

## Code Governance Review – illustrative licence modification drafting: Code administrators and small participants/consumer initiatives



### Annex 2

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**Target audience:** Gas and Electricity industry participants, consumer representatives, code administrators and other interested parties

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#### **Overview:**

This annex sets out the illustrative licence modification drafting for the code administrators and small participants/consumer representatives initial proposals published in July 2009.

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## Code Administrators/small participant initiatives: Illustrative licence drafting

### Condition C3: Balancing and Settlement Code (BSC)

1. The licensee shall at all times have in force a BSC, being a document
  - a. setting out the terms of the balancing and settlement arrangements described in paragraph 2;
  - b. designed so that the balancing and settlement arrangements facilitate achievement of the objectives set out in paragraph 3; and
  - c. including the modification procedures required by paragraph 4 and the matters required by paragraph 6,
  - d. establishing a secretarial or administrative person or body [(the "code administrator")] to [(among others)] facilitate the modification procedures required by paragraph 4 [and the matters required by paragraph 6], whose core powers, duties and functions shall be specified in the BSC,
  - e. establishing a panel body, as specified in the BSC, [(the "panel")] whose functions include reporting in accordance with paragraph 4(b)(v), whose composition shall include a[n independent] chairperson who has been approved by the Authority [and who has a casting vote as specified in the BSC].

and the licensee shall be taken to comply with this paragraph by modifying from time to time in accordance with the provisions of paragraphs 4 and 5 and the transition modification provisions, the document known as the BSC which existed and the licensee maintained pursuant to this licence immediately prior to the start of the transition period
2. The balancing and settlement arrangements are:
  - a. arrangements pursuant to which BSC parties may make, and the licensee may accept, offers or bids to increase or decrease the quantities of electricity to be delivered to or taken off the total system at any time or during any period so as to assist the licensee in co-ordinating and directing the flow of electricity onto and over the national electricity transmission system and balancing the national electricity transmission system; and for the settlement of financial obligations (between BSC parties, or between BSC parties and the licensee) arising from the acceptance of such offers or bids; and
  - b. arrangements:
    - (i) for the determination and allocation to BSC parties of the quantities of electricity delivered to and taken off the total system, and
    - (ii) which set, and provide for the determination and financial settlement of, obligations between BSC parties, or (in relation to the

system operator's role in co-ordinating and directing the flow of electricity onto and over the national electricity transmission system) between BSC parties and the licensee, arising by reference to the quantities referred to in sub-paragraph (i), including the imbalances (after taking account of the arrangements referred to in sub-paragraph (a)) between such quantities and the quantities of electricity contracted for sale and purchase between BSC parties.

3. The objectives referred to in paragraph 1(b) are:
  - a. the efficient discharge by the licensee of the obligations imposed upon it by this licence;
  - b. the efficient, economic and co-ordinated operation of the national electricity transmission system;
  - c. promoting effective competition in the generation and supply of electricity, and (so far as consistent therewith) promoting such competition in the sale and purchase of electricity;
  - d. promoting efficiency in the implementation and administration of the balancing and settlement arrangements described in paragraph 2.
4. The BSC shall include procedures for its own modification (including procedures for the modification of the modification procedures themselves), which procedures shall provide [(without prejudice to the transition modification provisions and any procedures for modification of the BSC set out in the programme implementation scheme provided for in special condition J (NETA implementation) of the licensee's transmission licence or in the BSC by reference to the programme implementation scheme)]:
  - a. for proposals for modification of the BSC to be made by the licensee, BSC parties and such other persons or bodies as the BSC may provide;
  - b. where such a proposal is made,
    - (i) for bringing the proposal to the attention of BSC parties and such other persons as may have an appropriate interest in it including small participants and consumer representatives;  
[(iA) for the provision [by the code administrator] of assistance upon request and insofar as is reasonably practicable to small participants and consumer representatives which may include, but is not limited to, assistance with:
      - a. drafting a modification proposal;
      - b. understanding the operation of the BSC;
      - c. their involvement in and representation during the modification procedure processes; and
      - d. accessing information relating to modifications;]
    - (ii) for proper consideration of any representations on the proposal including representations made by small participants and/or consumer representatives;

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- (iii) for properly evaluating whether the proposed modification would better facilitate achieving the applicable BSC objective(s), provided that so far as any such evaluation requires information which is not generally available concerning the licensee or the national electricity transmission system, such evaluation shall be made on the basis of the licensee's proper assessment (which the licensee shall make available for these purposes) of the effect of the proposed modification on the matters referred to in paragraphs 3(a) and (b);
  - (iv) for development of any alternative modification which may, as compared with the proposed modification, better facilitate achieving the applicable BSC objective(s);
  - (v) for the preparation of a [panel] report
    - setting out the proposed modification and any alternative;
    - evaluating the proposed modification and any alternative;
    - assessing the extent to which the proposed modification or any alternative would better facilitate achieving the applicable BSC objective(s) and providing a detailed explanation of the panel's reasons for that assessment;
    - assessing the impact of the modification on the core industry documents and the changes expected to be required to such documents as a consequence of such modification;
    - setting out a timetable for implementation of the modification and any alternative, including the date with effect from which such modification (if made) ~~is to~~ would take effect; and
    - including any additional information or analysis as the Authority may require;
  - (vi) for the submission or, if applicable, re-submission of the report to the Authority as soon after the proposal is made as is appropriate (taking into account the complexity, importance and urgency of the modification) for the proper execution and completion of the steps in sub-paragraphs (i) to (v) [including (iA)];
- c. for the timetable (referred to in sub-paragraph (b)(v)) for implementation of any modification to be such as will enable the modification to take effect as soon as practicable after the Authority has directed such modification to be made, account being taken of the complexity, importance and urgency of the modification, and for that timetable to be extended or shortened with the consent of or as directed by the Authority after those persons likely to be affected by the revision of the timetable have been consulted;
- cA. for the compliance with any [direction/request] made by the Authority:
- [(i) stipulating the timetable within which one or more of the steps set out in paragraph 4(b) [shall] be completed;
  - [(ii) requiring the provision of a timetable within which one or more of the steps set out in paragraph 4(b) are [intended] to be completed;
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- (iii) requiring the provision of a statement as to the progress of one or more of the steps set out in paragraph 4(b);
  - (iv) requiring the provision of a statement as to the analysis being undertaken on the modification proposal; or
  - (v) requiring a revision to the scope of the terms of reference for the assessment of the modification proposal.
- d. for empowering the licensee to secure, if so directed by the Authority in circumstances specified in the BSC,
- (i) that the modification procedures are complied with in respect of any particular modification in accordance with the terms of the direction;
  - (ii) that, where a modification has been made but not implemented in accordance with its terms, all reasonable steps are taken to implement it in accordance with the terms of the direction and
  - (iii) that the licensee can recover its reasonable costs and expenses properly incurred in complying with the direction.
5. a. If a report has been submitted to the Authority pursuant to the procedures described in paragraph 4(b)(vi) and if the Authority is of the opinion that a modification set out in such report would, as compared with the then existing provisions of the BSC and any other modifications set out in such report, better facilitate achieving the applicable BSC objective(s), the Authority may direct the licensee to make that modification.
- aA. If a report has been submitted to the Authority pursuant to the procedures described in paragraph 4(b)(vi) and if the Authority is of the opinion that the report prepared in accordance with paragraph 4(b)(v) is such that the Authority is unable to form an opinion in accordance with paragraph 5(a), the Authority may [issue a direction] specifying the additional steps, analysis or information that it requires in order to form an opinion and instruct that the report be revised in accordance with the direction and be re-submitted in accordance with paragraph 4(b)(vi).
- b. The licensee shall, upon receipt of a direction from the Secretary of State to do so, modify the BSC so as to incorporate any changes directed by the Secretary of state pursuant to section 90 of the Energy Act 2004 during or before the offshore transmission implementation period.<sup>1</sup>
- c. The licensee shall, upon receipt by the licensee of a direction from the Secretary of State to do so, modify the BSC so as to incorporate any changes to the BSC designated by the Secretary of State on or before the 8 September 2004.
- d. The licensee shall have power (by executing an appropriate instrument) to modify the BSC in accordance with any direction of the Secretary of State pursuant to sub-paragraph (b) and any direction of the Authority pursuant to sub-paragraph (a) or paragraph 7 of special condition J
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<sup>1</sup> Inserted on 24 June 2009.

(NETA implementation) of the licensee's transmission licence and shall modify it in accordance with every such direction; but it shall not have power to modify the BSC in any other circumstance.

- e. Only the licensee shall have power to modify the BSC.
6. The BSC shall provide for:
    - a. a copy of the BSC to be provided to any person requesting the same upon payment of an amount not exceeding the reasonable costs of making and providing such copy;
    - b. the licensee to refer to the Authority for determination, whether of its own motion or as provided in the BSC, such matters arising under the BSC as may be specified in the BSC;
    - c. information about the operation of the BSC and the balancing and settlement arrangements
      - (i) to be provided to the Authority and/or
      - (ii) to be published,

and for the licensee to be empowered to secure compliance with these requirements if so directed by the Authority.
  7. The BSC may include:
    - a. arrangements to facilitate or secure compliance with the programme implementation scheme designated pursuant to special condition J (NETA implementation) of the licensee's transmission licence or matters envisaged thereunder, and
    - b. arrangements for final settlement and reconciliation of liabilities arising under or in connection with the Pooling and Settlement Agreement in respect of settlement periods prior to the effective time.
  8. The provisions of paragraphs 6, 7 and 11 shall not limit the matters which may be provided for in the BSC.
  9. The Authority may direct the licensee to procure the provision to the Authority of, or the publication of, such information about the operation of the BSC and/or the balancing and settlement arrangements as is referred to in paragraph 6(c) and specified in the direction.
  10. The licensee shall comply with:
    - a. the BSC; and
    - b. any direction to the licensee made pursuant to this condition.
  11.
    - a. The licensee shall be a party to the BSC Framework Agreement.
    - b. The BSC and/or the BSC Framework Agreement shall contain provisions:
      - (i) for admitting as an additional party to the BSC Framework Agreement any person who accepts the terms and fulfils the conditions (each as specified in the BSC) on which accession to the BSC Framework Agreement is offered;

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- (ii) for the licensee to refer to the Authority for determination, whether of its own motion or as provided in the BSC any dispute which shall arise as to whether a person seeking to be admitted as a party to the BSC Framework Agreement has fulfilled any accession conditions; and if the Authority determines that the person seeking admission has fulfilled all relevant accession conditions, for admitting such person as a party to the BSC Framework Agreement;
  - (iii) for persons to be admitted as additional parties to the BSC Framework Agreement by either
    - a representative (who need not be a BSC party) appointed thereunder to act on behalf of all parties to it, or
    - if there is no such representative or if the representative fails to act, the licensee acting on behalf of all parties to it.
- c. If, following a determination of the Authority as referred to in sub-paragraph (b)(ii), the representative referred to in sub-paragraph (b)(iii) fails to act on behalf of all parties to admit such person, the licensee shall act on behalf of all parties to admit such person if directed to do so by the Authority.
12. The licensee shall take all reasonable measures to secure and implement (consistently with the procedures applicable under or in relation to the core industry documents to which it is party (or in relation to which it holds rights in respect of amendment)), and shall not take any steps to prevent or unduly delay, changes to those documents, such changes being changes which are appropriate in order to give full and timely effect to and/or in consequence of any modification which has been made to the BSC.
13. For the avoidance of doubt, paragraph 12 is without prejudice to any rights of approval, veto or direction in respect of proposed changes to the documents referred to in paragraph 12 which the Authority may have.

13A. [Implementation dates for new provisions/transitional measures]

14. In this condition in the expression "sale and purchase of electricity", sale excludes sale by way of assumption of an imbalance under the BSC and sale by way of supply to premises, and purchase shall be construed accordingly; and "applicable BSC objective(s)" means
- (a) in relation to a proposed modification of the modification procedures, the requirements of paragraph 4 (to the extent they do not conflict with the objectives set out in paragraph 3); and
  - (b) in relation to any other proposed modification, the objectives set out in paragraph 3.

["small distributor" means a distributor that does not at any time distribute more than [value to be determined] megawatts for the purpose of giving a supply to domestic consumers or enabling a supply to be so



given with that electrical power / such category of distributor as shall be specified in the BSC.]

"small generator" [means a generator that does not at any time provide more electrical power from any one generating station than [value to be determined] megawatts / such category of generator as shall be specified in the BSC.]

"small participant" means a small generator, a small supplier, a small distributor.

"small supplier" [means a supplier with less than 1 million supply points registered on the Metering Point Administrator Data database, being a database of information held by each holder of the electricity distribution licence/ such category of supplier as shall be specified in the BSC.]]

"transition modification

provisions" means the provisions of this condition which apply or applied during the transition period and which enable or enabled the Authority (whether with or without the consent of the Secretary of State) to direct the licensee to modify the BSC in certain circumstances.

**Condition C10: Connection and Use of System Code (CUSC)**

1. The licensee shall establish arrangements for connection and use of system in respect of matters other than those to which standard conditions C14 (Grid Code) and C5 (Use of system charging methodology) to C9 (Functions of the Authority) relate which are calculated to facilitate the achievement of the following objectives:
  - a. the efficient discharge by the licensee of the obligations imposed upon it under the Act and by this licence; and
  - b. facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity,

and the licensee shall be taken to comply with this paragraph by modifying from time to time in accordance with the provisions of paragraphs 6 and 7 and the transition modification provisions, the document setting out the arrangements for connection and use of system which existed and which the licensee maintained pursuant to this licence immediately prior to the start of the transition period.
2. The licensee shall prepare a connection and use of system code ("CUSC") setting out:
  - a. the terms of the arrangements made in pursuance of paragraph 1;
  - b. the procedures established in pursuance of paragraph 6; and
  - c. such other terms as are or may be appropriate for the purposes of the CUSC,

and establishing:

  - d. a secretarial or administrative person or body ["the code administrator"] to [(among others)] facilitate the modification procedures required by paragraph 6, whose core powers, duties and functions shall be specified in the CUSC; and
  - e. a panel body, as specified in the CUSC [(the "panel")], whose functions include reporting in accordance with paragraph 6(b)(v), whose composition shall include a[n independent] chairperson who has been approved by the Authority [and who has a casting vote as specified in the CUSC].
3. The licensee shall only enter into arrangements for connection and use of system which are in conformity with any relevant provisions of the CUSC.
4. The CUSC shall provide for:
  - a. the licensee and each CUSC user to be contractually bound insofar as is applicable by the terms of the Grid Code from time to time in force;
  - b. (i) the licensee and each CUSC user, where appropriate, to enter into an agreement or agreements, supplemental to and in a form prescribed by the CUSC, setting out site specific details in respect of each site at which

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- the CUSC user's electrical lines or electrical plant is connected to the national electricity transmission system;
- (ii) each CUSC user, where appropriate, to enter into an agreement or agreements with a transmission licensee (other than the licensee) supplemental to and in a form prescribed by the CUSC setting out site specific details in respect of each site at which the CUSC user's electrical lines or electrical plant is connected to the national electricity transmission system;
- c. there to be referred to the Authority for determination such matters arising under the CUSC as may be specified in the CUSC; and
  - d. a copy of the CUSC to be provided to any person requesting the same upon payment of an amount not exceeding the reasonable costs of making and providing such copy.
5. The provisions of paragraphs 4 and 10 shall not limit the matters which may be provided for in the CUSC.
6. The licensee shall establish and operate procedures for the modification of the CUSC (including procedures for modification of the modification procedures themselves), so as to better facilitate achievement of the applicable CUSC objectives, which procedures shall provide [(without prejudice to the transition modification provisions and the procedures for modification provided for at paragraph 7 below)]:
- a. for proposals for modification of the CUSC to be made by the licensee, CUSC users and such other persons and bodies as the CUSC may provide;
  - b. where such a proposal is made:
    - (i) for bringing the proposal to the attention of CUSC parties and such other persons as may properly be considered to have an appropriate interest in it including small participants and consumer representatives;
    - [(iA) for the provision [by the code administrator] of assistance upon request and insofar as is reasonably practicable to small participants and consumer representatives which may include, but is not limited to, assistance with:
      - a. drafting a modification proposal;
      - b. understanding the operation of the CUSC;
      - c. their involvement in and representation during the modification procedure processes; and
      - d. accessing information relating to modifications;
    - (ii) for proper consideration of any representations on the proposal including representations made by small participants and consumer representatives;
    - (iii) for properly evaluating whether the proposed modification would better facilitate achieving the applicable CUSC objectives, provided
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- that so far as any such evaluation requires information which is not generally available concerning the licensee or the national electricity transmission system, such evaluation shall be made on the basis of the licensee's proper assessment (which the licensee shall make available for these purposes) of the effect of the proposed modification on the matters referred to in paragraph 1(a) and (b);
- (iv) for development of any alternative modification which may, as compared with the proposed modification, better facilitate achieving the applicable CUSC objectives;
  - (v) for the preparation of a [\[panel\]](#) report:
    - setting out the proposed modification and any alternative;
    - evaluating the proposed modification and any alternative;
    - assessing the extent to which the proposed modification or any alternative would better facilitate achieving the applicable CUSC objectives [and providing a detailed explanation of the panel's reasons for that assessment](#);
    - assessing the impact of the modification on the core industry documents and the changes expected to be required to such documents as a consequence of such modification;
    - setting out a timetable for implementation of the modification and any alternative, including the date with effect from which such modification (if made) ~~is to~~ [would](#) take effect; and
  - (vi) for the [submission or, if applicable, re-](#)submission of the report to the Authority as soon after the proposal is made as is appropriate (taking into account the complexity, importance and urgency of the modification) for the proper execution and completion of the steps in sub-paragraphs (i) to (v) [\[including \(iA\)\]](#); and
- c. for the timetable (referred to in sub-paragraph (b)(v)) for implementation of any modification to be such as will enable the modification to take effect as soon as practicable after the Authority has directed such modification to be made, account being taken of the complexity, importance and urgency of the modification, and for that timetable to be extended with the consent of or as required by the Authority.
- d. [for the compliance with any \[direction/request\] made by the Authority:](#)
- [\[\(i\) stipulating the timetable within which one or more of the steps set out in paragraph 6\(b\) \[shall\] be completed;](#)
  - [\(ii\) requiring the provision of a timetable within which one or more of the steps set out in paragraph 6\(b\) are \[intended\] to be completed;](#)
  - [\(iii\) requiring the provision of a statement as to the progress of one or more of the steps set out in paragraph 6\(b\);](#)
  - [\(iv\) requiring the provision of a statement as to the analysis being undertaken on the modification proposal; or](#)

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- (v) requiring a revision to the scope of the terms of reference for the assessment of the modification proposal.
7. a. If a report has been submitted to the Authority pursuant to procedures described in paragraph 6(b)(vi), and if the Authority is of the opinion that a modification set out in such report would, as compared with the then existing provisions of the CUSC and any alternative modifications set out in such report, better facilitate achieving the applicable CUSC objectives the Authority may direct the licensee to make that modification.
    - aA. If a report has been submitted to the Authority pursuant to the procedures described in paragraph 6(b)(vi) and if the Authority is of the opinion that the report prepared in accordance with paragraph 6(b)(v) is such that the Authority is unable to form an opinion in accordance with paragraph 7(a), the Authority may [issue a direction] specifying the additional steps, analysis or information that it requires in order to form an opinion and instruct that the report be revised in accordance with the direction and be re-submitted in accordance with paragraph 6(b)(vi).
    - b. The licensee shall, upon receipt of a direction from the Secretary of State to do so, modify the CUSC so as to incorporate any changes directed by the Secretary of State pursuant to section 90 of the Energy Act 2004 during or before the offshore transmission implementation period.<sup>2</sup>
    - c. The licensee shall, upon receipt by the licensee of a direction from the Secretary of State to do so, modify the CUSC so as to incorporate any changes to the CUSC designated by the Secretary of State on or before 8 September 2004.
    - d. The licensee shall only modify the CUSC:
      - (i) in order to comply with any direction of the Secretary of State pursuant to sub-paragraph (b) or any direction of the Authority pursuant to sub-paragraph (a); or
      - (ii) with the consent of the Authority,
 and it shall not have the power to modify the CUSC in any other circumstance; and the licensee shall furnish the Authority with a copy of any modification made.
    - e. Only the licensee shall have the power to modify the CUSC.
  8. The licensee shall prepare and publish a summary of the CUSC as modified or changed from time to time in such form and manner as the Authority may from time to time direct.
  9. The licensee shall be a party to the CUSC Framework Agreement and shall comply with the CUSC.
  10. The CUSC Framework Agreement shall contain provisions:
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<sup>2</sup> Inserted on 24 June 2009.

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- a. for admitting as an additional party to the CUSC Framework Agreement any person who accepts the terms and fulfils the conditions (each as specified in the CUSC) on which accession to the CUSC Framework Agreement is offered; and
  - b. for referring for determination by the Authority any dispute which shall arise as to whether a person seeking to be admitted as a party to the CUSC Framework Agreement has fulfilled any accession conditions; and if the Authority determines that the person seeking accession had fulfilled all relevant standard conditions, for admitting such person to be a party to the CUSC Framework Agreement.
11. The Authority may issue a direction to the licensee to make such amendments to the agreement known as the Master Connection and Use of System Agreement ("MCUSA") and the supplemental agreements and ancillary services agreements (as defined or referred to in MCUSA) and any associated agreements derived from MCUSA as shall be stated as required to be made to amend them appropriately into the CUSC Framework Agreement, CUSC, bilateral agreements, construction agreements and associated agreements derived from CUSC so as to maintain continuity of contractual relationships.
  12. The licensee shall take all reasonable steps to secure and implement (consistently with the procedures applicable under or in relation to such documents), and shall not take any steps to prevent or unduly delay, changes to the core industry documents to which it is a party (or in relation to which it holds rights in respect of amendment), such changes being changes which are appropriate in order to give full and timely effect to and/or in consequence of any modification which has been made to the CUSC.
  13. For the avoidance of doubt, paragraph 11 is without prejudice to any rights of approval, veto or direction in respect of proposed changes to the documents referred to in paragraph 12 which the Authority may have.
  14. The licensee shall comply with any direction to the licensee made pursuant to this condition.

14A. [Implementation dates for new provisions/transitional measures]

15. In this condition:

"applicable CUSC objectives" means:

- (a) in relation to a proposed modification of the modification procedures, the requirements of paragraph 6 (to the extent that they do not conflict with the objectives set out in paragraph 1); and
- (b) in relation to any other proposed modification, the objectives set out in paragraph 1.

["small distributor" means a distributor that does not at any time distribute more than [value to be determined] megawatts for the purpose of giving a supply to

domestic consumers or enabling a supply to be so given with that electrical power / such category of distributor as shall be specified in the CUSC.]

"small generator" [means a generator that does not at any time provide more electrical power from any one generating station than *[value to be determined]* megawatts / such category of generator as shall be specified in the CUSC.]

"small participant" means a small generator, a small supplier, a small distributor],

"small supplier" [means a supplier with less than 1 million supply points registered on the Metering Point Administrator Data database, being a database of information held by each holder of the electricity distribution licence/ such category of supplier as shall be specified in the CUSC.]]

"transition modification

provisions"

means the provisions of this condition which apply or applied during the transition period and which enable or enabled the Authority (whether with or without the consent of the Secretary of State) to direct the licensee to modify the CUSC in certain circumstances.

**Standard Special Condition A11. Network Code and Uniform Network Code***Transportation Arrangements*

1. The licensee shall establish transportation arrangements, pursuant to paragraphs 3 and 6 of this condition, in respect of matters other than those to which Standard Special Conditions A4 (Charging – General) and A5 (Obligations as Regard Charging Methodology) relate, which are calculated, consistent with the licensee's duties under section 9 of the Act, to facilitate the achievement of the following objectives –
  - a. the efficient and economic operation of the pipe-line system to which this licence relates;
  - b. so far as is consistent with sub-paragraph (a), the coordinated, efficient and economic operation of (i) the combined pipe-line system, and/ or (ii) the pipe-line system of one or more other relevant gas transporters;
  - c. so far as is consistent with sub-paragraphs (a) and (b), the efficient discharge of the licensee's obligations under this licence;
  - d. so far as is consistent with sub-paragraphs (a) to (c) the securing of effective competition:
    - (i) between relevant shippers;
    - (ii) between relevant suppliers; and/or
    - (iii) between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers;
  - e. so far as is consistent with sub-paragraphs (a) to (d), the provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards are satisfied as respects the availability of gas to their domestic customers; and
  - f. so far as is consistent with sub-paragraphs (a) to (e), the promotion of efficiency in the implementation and administration of the network code and/or the uniform network code;  
hereinafter referred to as the "**relevant objectives**".
- 1A. In paragraph 1 sub-paragraph (e), "domestic customer supply security standards" means, subject to paragraph 1B,
  - a. the availability of a supply of gas which would equal the peak aggregate daily demand for gas by the relevant gas supplier's current domestic customers which, having regard to historical weather data derived from at least the previous 50 years and other relevant factors, is likely to be exceeded (whether on one or more days) only in 1 year out of 20 years; and
  - b. the availability of supplies of gas-



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- (i) over a year which would equal the aggregate annual demand for gas by those customers; and
  - (ii) over the first six months of a year which would equal the aggregate demand for gas by those customers during such a six month period,
- which, in each case, having regard to such data as aforesaid and other relevant factors, is likely to be exceeded only in 1 year out of 50 years.
- 1B. For the purposes of paragraph 1A, "daily" means over a period beginning at 6am on one day and ending immediately before 6am on the following day and "year" means a period of 12 months beginning with 1 October; and if, after consultation with all gas suppliers, gas shippers and gas transporters, with the Health and Safety Executive and the National Consumer Council, the Authority is satisfied that the domestic supply security standard would be adequate if paragraph 1A were modified-
- a. by the substitution, in paragraph 1A(a) or (b), of a reference to data derived from a period of less than the 50 previous years;
  - b. by the substitution in paragraph 1A(a) of a higher probability than the 1 in 20 years mentioned in that paragraph; or
  - c. by the substitution in paragraph 1A(b) of a higher probability than the 1 in 50 years mentioned in that paragraph,
- the Authority may, subject to paragraph 1C, make such modifications by notice which-
- (i) is given and published by the Authority for the purposes of this condition generally; and
  - (ii) specifies the modifications and the date on which they are to take effect.
- 1C. Paragraph 1A(a) shall only be modified if, at the same time, the Authority makes similar modifications to-
- a. paragraph 2(b) of Standard Special Condition A9 (Pipe-Line System Security Standards); and
  - b. sub-paragraph (b) of the definition of "security standards" in standard condition 1 (Definitions and Interpretation) of the standard conditions of gas shippers' licences.
2. In relation to a proposed modification of the network code modification procedures, a reference to the relevant objectives is a reference to the requirements in paragraphs 9 and 12 of this condition (to the extent that those requirements do not conflict with the objectives set out in paragraph 1).

*Network Code*

- 3. Subject to paragraph 4, in respect of the pipe-line system to which this licence relates, the licensee shall, by the date at which this condition becomes effective (unless the Authority consents otherwise in writing), have prepared a document (the "**network code**") setting out (together with the terms of

any other arrangements which the licensee considers it appropriate to set out in the document):

- a. the terms of the arrangements made in pursuance of paragraph 1 save in so far as they relate to matters regulated by standard condition 4B (Connection Charges etc) or are contained in such an agreement, or an agreement of such a class or description, as may be designated by the Authority for the purposes of this condition; and
- b. the network code modification procedures established pursuant to paragraph 7 to the extent that such procedures differ from those set out in the uniform network code following Authority consent pursuant to paragraph 8

and the licensee shall furnish the Authority with a copy thereof.

4. Where the holder of this licence also holds, in the same legal entity, one or more other gas transporter licences for relevant gas transporters, it may apply to the Authority for written consent to prepare a single network code in respect of the pipe-line systems to which those licences relate, which consent may be granted subject to such conditions as the Authority may direct.
5. The network code prepared by or on behalf of the licensee shall incorporate by reference the terms of the uniform network code except where the Authority consents otherwise in writing; and references in the conditions of this licence to the network code include the uniform network code (as may be varied from time to time) as so incorporated, unless otherwise stated.

#### *Uniform Network Code*

6. The licensee shall, together with the other relevant gas transporters, by the date at which this condition becomes effective (unless the Authority consents otherwise in writing), have prepared a document (the "**uniform network code**") setting out:
  - a. the terms of transportation arrangements established by the licensee and other relevant gas transporters, to the extent that such terms are common, or are not in conflict, between relevant gas transporters; and
  - b. the network code modification procedures established pursuant to paragraph 7, which are, subject to paragraph 8, incorporated by reference into each network code prepared by or on behalf of each relevant gas transporter,
  - c. [the arrangements establishing a secretarial or administrative person or body \[\(the "\*\*code administrator\*\*"\)\] to \[\(among others\)\] facilitate the procedures established in accordance with paragraph 7, whose core powers, duties and functions shall be specified in the uniform network code;](#)
  - d. [the arrangements establishing a panel body as specified in the uniform network code \[\(the "\*\*panel\*\*"\)\] whose functions include the making of a recommendation in accordance with paragraph 15\(a\)\(iv\), and whose composition shall include;](#)

(i) a[n independent] chairperson who has been approved by the Authority [and who shall have a casting vote as specified in the uniform network code][; and

(ii) a consumer representative [who has been approved by the Authority] and who shall have a vote as specified in the uniform network code]

and the licensee shall furnish the Authority with a copy thereof.

*Network Code Modification Procedures*

7. The licensee shall, together with the other relevant gas transporters, establish and operate procedures ("**network code modification procedures**"), for the modification of the uniform network code and/or of any network code prepared by or on behalf of each relevant gas transporter (including modification of the network code modification procedures themselves) so as to better facilitate, consistent with the licensee's duties under section 9 of the Act, the achievement of the relevant objectives.
8. In accordance with paragraphs 5 and 6, unless the Authority consents otherwise in writing, the network code modification procedures shall be contained in the uniform network code.
9. The network code modification procedures shall provide for:
  - a. a mechanism by which any of
    - (i) the uniform network code; and
    - (ii) each of the network codes prepared by or on behalf of each relevant gas transporter,
 may be modified;
  - b. (i) the making of proposals for the modification of the uniform network code in accordance with paragraph 10(a) of this condition; and/or
    - (ii) the making of proposals for the modification of a network code prepared by or on behalf of a relevant gas transporter in accordance with paragraph 11(a) of this condition;
  - c. the making of alternative modification proposals in accordance with paragraphs 10(b) and 11(b) of this condition, except in a case where the Authority otherwise directs in writing;
  - d. the giving of adequate publicity to any such proposal including, in particular, drawing it to the attention of all relevant gas transporters, ~~and~~ all relevant shippers and all relevant "small participants" and consumer representatives and sending a copy of the proposal to any person who asks for one;

[dA. the provision [by the code administrator] of assistance upon request and insofar as is reasonably practicable to "small participants" and consumer representatives, which may include, but is not limited to, assistance with:

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- (i) [drafting a modification proposal;](#)
  - (ii) [understanding the operation of the uniform network code;](#)
  - (iii) [their involvement in and representation during the network code modification procedures; and](#)
  - (iv) [accessing information relating to modifications;\]](#)
  - e. the seeking of the views of the Authority on any matter connected with any such proposal;
  - [eA. the provision of any additional information or analysis as the Authority may require;](#)
  - f. the consideration of any representations relating to such a proposal made (and not withdrawn) by the licensee, any other relevant gas transporter, any relevant shipper, or any gas shipper or other person likely to be materially affected were the proposal to be implemented, [including representations made by "small participants" and/or consumer representatives;](#)
  - [fA. the compliance with any \[direction/request\] made by the Authority:](#)
    - [\[\(i\) stipulating the timetable within which the steps set out in sub-paragraphs \(b\)-\(f\) \[shall\] be completed;](#)
    - [\(ii\) requiring the provision of a timetable within which the steps set out in sub-paragraphs \(b\)-\(f\) are \[intended\] to be completed;](#)
    - [\(iii\) requiring the provision of a statement as to the progress of the steps set out in sub-paragraphs \(b\)-\(f\);](#)
    - [\(iv\) requiring the provision of a statement as to the analysis being undertaken on the modification proposal; or](#)
    - [\(v\) requiring the revision to the scope of the terms of reference for the assessment of the modification proposal \[in accordance with paragraph 15\]; and](#)
  - g. where the Authority accepts that the uniform network code or a network code prepared by or on behalf of a relevant gas transporter may require modification as a matter of urgency, the exclusion, acceleration or other variation, subject to the Authority's approval, of any particular procedural steps which would otherwise be applicable.
10. In respect of the uniform network code:
- a. a modification proposal may be made by the following:
    - (i) the licensee,
    - (ii) each other relevant gas transporter,
    - (iii) any relevant shipper identified in the network code modification procedures as being entitled to propose a modification, and/or
    - (iv) any other relevant person (a "**third party participant**") identified (individually or as a member of a class of persons) in the network
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- code modification procedures as being entitled to propose a modification; and
- b. where a modification proposal has been made under paragraph 10(a) of this condition (an "**original proposal**") alternative modification proposals may be made, in respect of any such original proposal, by any of the parties listed in paragraph 10(a) of this condition with the exception of the person who made the original proposal.
11. In respect of each network code prepared by or on behalf of the licensee (excluding the terms of the uniform network code incorporated within it):
- a. a modification proposal may be made by one of the following:
- (i) the licensee, to the extent that the modification proposed relates to the pipe-line system to which this licence relates,
  - (ii) any relevant shipper identified in the network code modification procedures as being entitled to propose a modification;
  - (iii) a DN operator with whom the licensee has entered into transportation arrangements in respect of the pipe-line system to which this licence relates; and/or
  - (iv) any other relevant person (a "**third party participant**") identified (individually or as a member of a class of persons) in the network code modification procedures as being entitled to propose a modification; and
- b. where a modification proposal has been made under paragraph 11(a) of this condition (an "**original proposal**"), alternative modification proposals may be made, in respect of any such original proposal, by any of the parties listed in paragraph 11(a) of this condition with the exception of the person who made the original proposal.
12. Subject to paragraphs 9, 10 and 11 of this condition, the network code modification procedures may include provisions which differ as between proposed modifications to the uniform network code and proposed modifications to each network code prepared by or on behalf of each relevant gas transporter (excluding the terms of the uniform network code incorporated within it).

*Modification of Network Code and Uniform Network Code*

13. The licensee shall not make any modification to the network code prepared by or on behalf of the licensee (excluding the terms of the uniform network code incorporated within it) or make or permit any modification to the uniform network code except:
- a. to comply with paragraph 15(b) or 16; or
  - b. with the written consent of the Authority;
- and shall furnish or cause to be furnished to the Authority a copy of any such modification made.
14. Where:

- a. the Health and Safety Executive have given a notice to the licensee in pursuance of this paragraph referring to a matter relating to the protection of the public from dangers arising from the conveyance of gas through the pipe-line system to which this licence relates; and
- b. a modification to the network code prepared by or on behalf of the licensee (excluding the terms of the uniform network code incorporated within it) and/or the uniform network code could, consistent with the relevant objectives, appropriately deal with the matter,

the licensee shall propose such a modification in accordance with the network code modification procedures, and any requirement that a modification be such as to better facilitate the achievement of the relevant objectives shall be treated as met if the modification is consistent with those objectives.

15. Where a proposal is made in accordance with the network code modification procedures to modify the network code prepared by or on behalf of the licensee, (excluding the terms of the uniform network code incorporated within it) or the uniform network code the licensee shall:
  - a. as soon as is reasonably practicable, give notice to the Authority:
    - (i) giving particulars of the proposal;
    - (ii) where an alternative proposal is made in respect of the same matter as the original proposal, giving particulars of that alternative proposal;
    - (iii) giving particulars of any representations by:
      - (aa) the licensee,
      - (bb) any other relevant gas transporter,
      - (cc) any relevant shipper identified in the network code modification procedures as being entitled to propose a modification,
      - (dd) in respect of modifications to a network code (excluding the terms of the uniform network code incorporated within it) only, a DN operator with whom the licensee has entered into transportation arrangements in respect of the pipe-line system to which this licence relates, or
      - (ee) any other person with respect to those proposals;
    - (iv) including a recommendation (on the part of such person or body as may be provided for in the network code modification procedures) [which shall include detailed reasons provided by the panel](#) as to whether any proposed modification should or should not be made, and the factors, [including whether and, if so, how the proposed modification would better facilitate the achievement of the relevant objectives](#), which (in the opinion of such person or body) justify the making or not making of a proposed modification; and
    - (v) giving such further information as may be required to be given to the Authority by the network code modification procedures; and

- b. comply with any direction of the Authority:
  - (i) to make a modification to the network code prepared by or on behalf of the licensee (excluding the terms of the uniform network code incorporated within it) and/or the uniform network code in accordance with a proposal described in a notice given to the Authority under paragraph 15(a) which, in the opinion of the Authority, will, as compared to the existing provisions of the network code prepared by or on behalf of the licensee (excluding the terms of the uniform network code incorporated within it) and/or (as the case may be) the uniform network code or any alternative proposal, better facilitate, consistent with the licensee's duties under section 9 of the Act, the achievement of the relevant objectives; or
  - (ii) to revise and re-submit a notice provided in accordance with paragraph 15(a) to reflect the additional steps, analysis or additional information specified in the direction to enable the Authority to form an opinion in accordance with paragraph 15(b)(i).
- 16. Where any directions are given to the licensee under section 19 or 21(1) of the Act, the licensee shall make such modifications to the network code prepared by or on behalf of the licensee (excluding the terms of the uniform network code incorporated within it) and/or the uniform network code as may be necessary to enable the licensee to comply with the directions under section 19 or 21(1) of the Act without contravening Standard Special Condition A7 (Requirement to Enter into Transportation Arrangements in Conformity with the Network Code).
- 17. The licensee shall:
  - a. prepare and publish a summary of (i) the network code prepared by or on behalf of the licensee (excluding the terms of the uniform network code incorporated within it) and (ii) the uniform network code as modified or changed from time to time in such form and manner as the Authority may from time to time direct;
  - b. make available a copy of the network code prepared by or on behalf of the licensee (excluding the terms of the uniform network code incorporated within it) and the uniform network code as modified from time to time to any person who asks for one and makes such payment to (or to a person nominated by) the licensee in respect of the cost thereof as it may require not exceeding such amount as the Authority may from time to time approve for the purposes hereof; and
  - c. provide, or cause to be provided, a copy of the network code prepared by or on behalf of the licensee (excluding the terms of the uniform network code incorporated within it) and the uniform network code as modified from time to time on a web-site freely available to all interested parties (the web-site address of which shall be disseminated to such interested parties).

*Determinations by the Authority*

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18. Where a provision of the network code prepared by or on behalf of the licensee (excluding the terms of the uniform network code incorporated within it) and/or the uniform network code requires that, in circumstances specified in the provision, a determination by the licensee pursuant to that provision in a particular case should be such as is calculated to facilitate the achievement of the relevant objectives, any question arising thereunder as to whether the licensee has complied with that requirement shall be determined by the Authority.
19. The network code modification procedures shall provide that any question arising under the network code modification procedures as to:
  - a. whether a gas shipper or other person is likely to be materially affected by a proposal to modify the network code prepared by or on behalf of the licensee (excluding the terms of the uniform network code incorporated within it) and/or the uniform network code were such a proposal to be implemented; or
  - b. whether representations relating to such a proposal and made in pursuance of the rules have been properly considered by the licensee, shall be determined by the Authority.

*Miscellaneous*

20. [In this condition "transportation arrangements" shall have the meaning given in Standard Special Condition A3 (Definitions and Interpretation) save that for the purposes of this condition it shall also include LNG storage arrangements.
21. If the Authority, having regard, in particular, to any representations made to it by the licensee and other persons as to the extent to which there is competition in relation to the storage of gas in LNG storage facilities and its view on that question, considers it appropriate that this condition should be modified by the omission of paragraph 20 then the paragraph shall be omitted with effect from a date specified in a notice published by the Authority for that purpose; the definition of "transportation arrangements" in Standard Special Condition A3 (Definitions and Interpretation) shall apply to this condition; and the reference to this condition in the definition of "transportation arrangements" in Standard Special Condition A3 (Definitions and Interpretation) shall cease to have effect.<sup>3</sup>
22. If the Authority so consents, this condition shall have effect as if the definition of "transportation arrangements" in Standard Special Condition A3 (Definitions and Interpretation) referred only to gas consisting wholly or mainly of methane.
- 22A. Where the network code makes provision for energy balancing by the licensee, as the energy balancing gas transporter, of the total system through a market established by the operator of the independent market for balancing (as such terms are defined in Standard Special Condition A16 (Independence of the

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<sup>3</sup> Inserted by [Special Condition C1](#)



Independent Market for Balancing)) then the following paragraphs 22B, 22C and 22D shall apply.

- 22B. The licensee shall, in appointing any such operator as is mentioned in paragraph 22A, use all reasonable endeavours to appoint a person having:
- a. financial resources,
  - b. skilled and experienced personnel, and
  - c. systems
- adequate to ensure that the market is conducted in an orderly and proper manner according to clear and fair rules with a clearing function that enables the licensee and relevant shippers to offset any sale to any one participant in the market against any equivalent purchase from that or any other participant in the market.
- 22C. The requirement in paragraph 22B shall be treated as satisfied in respect of any appointment if the licensee appoints as operator of the independent market for balancing a person who, at the time of appointment, is:
- a. a person recognised by the Financial Services Authority under the Financial Services and Markets Act 2000 as an investment exchange; or
  - b. a person designated by the Authority for the purposes of that paragraph and if that designation has not expired or been revoked.”
- 22D. If a person appointed by the licensee in reliance on paragraph 22C ceases to be recognised as provided in sub-paragraph (a) or to be designated as provided in sub-paragraph (b) of that paragraph then the licensee shall use all reasonable endeavours to terminate the appointment of that person and, if the licensee elects that the market operated by that person shall continue to be established, to appoint another person in place of the first person in accordance with paragraph 22B].<sup>4</sup>
23. Any reference to “relevant shipper” in any of paragraphs 9(d), 9(f), 10(a)(iii), 11(a)(ii), or 15(a)(iii)(cc) shall, where it relates to any proposed modification which could have been proposed by a third party participant under the network code modification procedures, be treated as if it were also a reference to all such third party participants.

[23A. \[Implementation dates for new provision/transitional measures\]](#)

24. a. In this condition:
- “combined pipe-line system”** means the pipe-line system to which this licence relates and the pipe-line system of each other relevant gas transporter taken as a whole;

**“network code modification**

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<sup>4</sup> Inserted by [Special Condition C6](#)

<b>procedures"</b>	means the modification procedures referred to in paragraph 7 of this condition;
<u>"small participant"</u>	<u>means a small shipper or a small supplier;</u>
<u>"small shipper"</u>	<u>means [a gas shipper with less than 1 million supply points registered on the Gas Transportation Database, being a database of information held by each holder of a Gas Transporter licence / such category of shipper as specified in the uniform network code];</u>
<u>"small supplier"</u>	<u>means [a gas supplier with less than 1 million supply points registered on the Gas Transportation Database, being a database of information held by each holder of a Gas Transporter licence / such category of supplier as specified in the uniform network code]</u>

- a. Where the context requires,
- (i) references to a network code shall include the equivalent document prepared by each other relevant gas transporter (as from time to time modified) pursuant to the condition in its licence corresponding to this condition; and
  - (ii) references to transportation arrangements shall include the corresponding arrangements made by each other relevant gas transporter.

For the purposes of this condition, relevant shipper shall have the meaning given to that term in Standard Special Condition A3 (Definitions and Interpretation) and references to a relevant shipper include any gas shipper which is a relevant shipper for the purposes of the licence of any relevant gas transporter.