

Annex

Modifications to Scottish Hydro Electric Transmission Ltd Transmission Owner Special Licence Conditions

16 June 2009

URN 09D/603 (DECC)

Special Condition B. Activities restrictions

1. Subject to the provisions of paragraph 2 below (which are made in accordance with section 7(2A)(a) of the Act), the licensee is authorised by paragraph 1 of Part I of this licence to participate in the transmission of electricity for the purpose of giving a supply to any premises or enabling a supply to be so given.
2. The licensee shall not:
 - (a) co-ordinate or direct the flow of electricity onto or over the whole or any part of the [GB-national electricity](#) transmission system except where permitted to do so under the STC, subject to the approval of the Authority, or where required to do so by any other licence condition; and
 - (b) outside its transmission area, make available assets comprising part of the [GB-national electricity](#) transmission system which are intended for the purpose of conveying or affecting the flow of electricity.

Special Condition D. Independence of and appointment of managing director of the transmission business

1. (a) The licensee shall establish and shall thereafter maintain the full managerial and operational independence of the transmission business and any external transmission activities from each other business (whether or not a separate business) of the licensee and of its affiliates and related undertakings.
- (b) The licensee shall appoint an officer (hereafter referred to as "the Managing Director of Transmission") to be responsible for the conduct of the transmission business and any external transmission activities.

2. The Managing Director of Transmission may be a director:

- (a) of the transmission licensee; or
- (b) in the circumstances set out in paragraph 12 only, of the licensee and of an affiliate or related undertaking of the licensee which holds a distribution licence or a holding company only engaged in ownership or management of distribution or transmission businesses or both;

provided that the licensee shall ensure that the Managing Director of Transmission shall not be a director of any other affiliate or related undertaking of the licensee and that he shall not be engaged by the licensee in any other capacity than as Managing Director of Transmission.

3. The licensee shall arrange for the Managing Director of Transmission in the course of discharging his responsibility under paragraph 1 to be provided from time to time with:

- (a) the services of such persons (as the Managing Director of Transmission may from time to time select), whose services:
 - (i) may be dispensed with at the sole discretion (subject to compliance with relevant UK employment legislation) of the Managing Director of Transmission; and

- (ii) will only be utilised if such persons execute a contract of or for services containing an appropriate confidentiality clause regarding that information which may be acquired by such person whilst working for the transmission business and any external transmission activities;
- (b) such premises, systems, equipment, facilities, property, personnel, data and management resources; and
- (c) such finance;

as may be reasonably required by the Managing Director of Transmission for the efficient and effective management and operation of the transmission business in accordance with the licensee's duty under section 9(2)(a) of the Act and the transmission licence.

4. The licensee shall direct the Managing Director of Transmission:

- (a) to inform the directors of the licensee, in writing, if, at any time, he is of the opinion that the provision of those items specified in paragraph 3 are not sufficient to enable the licensee to comply with its duties under section 9(2)(a) of the Act and the transmission licence; and
- (b) as soon as practicable after the end of the year 2001 and of each subsequent calendar year, to furnish to the directors of the licensee:
 - (i) an informative report on the provision of those matters made in respect of that year; and
 - (ii) a statement of his opinion whether adequate arrangements have been or are likely to be made for the provision of those matters which will be required in respect of the ensuing calendar year to enable the licensee to comply with those duties including, in particular, a description of the differences in the provision of those matters made or likely to be made in that year compared with the provision made in respect of the preceding year and the reasons for those differences.

5. On receipt of any information under paragraph 4(a) or report and statement under paragraph 4(b), the licensee shall, subject to compliance with the listing rules (within the meaning of Part IV of the Financial Services Act 1986 (c.60)) of the Stock Exchange:
 - (a) give to the Authority forthwith that information or report and statement; and
 - (b) where such a report is received, publish it in such form and manner as the Authority may direct.

6. Except insofar as the Authority consents to the licensee doing so, the licensee shall only give directions to the Managing Director of Transmission as to the discharge of his responsibilities under paragraph 1:
 - (a) where:
 - (i) in the bona fide and reasonable opinion of the licensee the statutory, licence and contractual obligations of the licensee; or
 - (ii) in the bona fide opinion of the directors, their duties;so require; or
 - (b) to ensure compliance with paragraph 4.

7. The licensee shall give directions under sub- paragraph 6(a) by notice in writing, specifying in the notice the statutory, licence or contractual obligations of the licensee or duty of the directors of the licensee which require the licensee to give directions, which notice shall be copied to the Authority.

8. Except insofar as the Authority consents to the licensee not doing so, the licensee shall, subject to paragraph 9 below, ensure that:
 - (a) no business of the licensee (or of any affiliate or related undertaking of the licensee), other than the transmission business or any external transmission activities, may use or have access to:

- (i) premises or parts of premises occupied by persons engaged in, or in respect of, the management or operation of the transmission business or any external transmission activities;
 - (ii) systems for the recording, processing or storage of data to which persons engaged in, or in respect of, the management or operation of the transmission business or any external transmission activities also have access;
 - (iii) equipment, facilities or property employed for the management or operation of the transmission business or any external transmission activities; or
 - (iv) the services of persons who are (whether or not as their principal occupation) engaged in, or in respect of, the management or operation of the transmission business or any external transmission activities; and
- (b) it can and does, insofar as is legally possible, prevent any person who has ceased to be engaged in, or in respect of, the management or operation of the transmission business from being engaged in, or in respect of, the activities of any other business of the licensee (or of any affiliate or related undertaking of the licensee) until the expiry of an appropriate time from the date on which he ceased to be engaged by the transmission business.

9. The Authority may, upon the written request of the licensee, issue a direction relieving the licensee of its obligations under special condition C (Restriction on use of certain information) and under paragraphs 1(a), 2 and 8 of this condition, to such extent and subject to such terms and conditions as he may specify in that direction, where:

- (a) it is not reasonably practicable for the licensee to comply with any aspect of those obligations;

- (b) in the case of paragraphs 2 to 4 of special condition C (Restriction on use of certain information), a failure to comply with any aspect of those obligations would be of a trivial nature; or
- (c) in the case of paragraphs 1(a) and 8 of this condition, any arrangements for the use of or access to premises, systems, equipment, facilities, property or personnel by both the transmission business and any other business of the licensee (or of any affiliate or related undertaking of the licensee):
 - (i) do not involve a cross-subsidy being either given to the transmission business by such other business or received from the transmission business by such other business;
 - (ii) obtain for the transmission business, in the most efficient and economical manner possible, the use of the relevant premises, systems, equipment, facilities, property or personnel; and
 - (iii) do not restrict, distort or prevent competition in the generation or supply of electricity,

provided that the licensee shall not thereby be relieved of any obligation imposed on it by EU Directive 96/92/EC.

10. Where, subsequent to the issue of a direction pursuant to paragraph 9, the criteria set out at sub-paragraphs 9(a), (b) or (c) cease to be satisfied, the Authority may withdraw the direction or modify any terms and conditions which may be specified in it.
11. For the purposes of paragraphs 9 and 10 the Authority shall, following consultation with the licensee, determine any question as to whether the criteria set out at sub-paragraphs 9(a), (b) or (c) are or continue to be satisfied.
12. If the Authority is requested to issue any direction pursuant to paragraph 9 relating to the transmission business being managed or operated by the licensee together with any distribution business then that direction may provide that for the purposes of this

condition and of special condition C (Restriction on use of certain information) the transmission business shall be taken to include any such distribution business and for the Managing Director of Transmission to take part in the management of and/or to be a director of any company carrying on any such distribution business.

13. In this condition:

"appropriate time" means 3 months, or such shorter period as the Authority may approve in respect of any person or class of persons.

"external transmission activities" means any business of the licensee or any affiliate or related undertaking of the licensee comprising or ancillary to the maintenance, repair or operation in an emergency of any electricity distribution system or any part of the [GB-national electricity](#) transmission system other than the licensee's transmission system.

Special Condition G: Requests for transit

1. In this Condition:

- "entity" means any of the entities referred to in Article 3.1 of the Directive of the Council of the European Communities, dated 29th October 1990, (No.90/547/EEC) on the transit of electricity through transmission grids ("the Directive").
- "grid" means any high-voltage electricity transmission grid for the time being listed in the Annexe to the Directive.
- "Member State" means a Member State of the European Union.
- "transit" means a transaction for the transport of electricity between grids where:
- (a) the grid of origin or final destination is situated in a Member State; and
 - (b) the transport involves:
 - (i) the crossing of at least one frontier between Member States; and
 - (ii) the use of the ~~G~~national~~B~~ electricity transmission system and at least two other grids.

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~~-national electricity transmission system or modification to an existing connection,

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

3. The matters of which notification must be given are:
 - (a) the application;
 - (b) if an agreement has not been concluded within 12 months of the date of receipt of the application, the reasons for the failure to conclude it;
 - (c) the conclusion of the agreement, whether it is concluded before or after the expiry of the period mentioned in sub-paragraph (b) above.
4. If, in relation to an application for transit by any entity, the Authority has been requested to exercise its powers under standard condition C9 (Functions of the Authority), the Authority may delay the exercise of its said powers until the terms have been considered by the body set up under Article 3.4 of the Directive and the Authority may give such weight to the opinion (if any) of that body as it thinks fit in exercising its said powers.