activity revenue restriction conditions or the part or parts thereof specified in the disapplication request and such report does not include a conclusion that:
 - (a) the cessation of those conditions, in whole or in part, operates or may be expected to operate against the public interest; or

(b) that any adverse effects specified by the Competition Commission could be remedied or prevented by such modifications of the relevant conditions as are specified in the report,

the licensee may within 30 days after the publication of the report on a reference made by the Authority in accordance with section 25 of the Act deliver to the Authority written notice terminating the application of the Distribution Network transportation activity revenue restriction conditions or the part or parts thereof specified in the disapplication request with effect from the disapplication date or a later date.

9. The contingency revenue restriction in respect of the Distribution Network transportation activity shall be determined as follows:

(a) Subject to paragraph 2 of this condition, where the [price control period end date][**N.B. THE CONDITION SHOULD MAKE CLEAR WHAT THIS DATE IS – IS IT 31 MARCH 2013? Para 9(b) COULD THEN BE DELETED.**] has passed, then until not later than 6 months after the delivery of the report by the Competition Commission to the Authority pursuant to section 25(4) of the Act, or if later, 1 month after the final conclusion of any civil proceedings in respect of sections 24, 25, 26 or 26A of the Act, the maximum Distribution Network transportation activity revenue for the formula year commencing on 1 April immediately after the price control period end date and (where relevant) each subsequent formula year shall be derived, save where, on the application of the licensee, the Authority otherwise consents, in the following manner:

$$MR_t = MR_{t-1} \times \left[1 + \left(\frac{IA_t}{100} \right) \right]$$

Where:

MR_{t-1} means the previous 12 months maximum Distribution

Network transportation activity revenue [**N.B. SHOULD THIS BE THE MAXIMUM REVENUE FOR THE YEAR 2012-3?**]; and

IA_t

means the Indexation Adjustment and shall be calculated as the percentage change in the arithmetic average of the retail price index published or determined with respect to each of the six months from July to December in formula year [2012-3] from the arithmetic average of the retail price index published or determined with respect to the same months in formula year [2011-2].

Special Condition E11: Allocation of revenues and costs for calculations under the price control in respect of the Distribution Network

1. This condition sets out how the licensee shall allocate revenues and costs for the purposes of calculating the maximum allowed transportation revenue.
2. Unless the Authority otherwise directs in writing, any allocation or attribution of revenues, costs, assets and liabilities performed by the licensee in order to calculate any of the values referred to in the Distribution Network transportation activity revenue restriction conditions shall conform to the following principles:
 - (a) The licensee shall, in so far as is reasonably practicable, allocate or attribute revenues, costs, assets and liabilities in accordance with the activities which cause the revenues to be earned, costs to be incurred, the assets to be acquired or the liabilities to be incurred.
 - (b) The licensee shall perform allocations and attributions:
 - (i) on an objective basis; and
 - (ii) in a manner calculated not to unduly benefit:
 - (aa) the licensee;
 - (bb) any other business held by the licensee or its affiliates or related undertakings under a separate licence (whether or not held within the same legal entity);
 - (cc) the business of any individual Distribution Network; and/or
 - (dd) any other company or organisation.
 - (c) The licensee shall perform, wherever practicable, all allocations and attributions on a consistent basis from one formula year to the next.

3. The licensee will allocate or attribute all revenue earned and costs incurred by the transportation business to the following activities:
 - (a) the Distribution Network transportation activity;
 - (b) (where relevant) metering activities; or
 - (c) excluded services in accordance with the principles set out in Special Condition E12 (Excluded Services).

4. The licensee shall on or before 1 October 2008 or such later date as the Authority may direct and thereafter before 1 July in each subsequent formula year (or such longer period as the Authority may approve) prepare and submit to the Authority a statement in a form approved by the Authority setting out (consistently with the licensee's duty under paragraph 2 and 3 of this condition and consistently with its other duties under the Act, and the standard conditions, Standard Special Conditions and Special Conditions) the methods it intends to use in the allocation and attribution of revenues and costs. As a minimum, the statement shall distinguish from each other the allocation or attribution of revenues, costs, assets and liabilities to each of the activities listed in paragraph 3 of this condition and where such allocations and attributions have changed from one year to the next, the licensee shall indicate how and why such basis has been changed.

5. The licensee shall re-allocate or re-attribute revenues earned by the licensee and costs incurred by the licensee to the activities undertaken by the licensee listed in paragraph 3 of this condition in accordance with any direction made in writing by the Authority within three months of receipt of the statement prepared pursuant to paragraph 4 of this condition so as to bring such re-allocation or attribution into compliance with paragraph 2 of this condition.

6. (a) The licensee shall no later than three months after the end of each formula year prepare and submit to the Authority a report on the manner in which and the extent to which the licensee has, during that formula year, complied with the statement prepared pursuant to paragraph 4 of this condition as modified pursuant to paragraph 5 of this condition and whether any modification should be made to that statement to reflect more closely the practice of the licensee; and

(b) Unless the Authority otherwise consents in writing, the licensee shall procure a report by an appropriate auditor that sets out the procedures (and the results of those procedures) carried out by the auditor for the purposes of demonstrating the extent to which the licensee has properly prepared the report submitted pursuant to paragraph 6(a) in accordance with paragraphs 4 and 5 of this condition. The procedures to be carried out shall have been approved by the Authority. This report shall accompany the statement described in paragraph 6(a). **[N.B. IT IS NOT CLEAR WHY THIS PARAGRAPH IS BEING CHANGED FROM THE EXISTING WORDING: SUCH CHANGE WILL ALSO TAKE THIS PARAGRAPH OUT OF CONFORMITY WITH THE EQUIVALENT PROVISIONS OF THE NTS LICENCE.]**
7. The licensee shall use reasonable endeavours to comply with the statement for the time being in force pursuant to paragraphs 4 and 5 of this condition.
8. To the extent the licensee earns revenues or incurs costs in the provision of de minimis activities in accordance with Standard Special Condition A36 (Restriction on Activity and Financial Ring Fencing), the licensee shall report on these revenues and costs in accordance with this condition.

Special Condition E12: Excluded Services

[N.B. SUGGEST RE-NAMING OF THIS CONDITION FOR CONFORMITY WITH THE EQUIVALENT PROVISIONS OF THE NTS LICENCE AND ELECTRICITY TRANSMISSION LICENCES.]

1. The purpose of this condition is to set out the revenues which are to be treated as excluded revenues from the maximum allowed transportation revenue.
2. There may be treated as excluded services, services provided by the licensee in the provision of its Distribution Network transportation activity in respect of which charges are made which:
 - (a) do not fall within the Distribution Network transportation activity revenue restriction conditions; and
 - (b) may be determined by the licensee as falling under one of the principles set out in paragraphs 3 to 5 of this condition.
3. No service provided by the licensee as part of its Distribution Network transportation activity shall be treated as an excluded service in so far as it relates to the provision of services remunerated through charges levied pursuant to paragraph 4 of Special Condition E2 (Restriction of revenue in respect of the Distribution Network transportation activity).
4. The whole or an appropriate proportion of the charges received for the following may be treated as excluded services:
 - (a) charges derived in respect of the provision of emergency services under contracts entered into pursuant to Standard Special Condition A41 (Emergency services to or on behalf of another gas transporter);

- (b) charges derived from the execution of works in connection with the provision of, or the carrying out of modifications to, points at which gas may be introduced into or taken off the transportation system; or
- (c) charges in respect of user pays services in accordance with Standard Special Condition A15 and the relevant charging statement.

[N.B. IT IS NOT CLEAR WHY THE INCREASES PURSUANT TO STSPC A48 (LAST RESORT SUPPLY: PAYMENT CLAIMS) AND ALLOWANCES PURSUANT TO SC7 (PROVISION OF INFORMATION RELATING TO GAS ILLEGALLY TAKEN) HAVE BEEN REMOVED FROM THIS CONDITION.]

- 5. There may with the approval of the Authority be treated as an excluded service any service of a type not referred to which:
 - (a) consists in the provision of services for the specific benefit of a third party requesting the same; and
 - (b) is not made available by the licensee as a normal part of its Distribution Network transportation activity.
- 6. Where the Authority is satisfied that in light of the principles set out in paragraphs 3 to 5 inclusive of this condition any service treated by the licensee as an excluded service should not be so treated, the Authority shall issue directions to that effect and such service shall cease to be treated as an excluded service with effect from the date of issue of such directions or such earlier date as specified in the directions being not earlier than the commencement of the formula year to which the statement last furnished to the Authority pursuant to paragraph 4 of Special Condition E11 (Allocation of Revenues and Costs for Calculations under the Price Control in respect of the Distribution Network) prior to issue of such directions related, unless such

statement or the accompanying report or certificate referred to in paragraph 6 of that Special Condition or any earlier such statement, report or certificate was incorrect or misleading in any material aspect.

Special Condition E13: Restriction of prices in respect of tariff capped metering activities

1. The purpose of this condition is to set out the tariff caps on certain metering activities.

Principal restriction.

2. The licensee in setting its charges for each of its tariff-capped metering activities in any formula year shall not exceed the maximum tariff cap M_t^A in respect of that metering activity in respect of that formula year t.

Maximum tariff caps (M_t^A)

3. For the purposes of paragraph 2 of this condition the maximum tariff cap for each tariff-capped metering activity in respect of formula year t () shall be derived in the following manner:

- (a) In respect of the formula year commencing on 1 April 2008 (t=1), the maximum tariff caps shall have the values set out in the following table:

Activity	Description	Maximum tariff caps(M_t^A)
1	Annual charge for providing and maintaining the assets that form a domestic credit meter installation, per meter per annum	X
2	Annual charge for providing and maintaining the assets that form a prepayment meter installation, per meter per	X

annum

[N.B. IT IS NOT CLEAR WHY OFGEM IS SEEKING TO CHANGE THE DEFINED TERMS FROM THOSE IN THE EXISTING LICENCE PROVISIONS.]

- | | | |
|---|---|---|
| 3 | Annual charge for providing a daily meter reading for daily metered supply meter points, per supply meter point per annum | X |
| 4 | Carrying out the work to replace a domestic credit meter with a prepayment meter, per job undertaken | X |

4. In respect of the formula year commencing 1 April 2009 and subsequent formula years the value of MA_t shall be determined using the following formulae:

$$M^A_t = M^A_{t-1} + (M^A_{t-1} \times RPI_t)$$

Where:

RPI_t means the percentage change (whether of a positive or a negative value) in the arithmetic average of the retail price index published or determined with respect to each of the six months from June to November (both inclusive) in formula year t-1 and the arithmetic average of the retail price index numbers published or determined with respect to the same months in formula year t-2.;**[N.B. THIS PARAGRAPH SHOULD BE AMENDED TO BE CONSISTENT WITH THE EQUIVALENT DEFINITION IN SPC E2.]**

Departures from published statements of charges in respect of tariff-capped metering activities

5. Where the licensee wishes to depart from its published statement of charges prepared in accordance with Standard Special Condition A43 (Provision of Metering and Metering Reading Services) in respect of the provision of tariff capped metering activities by increasing its charges to a supplier to a level which would result in any given formula year in a breach of its obligations under paragraph 2 of this condition:

(a) in consequence of that supplier having unbundled part of its supplier's metering portfolio; or

(b) where it reasonably considers that the departure is necessary to comply with its duty in paragraph 1A of Standard Special Condition A43 (Provision of Metering and Meter Reading Services),

the licensee shall make a written application to the Authority specifying why the change is requested, providing specification of the metering activities to be provided to that supplier, the proposed level of charge broken down between the different types of metering activities to be provided to that supplier together with such other information to support its application as the Authority may reasonably specify in writing.

6. The licensee may, with effect from the date of the application, levy the charges specified in that application in respect of that supplier if:

(a) the Authority confirms in writing that it consents to such charges with or without amendment and to such extent and on the basis of such terms and conditions as the Authority may specify; or

- (b) if the Authority has not issued a direction to the licensee requiring the licensee not to exceed the maximum tariff cap within 90 days after receipt of the application.

Disapplication of the maximum tariff caps

- 7. The maximum tariff caps shall apply so long as this licence continues in force but shall cease to have effect in such circumstances and at such times as are described in sub-paragraphs 8 to 14 of this condition.
- 8. The maximum tariff caps shall cease to have effect (in whole or in part as the case may be) if the licensee delivers to the Authority a disapplication request made in accordance with paragraph 9 of this condition and notice is given to the Authority by the licensee in accordance with either paragraph 12 or paragraph 13 of this condition.
- 9. A disapplication request shall:
 - (a) be in writing addressed to the Authority;
 - (b) specify the maximum tariff cap or caps to which the request relates; and
 - (c) state the date (being not earlier than the date referred to in paragraph 11 of this condition) from which the licensee wishes the Authority to agree that the maximum tariff cap or caps shall cease to have effect.
- 10. The licensee may withdraw a disapplication request at any time.
- 11. Save where the Authority otherwise agrees, no disapplication following delivery of a disapplication request pursuant to paragraph 9(c) of this condition shall have effect until a date being not less than 18 months after delivery of the disapplication request ("the disapplication date").

12. If the Authority has not made a reference to the Competition Commission under section 24 of the Act relating to the modification of the maximum tariff cap or caps specified in the disapplication request before the beginning of the period of 6 months which will end with the disapplication date and the licensee has not withdrawn the disapplication request, the licensee may deliver written notice to the Authority terminating the application of the maximum tariff cap or caps as specified in the disapplication request with effect from the disapplication date or a later date.

13. If the Competition Commission makes a report on a reference made by the Authority relating to the modification of the maximum tariff cap or caps specified in the disapplication request and such report does not include a conclusion that the cessation of such maximum tariff caps, in whole or in part, operates or may be expected to operate against the public interest, the licensee may within 30 days after the publication of the report by the Authority in accordance with section 25 of the Act deliver to the Authority written notice terminating the application of the maximum tariff cap or caps specified in the disapplication request with effect from the disapplication date or later.

14. A disapplication request or notice served under this condition may be served in respect of a specified geographic area.

Special condition E14: Revenue Reporting and Associated Information to be provided to the Authority in connection with the transportation system revenue restriction in respect of the Distribution Network

[N.B. THIS CONDITION SHOULD BE DRAFTED IN MANNER TO BE CONSISTENT WITH THE EQUIVALENT PROVISIONS OF NGG'S NTS LICENCE (SPC C14B).]

1. The purpose of this condition is to secure the collection of specified information, to an appropriate degree of accuracy by the licensee.

Revenue reporting Regulatory Instructions and Guidance and specified information

2. For the purposes of this condition:
 - (a) “revenue reporting regulatory instructions and guidance” means the instructions and guidance issued by the Authority for the purposes of this condition as modified from time to time by a direction under paragraph 12 and, subject to paragraphs 15 to 17, shall include (without limitation):
 - (i) provisions with respect to the meaning of words and phrases used in defining specified information;
 - (ii) requirements for recording specified information which are reasonably necessary to enable an appropriate auditor to determine the accuracy and reliability of specified information;
 - (iii) requirements as to the form and manner in which specified information shall be provided to the Authority (including templates for doing so);
 - (iv) requirements as to the form and manner in which specified information shall be recorded and the standards of accuracy and reliability with which it shall be recorded; and
 - (v) requirements as to the timing of the provision of specified information to the Authority in respect of each formula year.

(b) “specified information” means such items referred to in the Distribution Network transportation activity revenue restriction conditions as the Authority considers are necessary to monitor, to an appropriate degree of accuracy, compliance with the revenue restriction conditions, and shall include:

- (i) information in respect of those terms and expressions set out in the Distribution Network transportation activity revenue restriction conditions; and
- (ii) such associated information in respect of terms and expressions set out in the revenue restriction conditions as the Authority may reasonably require to verify that costs and revenues have been allocated or attributed appropriately.

[N.B. IF THERE IS TO BE AN IFI SCHEME, THEN SHOULD IT BE REFERRED TO HERE?]

3. The licensee shall:

- (a) establish and maintain appropriate systems, processes and procedures to measure and record specified information in respect of the formula year commencing 1 April 2008 and for each subsequent formula year in accordance with the revenue reporting regulatory instructions and guidance (including any associated information therein) for the time being in force pursuant to this condition;
- (b) maintain all systems of control and other governance arrangements that ensure that information collected and reported to the Authority is in all material respects accurate and complete and is fairly presented and that all such systems of control and other governance arrangements are kept under regular review by the directors of the licensee with a view to ensuring that they remain effective for this purpose; and

(c) shall provide such assistance as the Authority may reasonably require to permit the Authority to review such systems from time to time.

4. The licensee shall notify the Authority immediately in the event that it confirms errors in the information or calculations used to derive the information submitted to the Authority under this condition.
5. The licensee shall collect the specified information required by the revenue reporting regulatory instructions and guidance issued pursuant to this condition from the date on which such revenue reporting regulatory instructions and guidance are issued by the Authority, or such other date as may be specified by the Authority.

Information to be provided to the Authority

6. The licensee shall comply with the relevant provisions and information requirements of the revenue reporting regulatory instructions and guidance issued pursuant to this condition.
7. The licensee shall provide the Authority with:
 - (a) [the information specified in the Price Control Return (Template A) contained in the revenue reporting regulatory instructions and guidance by no later than 30 June following the end of the formula year to which the information relates;
 - (b) the information in the audited template for the Audited Price Control Return (Template B) contained in the revenue reporting regulatory instructions and guidance by no later than 31 July following the end of the formula year to which the information relates; and
 - (c) save in relation to the formula year commencing 1 April 2008, the information specified in the Forecast Price Control Return (Template C) contained in the

revenue reporting regulatory instructions and guidance by no later than 1 October of the formula year to which the information relates, being the licensee's estimate of that information made on or before 1 October.]

Audit Requirements

8. Unless the Authority otherwise consents in writing, the licensee shall procure, for each formula year a report by an appropriate auditor that documents the procedures, and the results of those procedures, carried out by the auditor for the purposes of demonstrating the extent to which: **[N.B. IT IS NOT CLEAR WHY DIFFERENT WORDING IS BEING USED HERE FROM THAT IN CONDITION C14B OF NGG'S NTS LICENCE. THE FORM OF WORDING HERE IS LESS CLEAR THAN THAT USED IN C14B. IT IS SUGGESTED THAT THE FORM OF WORDS IN C14B IS USED HERE.]**
 - (a) the information provided in accordance with paragraph 7 (a[?]) has been properly prepared in accordance with the revenue reporting regulatory instructions and guidance; and
 - (b) the amounts presented are in accordance with the licensee's records which have been maintained in accordance with paragraph 3 of this condition.
9. The procedures to be carried out by the auditors shall have been approved by the Authority. The report shall be delivered to the Authority by 31 July following the end of the formula year. **[N.B. IT IS NOT CLEAR WHY DIFFERENT WORDING IS BEING USED HERE FROM THAT IN CONDITION C14B OF NGG'S NTS LICENCE. IF THIS FORM OF WORDING IS USED, IT IMPLIES THAT A MECHANISM FOR APPROVAL SHOULD BE ADDED. THE FORM OF WORDING HERE IS LESS CLEAR THAN THAT USED IN C14B. IT IS SUGGESTED THAT THE FORM OF WORDS IN C14B IS USED HERE.]**

10. For the purposes of paragraph 8, the licensee shall at its own expense enter into a contract of appointment with the auditors which includes a term requiring that the audit be conducted in accordance with all relevant auditing standards in force on the last day of the formula year to which the audit relates.**[N.B. IF THE FORM OF WORDING USED IN PARA 9 ABOVE IS USED, IT IS NOT CLEAR WHY THIS IS NECESSARY.]**
11. The licensee shall (and must procure, insofar as it is able to do so, that any affiliate or related undertaking of the licensee shall) co-operate fully with the auditors so as to enable them to complete and report to the Authority on any audit carried out in accordance with paragraph 8.

Modification of the revenue reporting regulatory instructions and guidance

12. Where the Authority considers that the revenue reporting regulatory instructions and guidance should be modified in such way as is necessary to achieve the purposes of this condition more effectively, the Authority may, subject to paragraphs 13 to 15, modify the revenue reporting regulatory instructions and guidance by issuing a direction to the licensee.
13. Before issuing a direction under paragraph 12, the Authority, by notice to the licensee, shall:
- (a) state that it proposes to make a modification, and set out the date on which it proposes that this should take effect;
 - (b) set out the text of the modification, the purpose and effect of the modification, and the reasons for proposing it; and

(c) specify the time (not less than 28 days from the date of the notice) within which representations or objections with respect to the proposed modification may be made,

and consider any representations or objections which have been duly made and are not withdrawn, and give reasons for its decision.

14. Where any proposed modification of the revenue reporting regulatory instructions and guidance relates to a requirement to provide specified information to a greater level of accuracy than was previously required, the Authority may only make such modification with the consent of the licensee, provided that such consent may not be unreasonably withheld or delayed by the licensee.
15. Any modification of the revenue reporting regulatory instructions and guidance under paragraph 12 to introduce an additional category of specified information or to enlarge an existing category of information shall not exceed what may reasonably be requested from the licensee by the Authority under paragraph 1 of Standard Special Condition A26 (Provision of Information to the Authority).
16. The provisions of the revenue reporting regulatory instructions and guidance may not exceed what is necessary to achieve the purposes of this condition.
17. Nothing in this condition should require the licensee to produce any documents which it could not be compelled to produce or give in evidence in civil proceedings before a court.