

Code Governance Review Final Proposals Licence Drafting Consultation: Appendix 5: Proposed changes to licence conditions - consolidated mark-up

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Target audience: Gas and electricity industry participants, consumer representatives, code administrators, Competition Commission and other interested parties.

Overview: This document sets out the illustrative licence modification drafting to reflect our updated views on the changes to the licence conditions that are necessary to make our proposals for the Code Governance Review effective. The proposed modifications are consistent with our Final Proposals which were published today. Text in blue represents Significant Code Review and Self-governance, text in green represents Charging Methodologies. Text in red represents Code Administrators and small participants and consumer representative initiatives. Text in purple represents the text relating to the Environmental Assessment and Code Objectives. Deleted text is shown scored through and in orange. "House-keeping" amendments are shown in black.

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Context

The Authority is committed to policies and processes that are consistent with better regulation principles and that reduce administrative burden on business while maintaining effective consumer protection.

As part of that commitment, in November 2007, we announced the Review of Industry Code Governance. We considered that such a review was timely given the changes that have occurred in the market, where the nature of participation is evolving, particularly for new entrants and smaller players. The Authority's role in relation to code modifications has also changed with the introduction of additional statutory duties and the right of appeal to the Competition Commission.

In summer 2009, we consulted separately on our initial proposals for each of the Code Governance Review work strands.

Today we published our Final Proposals for the Code Governance Review setting out our final proposals on:

- (i) Significant Code Review and Self-governance;
- (ii) Role of Code Administrators and small participant and consumer initiatives;
- (iii) Charging Methodologies; and
- (iv) Environmental Assessment and Code Objectives.

This consultation follows on from the Initial Licence Drafting Consultations and focuses on the modifications to a number of network companies' licence conditions which are (or may be) necessary and/or appropriate to give effect to the Final Proposals. It invites comments on that licence drafting, as well as welcoming alternative or better ways of giving effect to the Final Proposals. We do not seek comments on the policy underpinning and giving rise to those potential licence modifications.

Further statutory consultations on licence changes will be required following this consultation. A wide range of industry code modifications will also be necessary to bring effect to the Final Proposals. We expect these to be raised this spring/summer with full effect to be given to these proposals by autumn 2010.

Associated Documents

- [Open letter announcing review of industry code governance - Ofgem Ref: 284/07](#)
- [Corporate Strategy and Plan 2008-2013 - Ofgem Ref: 34/08](#)
- [Review of industry code governance - scope of review - Ofgem Ref: 92/08](#)

Code Governance Review Final Proposals Licence Drafting Consultation
Appendix 5

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- [Code Governance Review: Charging methodology governance options - Ofgem Ref: 132/08](#)
 - [Review of Industry Code Governance – Environment and Code Objectives, Ofgem open letter, 21 November 2008](#)
 - [Review of Industry Code Governance – role of code administrators and small participant/consumer initiatives - Ofgem Ref: 173/08](#)
 - [Review of Industry Code Governance – Code Administrators’ Working Group - Ofgem open letter, 20 April 2009](#)
 - [Review of Industry Code Governance - Environment and Code Objectives - Ofgem Ref: 66/09](#)
 - [Code Governance Review – role of code administrators and small participant/consumer initiatives – initial proposals - Ofgem Ref: 85/09](#)
 - [Code Governance Review: Major Policy Reviews and Self-Governance - Initial Proposals - Ofgem Ref: 84/09](#)
 - [Code Governance Review: Governance of charging methodologies: Initial proposals - Ofgem Ref: 108/09](#)
 - [Codes Governance Review Initial Proposals - illustrative licence modification drafting - Ofgem Ref: 133/09](#)

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Appendix 5 - Consolidated illustrative licence drafting

Chapter 1

Electricity Transmission Licence

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 paragraphs 4, 4A to 4C and 13A;
 - d. including the matters required by paragraph 6;
 - e. establishing a secretarial or administrative person or body, [as specified in the BSC], (the "code administrator") and setting out the code administrator's [powers,] duties and functions, which shall:
 - (i) include a requirement that the code administrator will maintain, publish, review and (where appropriate) amend from time to time the Code of Practice approved by the Authority and any amendments to the Code of Practice are to be approved by the Authority;
 - (ii) include facilitating the matters required by paragraphs 4 and 6; and
 - (iii) have regard to and, in particular, [accord/be consistent] with the principles contained in, the Code of Practice;
 - f. establishing a panel body, as specified in the BSC, (the "panel") whose functions shall include [the matters required by this condition], and whose composition includes:
 - (i) an independent chairperson approved by the Authority; and
 - (ii) a consumer representative (appointed by the National Consumer Council[, or any successor body]) who has a 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 subparagraph (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. subject to paragraphs 4A and 4B, 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;
 - aA. for proposals for modification of the BSC to be made by the licensee in accordance with a direction issued by the Authority pursuant to paragraphs 4C (the "significant code review route") and 10(b);
 - aB. for the implementation of modification proposals without the Authority's approval in accordance with paragraph 13A (the "self-governance route"); and
 - aC. for compliance with paragraphs 4A and 4B; and
 - aD. for the provision by the code administrator of assistance, insofar as is reasonably practicable, on request to parties (including, in particular, small participants and consumer representatives) that request the code administrator's assistance in relation to the BSC including, but not limited to, assistance with:
 - i. drafting a modification proposal;

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- ii. understanding the operation of the BSC;
 - iii. their involvement in, and representation during, the modification procedure processes (including but not limited to panel and/or modification group meetings) as required by this condition, specified in the BSC, or described in the Code of Practice; and
 - iv. accessing information relating to modification proposals and/or modifications;
- b. where ~~such~~ a proposal is made in accordance with paragraphs 4(a), 4(aA) [and, unless otherwise directed by the Authority, 4(aB)],
- (i) for bringing the proposal to the attention of BSC parties and such other persons as may have an appropriate interest in it (including consumer representatives);
 - (ii) for proper consideration of any representations on the proposal including representations made by small participants and/or consumer representatives;
- (iiA) for properly evaluating the suitability of the self-governance route for a particular modification proposal;
- (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 the development and consideration of any alternative modification which may, as compared with the proposed modification, better facilitate achieving the applicable BSC objective(s), provided that:
 - the alternative proposal is made during the [workgroup stage] of the consultation (as described in the Code of Practice and as further specified in the BSC); and
 - unless an extension of time has been approved by the Authority] such [workgroup stage] shall last for a maximum period (to be specified in the BSC) from the date on which the original modification was proposed,];
- (ivA) for the evaluation required under paragraph 4(b)(iii) (and, if applicable paragraph 4(b)(iv)) in respect of the applicable BSC objective(s) to include, where the impact is likely to be material, an assessment of the [quantifiable] impact of the proposal on greenhouse gas emissions, to be conducted in accordance with such guidance (on the [treatment of carbon costs and] evaluation of the greenhouse gas emissions) as may be issued by the Authority from time to time.
- (v) for the preparation of a panel report:

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- setting out the ~~proposed~~ modification originally proposed and [, separately.] any alternative,
 - evaluating the ~~proposed~~ modification originally proposed and [, separately.] 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 (such assessment to include, where applicable, an assessment [of the [quantifiable] impact of the proposal on greenhouse gas emissions] in accordance with 4(b)(ivA)).
 - 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 [and any alternative] (if made) ~~is~~ would ~~to~~ take effect; and
- (vi) for the 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, [and in accordance with the time periods specified in the BSC, which shall not be extended without the Authority's approval]) for the proper execution and completion of the steps in sub-paragraphs (i) to (v);
- (vii) for the revision and re-submission of the panel report provided under sub-paragraphs (v) and (vi), such re-submission to be made if required by a direction issued by the Authority under paragraph 5(aA) as soon after the Authority's direction as is appropriate (taking into account the complexity, importance and urgency of the modification).
- 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 or, in the case of a proposal falling under paragraphs 4(aB) and 13A, the panel has determined that such modification ~~to~~ should 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;
- 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;

- (iii) that the licensee can recover its reasonable costs and expenses properly incurred in complying with the direction.

[e. for the each of the procedural steps outlined in this paragraph 4 to [accord/be consistent with] [the principles contained in] the Code of Practice.]

4A. Proposals for modification of the BSC falling within the scope of a significant code review may not be made by the parties listed in paragraph 4(a) during the [significant code review phase 1] period, except where:

- a. the Authority determines that the modification proposal may be made, having taken into account (among other things) the urgency of the subject matter of the proposal; or
- b. the modification proposal is made by the licensee in accordance with paragraphs 4(aA) and 4C.

4B. Where a modification proposal is made during the [significant code review phase 1] period, [unless otherwise exempted by the Authority,] the panel shall:

- a. bring the proposal to the attention of the BSC parties and such other persons as may have an appropriate interest in it (including [small participants and] consumer representatives);
- b. properly consider any representations made by the parties listed in subparagraph (a) above as to whether it falls within the scope of a significant code review;
- c. properly consider any representations by the parties listed in subparagraph (i) above as to the applicability or otherwise of exceptions under paragraph 4A(a) or (b);
- d. prepare and submit to the Authority a report setting out
 - (i) the proposal;
 - (ii) any representations made under subparagraphs (b) and (c) above;
 - (iii) the panel's assessment of whether the proposal falls within the scope of a significant code review and the applicability of the exceptions under paragraph 4A(a) or (b), and its reasons for that assessment; and
- e. not accept a proposal into the modification procedures without the Authority's prior consent.

4C. Having conducted a significant code review the Authority will publish its conclusions on that review and, within a period of [twenty-eight (28)] days of publishing those conclusions, either:

- a. issue directions to the licensee containing:
 - (i) instructions to the licensee to make (and not withdraw, without the Authority's prior consent) a modification proposal;
 - (ii) the timetable for the licensee to comply with the Authority's direction; and

- (iii) the Authority's reasons for its direction; or
b. state that no direction under sub-paragraph (a) will be issued in relation to the BSC.

The Authority's published conclusions and directions to the licensee shall not fetter the voting rights of the members of the panel or the recommendation procedures informing the report described at paragraph 4(b)(v).

5. a. [Without prejudice to paragraph 13A, i] If a report has been submitted to the Authority pursuant to the procedures described in paragraph 4(b)(vi), and 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 determines that the report prepared in accordance with paragraph 4(b)(v) is such that the Authority cannot properly form an opinion in accordance with paragraph 5(a), the Authority may issue a direction to the panel:
- (i) specifying the additional steps (including drafting or amending existing drafting of the amendment to the BSC), revision (including revision to the timetable), analysis and/or information that it requires in order to form such an opinion; and
 - (ii) requiring the report to be revised and be re-submitted in accordance with paragraph 4(b)(vii).
- 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.¹
- c. ~~[Not used] 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. ~~[Not used] [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 subparagraph (a) or paragraph 7 of special condition J (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. [Without prejudice to paragraph 4A, o] ~~Only~~ the licensee shall have power to modify the BSC.

¹ Inserted on 24 June 2009.

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. ~~[Not used] [The BSC may include:]~~
 - a. ~~[Not used] [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. ~~[Not used] [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;
 - (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 [\[and/or industry codes\]](#) 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 [\[including, but not limited to, changes that are appropriate in order to avoid conflict or inconsistency as between the BSC and any core industry document or industry code\]](#).
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. Modification proposals shall only be implemented without the Authority's approval pursuant to this paragraph 13A where:](#)

- [a. in the view of the panel the modification proposal meets, all of the self-governance criteria, and:](#)
- [b. \(i\) the panel has submitted to the Authority in respect of the modification proposal and not withdrawn a self-governance statement; or](#)
 - [\(ii\) if a self-governance statement has not been made, or has been withdrawn, the Authority has determined that \[the self-governance criteria are satisfied and\] the modification proposal is suitable for the self-governance route;](#)
- [c. the panel has, no earlier than the expiry of the self-governance notice period, determined that the modification should be implemented on the basis that it would, as compared with the then existing provisions of the BSC \[and any other modifications proposed in accordance with paragraph](#)

4(b)(iv)], better facilitate the achievement of the applicable BSC objective(s); and

d. there is no outstanding appeal made in respect of such modification proposal in accordance with paragraph 13B; and

e. the Authority has not directed that its approval is required either:

(i) prior to the expiry of the self-governance notice period; or

(ii) following an appeal in accordance with paragraph 13B.

13B. BSC parties may appeal to the Authority the approval or rejection by the panel of a modification proposal falling under the self-governance route, provided the appeal has been made in accordance with the procedures specified in the BSC and, in the opinion of the Authority:

a. the appealing party [is, or is likely to be, unfairly prejudiced] by the implementation or non-implementation of that modification proposal;

b. the appeal is on the grounds that:

(i) in the case of implementation, the modification proposal does not better facilitate the achievement of at least one of the applicable BSC objectives; or

(ii) in the case of non-implementation, the proposal does better facilitate the achievement of at least one of the applicable BSC objectives; and

c. it is not brought for reasons that are trivial, vexatious or have no reasonable prospect of success.

13C Without prejudice to any rights of approval, veto or direction the Authority may have, the licensee shall ensure that procedures are in place that facilitate its compliance with the requirements of this condition, and create or modify industry documents including but not limited to the BSC, core industry documents and industry codes where necessary no later than [1 November 2010].

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.

"Code of Practice" [means the Code Administration Code of Practice:
(a) developed and maintained by [the signatories to the Code of Practice, including but not limited to]:"
(i) [name of each code administrator to be inserted];
(ii) [name of each code administrator to be inserted];
(iii) [name of each code administrator to be inserted];
(b) approved by the Authority on [•]
(c) published by [•]; and
(d) subject to the Authority's approval, as may be amended and re-published from time to time];
(candidate for a global definition)

"industry code" means a multilateral code or agreement created and maintained pursuant to a licence granted by the Authority under section 6 of the Act or under sections 7, 7ZA or 7A the Gas Act 1986; **(candidate for global definition)**

"self-governance criteria" means, a proposal that, if implemented:

(a) is [likely to have a non-material/unlikely to have a material] effect on:
(i) existing or future [electricity] consumers;
(ii) competition [in the generation, distribution, or supply of electricity or any commercial activities connected with the generation, distribution, or supply of electricity];
(iii) the operation of the national electricity transmission system;
(iv) matters relating to sustainable development, safety or security of supply, or the management of market or network emergencies; and
(v) the BSC's governance procedures or modification procedures; and
(b) is unlikely to discriminate between different classes of BSC parties;

"self-governance notice period" means a period:

- (a) of [twenty-eight (28)] days following the Authority's receipt of the self-governance statement; or
- (b) if earlier, expiring on the date on which the Authority has given written notice to the panel that the modification proposal is suitable for the self-governance route;

"self-governance statement" means a statement made by the panel and submitted to the Authority in accordance with paragraph 13A(b)(i):

- (a) confirming that, in its opinion, the self-governance criteria are met and the modification is suitable for the self-governance route;
- (b) providing a detailed explanation of the panel's reasons for that opinion; and
- (c) setting out any representations made regarding the suitability of the self-governance route (in accordance with paragraph 4(b)(ii and iiA));

"significant code review" means a review of one or more [policy] matters which the Authority considers likely to:

- (a) relate to the BSC (either on its own or in conjunction with other industry code(s)); and
- (b) be of [major/particular] significance in relation to its principal objective and/or general duties (under section 3A of the Act), statutory functions and/or obligations arising under EU law; and concerning which
- (c) the Authority has issued a notice to the BSC parties (among others, as appropriate) stating:
 - (i) that the review will constitute a significant code review;
 - (ii) the start date of significant code review; and
 - (iii) the matters that will fall within the scope of the review;

"significant code review phase 1" means the period commencing on the start date of a significant code review as stated by the Authority, and ending on either:

- (a) the date on which the Authority issues a statement under paragraph 4C(b) [(that no directions will be issued in relation to the BSC)]; or

(b) if no statement is made under 4C(b), the date on which the licensee has made a modification proposal in accordance with paragraphs 4(aA), 4C(a) and 10(b):

"small participant" means

(a) a generator, supplier, distributor, or new entrant to the electricity market in Great Britain that can demonstrate to the code administrator that it is resource-constrained and, therefore, in particular need of assistance;

(b) any other participant or class of participant that the code administrator considers to be in particular need of assistance; and

(c) a participant or class of participant that the Authority has notified the code administrator as being in particular need of assistance;

"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 C4: Charges for use of system

1. The licensee shall:
 - a. as soon as practicable after the date this condition comes into effect determine a use of system charging methodology approved by the Authority; and
 - b. conform to the use of system charging methodology as modified in accordance with standard condition C5 (Use of system charging methodology) and standard condition C10 (CUSC), and subject to standard condition C13 (Adjustments to use of system charges (small generators)).
2. The licensee shall as soon as practicable after the date this condition comes into effect:
 - a. prepare a statement approved by the Authority of the use of system charging methodology; and
 - b. prepare, other than in respect of a charge which the Authority has consented need not so appear, a statement, in a form approved by the Authority, of use of system charges determined in accordance with the use of system charging methodology and in such form and in such detail as shall be necessary to enable any person to make (other than in relation to charges to be made or levied in respect of the balancing services activity) a reasonable estimate of the charges to which he would become liable for the provision of such services,

and, without prejudice to paragraph 5 of this condition ~~or paragraph 3 of standard condition C5 (Use of system charging methodology)~~, or standard condition C10 (CUSC), if any change is made in the use of system charges to be so made other than in relation to charges to be made in respect of the balancing services activity, or the use of system charging methodology, the licensee shall, before the changes take effect, furnish the Authority with a revision of the statement of use of system charges (or if the Authority so accepts, with amendments to the previous such statement) and/or (as the case may be) with a revision of the statement of the use of system charging methodology, which reflect the changes.
3. Approvals by the Authority pursuant to paragraphs 1(a) and 2(a) may be granted subject to such conditions relating to further action to be undertaken by the licensee in relation to the use of system charging methodology better meeting the relevant objectives including, but not limited to, matters identified in any initial consultation by the Authority, as the Authority deems appropriate. Such conditions may include (but are not limited to) elements relating to the time by which action under the conditions must be completed.
4. With the exception of the requirement to comply with standard condition C13 (Adjustments to use of system charges (small generators)) provided for in paragraph 1(b), nothing in this condition shall affect the ability of the licensee to charge according to the statement issued pursuant to paragraph 2(b).
5. The licensee:

- a. shall give, except where the Authority consents to a shorter period, 150 days notice to the Authority of any proposals to change use of system charges other than in relation to charges to be made in respect of the balancing services activity, together with a reasonable assessment of the effect of the proposals (if implemented) on, those charges, and
 - b. where it has decided to implement any proposals to change use of system charges other than in relation to charges to be made in respect of the balancing services activity, shall give the Authority notice of its decision and the date on which the proposals will be implemented which shall not, without the consent of the Authority, be less than a month after the date on which the notice required by this sub-paragraph was given.
6. Unless otherwise determined by the Authority, the licensee shall only enter arrangements for use of system which secure that use of system charges will conform with the statement last furnished under paragraph 2(b) either:
 - a. before it enters into the arrangements; or
 - b. before the charges in question from time to time fall to be made,and, for the purposes of this paragraph, the reference to the statement last furnished under paragraph 2(b) shall be construed, where that statement is subject to amendments so furnished before the relevant time, as a reference to that statement as so amended.
7. References in paragraphs 1, 2, 5 and 6 to charges do not include references to:
 - a. connection charges; or
 - b. to the extent, if any, to which the Authority has accepted they would, as respects certain matters, be so determined, charges determined by reference to the provisions of the CUSC.
8. The licensee may periodically revise the information set out in and, with the approval of the Authority, alter the form of the statements prepared in accordance with paragraph 2 and shall, at least once in every year that this licence is in force, make such revisions as may be necessary to such statements in order that the information set out in the statements shall continue to be accurate in all material respects.
9. The licensee shall send a copy of any such statement, revision, amendment or notice given under paragraphs 2 or 5 to any person who asks for any such statement, revision, amendment or notice.
10. The licensee may make a charge for any statement, revision, or amendment of a statement, furnished, or notice sent pursuant to paragraph 9 of an amount reflecting the licensee's reasonable costs of providing such statement, revision, amendment or notice which costs shall not exceed the maximum amount specified in directions issued by the Authority for the purposes of this condition.

Condition C5: Use of system charging methodology

1. The licensee shall, for the purpose of ensuring that the use of system charging methodology achieves the relevant objectives, keep the use of system charging methodology at all times under review.
2. The licensee shall, subject to ~~paragraph 3~~ standard condition C10 (CUSC) ~~[and in accordance with the relevant provisions of the CUSC]~~, make such modifications of the use of system charging methodology as may be requisite for the purpose of better achieving the relevant objectives.
3. Not used. ~~Except with the consent of the Authority, before making a modification to the use of system charging methodology, the licensee shall:~~
 - ~~a. consult the CUSC users on the proposed modification and allow them a period of not less than 28 days within which to make written representations;~~
 - ~~b. send a copy of the terms of the proposed modification to any person who asks for them;~~
 - ~~c. furnish the Authority with a report setting out:~~
 - ~~(i) the terms originally proposed for the modification;~~
 - ~~(ii) the representations (if any) made to the licensee;~~
 - ~~(iii) any change in the terms of the modification intended in consequence of such representations;~~
 - ~~(iv) how the intended modification better achieves the relevant objectives; and~~
 - ~~(v) a timetable for implementation of the modification and the date with effect from which the modification (if made) is to take effect, such date being not earlier than the date on which the period referred to in paragraph 4 expires; and~~
 - ~~d. where the Authority has given a direction that sub-paragraphs (a), (b) and/or (c) should not apply, comply with such other requirements (if any) that the Authority may specify in the direction.~~
4. Not used. ~~The licensee will not make any modification to the use of system charging methodology if, within 28 days of the report being furnished to it under paragraph 3 (for the avoidance of doubt, including any report furnished on 10 June 2009), the Authority has either:~~
 - ~~a. directed the licensee that the modification shall not be made; or~~
 - ~~b. notified the licensee that it intends to undertake an impact assessment and then, within three months of giving that notification, has directed the licensee not to make the modification.~~
5. In paragraphs 1, and 2 ~~and 3~~ "the relevant objectives" shall mean the following objectives:

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- a. that compliance with the use of system charging methodology facilitates effective competition in the generation and supply of electricity and (so far as is consistent therewith) facilitates competition in the sale, distribution and purchase of electricity;
 - b. that compliance with the use of system charging methodology results in charges which reflect, as far as is reasonably practicable, the costs (excluding any payments between transmission licensees which are made under and in accordance with the STC) incurred by transmission licensees in their transmission businesses; and
 - c. that, so far as is consistent with sub-paragraphs (a) and (b), the use of system charging methodology, as far as is reasonably practicable, properly takes account of the developments in transmission licensees' transmission businesses.
- 6. Not used. ~~The licensee shall send a copy of any report furnished under paragraph 3 to any person who asks for any such report.~~
 - 7. Not used. ~~The licensee may make a charge for any report sent pursuant to paragraph 6 of an amount reflecting the licensee's reasonable costs of providing such report which costs shall not exceed the maximum amount specified in directions issued by the Authority for the purposes of this condition.~~
 - 8. Nothing in this condition shall impact on the application of special conditions AA5A to AA5E (Revenue restriction provisions).

Condition C6: Connection charging methodology

1. The licensee shall:
 - a. as soon as practicable after the date this condition comes into effect determine a connection charging methodology approved by the Authority; and
 - b. conform to the connection charging methodology as modified in accordance with ~~paragraph 10~~ standard condition C10 (CUSC) [and in accordance with the relevant provisions of the CUSC].
2. The licensee shall, for the purpose of ensuring that the connection charging methodology achieves the relevant objectives, keep the connection charging methodology at all times under review.
3. The licensee shall, subject to standard condition C10 (CUSC) [and in accordance with the relevant provisions of the CUSC]~~paragraph 9~~, make such modifications to the connection charging methodology as may be requisite for the purpose of better achieving the relevant objectives.
4. The licensee shall as soon as practicable after the date this condition comes into effect prepare a statement approved by the Authority of the connection charging methodology in relation to charges, including charges:
 - a. for the carrying out of works and the provision and installation of electrical lines or electrical plant or meters for the purposes of connection (at entry or exit points) to the national electricity transmission system;
 - b. in respect of extension or reinforcement of the national electricity transmission system rendered (at the discretion of a transmission licensee where the extension or reinforcement is of that licensee's transmission system) necessary or appropriate by virtue of the licensee providing connection to or use of system to any person seeking connection;
 - c. in circumstances where the electrical lines or electrical plant to be installed are (at the discretion of a transmission licensee where the electrical lines or electrical plant which are to be installed will form part of that licensee's transmission system) of greater size than that required for use of system by the person seeking connection;
 - d. for maintenance and repair (including any capitalised charge) required of electrical lines or electrical plant or meters provided or installed for making a connection to the national electricity transmission system; and
 - e. for disconnection from the national electricity transmission system and the removal of electrical plant, electrical lines and meters following disconnection, and the statement referred to in this paragraph shall be in such form and in such detail as shall be necessary to enable any person to determine that the charges to which he would become liable for the provision of such services are in accordance with such statement.
5. An approval by the Authority pursuant to paragraph 1(a) and 4 may be granted subject to such conditions relating to further action to be undertaken by the

licensee in relation to the connection charging methodology better meeting the relevant objectives as identified in any initial consultation by the Authority as the Authority deems appropriate. Such conditions may include (but are not limited to) elements relating to the time by which actions under this condition need to be completed.

6. Nothing in this condition shall affect the ability of the licensee to charge according to the statement issued pursuant to paragraph 4.
7. Unless otherwise determined by the Authority, the licensee shall only enter into a bilateral agreement or a construction agreement which secures that the connection charges will conform with the statement of the connection charging methodology last furnished under paragraphs 4 or 10 either:
 - a. before it enters into the arrangements; or
 - b. before the charges in question from time to time fall to be made.
8. The connection charging methodology shall make provision for connection charges for those items referred to in paragraph 4 to be set at a level for connections made after 30 March 1990 which will enable the licensee to recover:
 - a. the appropriate proportion of the costs directly or indirectly incurred in carrying out any works, the extension or reinforcement of the national electricity transmission system or the provision and installation, maintenance and repair or (as the case may be) removal following disconnection of any electric lines, electric plant or meters; and
 - b. a reasonable rate of return on the capital represented by such costs, and for connections made before 30 March 1990 to the licensee's transmission system, the connection charging methodology for those items referred to in paragraph 4 shall as far as is reasonably practicable reflect the principles of sub-paragraphs (a) and (b).
9. Not used. ~~Except with the consent of the Authority, before making a modification to the connection charging methodology the licensee shall:~~
 - ~~a. consult the CUSC users on the proposed modification and allow them a period of not less than 28 days within which to make written representations;~~
 - ~~b. send a copy of the terms of the proposed modification to any person who asks for them;~~
 - ~~c. furnish the Authority with a report setting out:~~
 - ~~(i) the terms originally proposed for the modification;~~
 - ~~(ii) the representations (if any) made to the licensee;~~
 - ~~(iii) any change in the terms of the modification intended in consequence of such representations;~~
 - ~~(iv) how the intended modification better achieves the relevant objectives; and~~
 - ~~(v) a timetable for implementation of the modification and the date with effect from which the modification (if made) is to take effect, such~~

- ~~date being not earlier than the date on which the period referred to in paragraph 10 expires; and~~
- ~~d. — where the Authority has given a direction that sub-paragraphs (a), (b) and/or (c) should not apply, comply with such other requirements (if any) that the Authority may specify in the direction.~~
10. a. Not used. ~~The licensee will not make any modification to the use of system charging methodology if, within 28 days of the report being furnished to it under paragraph 9 (for the avoidance of doubt, including any report furnished on 10 June 2009), the Authority has either:~~
- ~~(i) directed the licensee that the modification shall not be made; or~~
- ~~(ii) notified the licensee that it intends to undertake an impact assessment and then, within three months of giving that notification, has directed the licensee not to make the modification~~
- b. Where ~~the licensee makes a modification~~ changes to the connection charging methodology, ~~it are made in accordance with [standard condition C10 (CUSC) and the relevant provisions of the CUSC]~~ the licensee shall furnish the Authority with a revised statement showing the changed connection charging methodology and such revised statement of the connection charging methodology shall supersede previous statements of the connection charging methodology furnished under paragraph 4 or this paragraph 10 from the date specified therein.
11. In paragraphs 2 and 3 ~~and 9~~ "the relevant objectives" shall mean:
- a. the objectives referred to in paragraph 5 of standard condition C5 (Use of system charging methodology), as if references therein to the use of system charging methodology were to the connection charging methodology; and
- b. in addition, the objective, in so far as consistent with sub-paragraph (a), of facilitating competition in the carrying out of works for connection to the national electricity transmission system.
12. A statement furnished under paragraphs 4 or 10 shall, where practicable, include examples of the connection charges likely to be made in different cases as determined in accordance with the methods and principles shown in the statement.
13. The licensee shall send a copy of any statement or revision of a statement or report furnished under paragraphs 4, ~~9~~ or 10 to any person who asks for any such statement or revision thereof or report.
14. The licensee may make a charge for any statement or revision of a statement or report, furnished or sent pursuant to paragraph 13 of an amount reflecting the licensee's reasonable costs of providing such which costs shall not exceed the maximum amount specified in directions issued by the Authority for the purposes of this condition.
15. Nothing in this condition shall impact on the application of special conditions AA5A to AA5E (Revenue restriction provisions).

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 which, 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 paragraphs 6, 6A, to 6C and 13A; and
 - c. such other terms as are or may be appropriate for the purposes of the CUSC; and
 - d. the charging methodologies.
and establishing:
 - e. a secretarial or administrative person or body, [as specified in the CUSC,] (the "code administrator") and setting out the code administrator's [powers,] duties and functions, which shall:
 - (i) include a requirement that the code administrator will maintain, publish, review and (where appropriate) amend from time to time the Code of Practice approved by the Authority and any amendments to the Code of Practice are to be approved by the Authority;
 - (ii) include facilitating the matters required by paragraph 6; and
 - (iii) have regard to and, in particular, [accord/be consistent] with the principles contained in, the Code of Practice;
 - f. a panel body, as specified in the CUSC (the "panel"), whose functions shall include [matters required by this condition], and whose composition shall include:
 - (i) an independent chairperson approved by the Authority; and

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- (ii) a consumer representative (appointed by the National Consumer Council[,or any successor body]) who has a 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 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. subject to paragraphs 6A and 6B, for proposals for modification of:
 - (i) the CUSC (other than in respect of proposals for modification of the charging methodologies) to be made by the licensee, CUSC users, and such other persons and bodies as the CUSC may provide; and
 - (ii) the charging methodologies to be made by the licensee and/or [a/an] [materially] affected party [in accordance with the provisions of the CUSC] OR [during the [charging methodology window] unless otherwise permitted by the Authority;
 - aA. for proposals for modification of the CUSC to be made by the licensee in accordance with a direction issued by the Authority pursuant to paragraphs 6C (the "significant code review route") and 14;

aB. for the implementation of modification proposals without the Authority's approval in accordance with paragraph 13A (the "self-governance route"):

aC. for compliance with paragraphs 6A and 6B:

aD for the provision by the code administrator of assistance insofar as is reasonably practicable on request to parties (including, in particular, small participants and consumer representatives) that request the code administrator's assistance in relation to the CUSC including, but not limited to, assistance with:

(i) drafting a modification proposal:

(ii) understanding the operation of the CUSC:

(iii) their involvement in, and representation during, the modification procedure processes (including but not limited to panel, working group or standing group meetings) as required by this condition, specified in the CUSC, or described in the Code of Practice; and

(iv) accessing information relating to modification proposals and/or modifications:

aE. for:

(i) the regular convening of the charging methodology forum for the purposes of discussing further development of the charging methodologies:

(ii) for the provision of information by the licensee in accordance with paragraphs 9 and 10 of standard condition C4 (Charges for use of system) and paragraphs 13 and 14 of standard condition C6 (Connection charging methodology); and

(iii) [insofar as reasonably practicable, the provision by the licensee of such other information or assistance as [a/an] [materially] affected party may reasonably request for the purposes of preparing a proposal to modify a charging methodology]:

b. where ~~such~~ a proposal is made in accordance with paragraphs 6(a), 6(aA) [and, unless otherwise directed by the Authority, 6(aB)].

(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 consumer representatives):

(ii) for proper consideration of any representations on the proposal (including representations made by small participants and consumer representatives):

[(iiA) for properly evaluating the suitability of the self-governance route for a particular modification proposal:]

(iii) for properly evaluating whether the proposed modification would better facilitate achieving the applicable CUSC objectives, 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 1(a) and (b);

- (iv) for the development and consideration of any alternative modification which may, as compared with the proposed modification, better facilitate achieving the applicable CUSC objective(s); provided that:
 - the alternative proposal is made during the [workgroup stage] of the consultation (as described in the Code of Practice and as further specified in the CUSC); and
 - unless an extension of time has been approved by the Authority such [workgroup stage] shall last for a maximum period (to be specified in the CUSC) from the date on which the original modification was proposed,]
- (ivA) in relation to proposals for the modification of charging methodologies, for compliance (as applicable) with:
 - paragraph 5 of standard condition C4 (Charges for use of system); and
 - paragraph 4 and 10(b) of standard condition C6 (Connection charging methodology).
- (ivB) for the evaluation required under paragraph 6(b)(iii) (and, if applicable, paragraph 6(b)(iv)) in respect of the applicable CUSC objective(s) to include, where that impact is likely to be material, an assessment of the [quantifiable] impact of the proposal on greenhouse gas emissions to be conducted in accordance with such guidance (on the [treatment of carbon costs and] evaluation of the greenhouse gas emissions) as may be issued by the Authority from time to time;
- (v) for the preparation of a panel report:
 - setting out the [original] proposed modification and [, separately,] any alternative;
 - evaluating the [original] proposed modification and [, separately,] 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 (such assessment to include, where applicable, an assessment [of the [quantifiable] impact of the proposal on greenhouse gas emissions] in accordance with paragraph 6(b)(ivB));

- 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 [and any alternative] (if made) ~~is to~~ would take effect; and
- (vi) subject to paragraph 6(b)(ivA), for the 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 [and in accordance with the time periods specified in the CUSC, which shall not be extended without the Authority's prior approval]) for the proper execution and completion of the steps in sub-paragraphs (i) to (v); and
- (vii) subject to paragraph 6(b)(ivA), for the revision and re-submission of the panel report provided under sub-paragraphs (v) and (vi), such re-submission to be made if required by a direction issued by the Authority under paragraph 7(aA) as soon after the Authority's direction as is appropriate (taking into account the complexity, importance and urgency of the modification);
- c. subject to paragraph 6(b)(ivA) and without prejudice to paragraph 3 of standard condition C4 (Charges for use of system), 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 or, in the case of a proposal falling under paragraphs 6(aB) and 13A, the panel, has determined that such modification ~~to~~ should 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; and
- [d. for each of the procedural steps outlined in this paragraph 6 to [accord/be consistent with] [the principles contained in] the Code of Practice.

6A. Proposals for modification of the CUSC falling within the scope of a significant code review may not be made by the parties listed in paragraph 6(a) during the [significant code review phase 1] period, except where:

- a. the Authority determines that the modification proposal may be made, having taken into account (among other things) the urgency of the subject matter of the proposal; or
- b. the modification proposal is made by the licensee in accordance with paragraphs 6(aA) and 6C.

6B. Where a modification proposal is made during the [significant code review phase 1] period, [unless otherwise exempted by the Authority,] the panel shall:

- a. bring the proposal to the attention of the CUSC parties and such other persons as may have an appropriate interest in it [(including [small participants and] consumer representatives)]:
 - b. properly consider any representations by the parties listed in subparagraph (a) above as to whether it falls within the scope of a significant code review:
 - c. properly consider any representations made by the parties listed in subparagraph (a) above as to the applicability or otherwise of exceptions under paragraph 6A(a) or (b):
 - d. prepare and submit to the Authority a report setting out
 - (i) the proposal:
 - (ii) any representations made under subparagraphs (b) and (c) above,
 - (iii) the panel's assessment of whether the proposal falls within the scope of a significant code review and the applicability of the exceptions under paragraph 6A(a) or (b), and its reasons for that assessment: and
 - e. not accept a proposal into the modification procedures without the Authority's prior consent.
- 6C. Having conducted a significant code review, the Authority will publish its conclusions on that review and, within a period of [twenty-eight (28)] days of publishing those conclusions, either:
 - a. issue directions to the licensee containing:
 - (i) instructions to the licensee to make (and not withdraw, without the Authority's prior consent) a modification proposal:
 - (ii) the timetable for the licensee to comply with the Authority's direction: and
 - (iii) the Authority's reasons for its direction: or
 - b. state that no direction under sub-paragraph (a) will be issued in relation to the CUSC.

The Authority's published conclusions and directions to the licensee shall not fetter the voting rights of the members of the panel or the recommendation procedures informing the report described at paragraph 6(b)(v).
- a. [Without prejudice to paragraph 13A, i] if a report has been submitted to the Authority pursuant to procedures described in paragraph 6(b)(vi), and 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 determines that the report prepared in accordance with paragraph

6(b)(v) is such that the Authority cannot properly form an opinion in accordance with paragraph 7(a), the Authority may issue a direction to the panel:

- (i) specifying the additional steps (including drafting or amending existing drafting of the amendment to the CUSC), revision (including revision to the timetable), analysis or information that it requires in order to form such an opinion; and
- (ii) requiring the report to be revised and be re-submitted in accordance with paragraph 6(b)(vii).

- 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.²
- c. ~~[Not used. 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 subparagraph (a); ~~or~~
 - (ii) with the consent of the Authority; or
 - (iii) in accordance with paragraphs 6(aB) and 13A.

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~~ Without prejudice to paragraph 6A, 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:
 - 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

² Inserted on 24 June 2009.

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. ~~[Not used.] 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 [\[and/or industry codes\]](#) 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 [\[including, but not limited to, changes that are appropriate in order to avoid conflict or inconsistency as between the CUSC and any core industry document or industry code\]](#).
13. For the avoidance of doubt, paragraph 1~~[42]~~ 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. Modification proposals shall only be implemented without the Authority's approval pursuant to this paragraph 13A where:](#)

- [a. in the view of the panel the modification proposal meets all the self-governance criteria; and](#)
- [b.](#)
 - [\(i\) the panel has submitted to the Authority in respect of the modification proposal and not withdrawn a self-governance statement; or](#)
 - [\(ii\) if a self-governance statement has not been made, or has been withdrawn, the Authority has determined that \[the requirements of paragraph 13A\(a\) are satisfied and\] the modification proposal is suitable for the self-governance route; and](#)
- [c. the panel has, no earlier than the expiry of the self-governance notice period, determined that the modification should be implemented on the basis that it would, as compared with the then existing provisions of the CUSC \[and any other modifications proposed in accordance with](#)

paragraph 6(b)(iv)], better facilitate the achievement of the applicable CUSC objective(s); and

d. there is no outstanding appeal made in respect of such modification proposal in accordance with paragraph 13B; and

e. the Authority has not directed that its approval is required either:

(i) prior to the expiry of the self-governance notice period; or

(ii) following an appeal in accordance with paragraph 13B.

13B. CUSC parties may appeal to the Authority the approval or rejection by the panel of a modification proposal falling under the self-governance route, provided the appeal has been made in accordance with the procedures specified in the CUSC and, in the opinion of the Authority:

a. the appealing party [is, or is likely to be, unfairly prejudiced] by the implementation or non-implementation of that modification proposal;

b. the appeal is on the grounds that:

(i) in the case of implementation, the modification proposal does not better facilitate the achievement of at least one of the applicable CUSC objectives; or

(ii) in the case of non-implementation, the modification does better facilitate the achievement of at least one of the applicable CUSC objectives; and

c. it is not brought for reasons that are trivial, vexatious or have no reasonable prospect of success.

14. The licensee shall comply with any direction to the licensee made pursuant to this condition.

14A Without prejudice to any rights of approval, veto or direction the Authority may have, the licensee shall ensure that procedures are in place that facilitate its compliance with the requirements of this condition, and shall create or modify industry documents including, but not limited to, the CUSC, core industry documents and industry codes where necessary no later than [1 November 2010].

15. In this condition:

"affected party" means CUSC users, the National Consumer Council, BSC parties and any person or class of persons designated by the Authority for this purpose;

"applicable CUSC objectives" means:

- a. in relation to a proposed modification of the modification procedures only, the requirements of paragraph 6 (to the extent that they do not conflict with the objectives set out in paragraph 1);
- aA. in relation to a proposed modification of the charging methodologies only, the objectives (as applicable) set out at:
 - (i) paragraph 5 of standard condition C5 in relation to the use of system charging methodology; and
 - (ii) paragraph 11 of standard condition C6 in relation to the connection charging methodology; and
- b. in relation to any other proposed modification, the objectives set out in paragraph 1.

"charging methodologies" means

- a. the use of system charging methodology established in accordance with standard condition C5 (Use of system charging methodology); and/or
 - b. the connection charging methodology established in accordance with standard condition C6 (Connection charging methodology).
- as applicable.

"charging methodology forum" means

the forum (and related arrangements) established in the manner specified in the CUSC to facilitate meetings between the licensee and any other persons whose interests are materially affected by the applicable charging methodologies [for the purpose of discussing the further development of the applicable charging methodologies], as shall be specified in the CUSC;

["charging methodology window" means an annual period [as specified in the CUSC] **OR** [of [three calendar months] during which proposals to modify the charging methodologies may be made which:

- a. commences on a date determined by the licensee[, having first obtained Authority's approval]; and

b. is published by the licensee [at least [six months] in advance of its start date];

"Code of Practice" [means the Code Administration Code of Practice:

(a) developed and maintained by [the signatories to the Code of Practice, including but not limited to]:"

(i) [name of each code administrator to be inserted];

(ii) [name of each code administrator to be inserted];

(iii) [name of each code administrator to be inserted];

(b) approved by the Authority on [•]

(c) published by [•]; and

(d) subject to the Authority's approval, as may be amended and re-published from time to time];
(candidate for a global definition)

"industry code"

means a multilateral code or agreement created and maintained pursuant to a licence granted by the Authority under section 6 of the Act or under sections 7, 7ZA or 7A the Gas Act 1986: **(Candidate global definition)**

"self-governance criteria" means a proposal that, if implemented,

a. is [likely to have a non-material/unlikely to have a material] effect on:

(i) existing or future [electricity] consumers;

(ii) competition [in the generation, distribution, or supply of electricity or any commercial activities connected with the generation, distribution, or supply of electricity];

(iii) the operation of the national electricity transmission system;

(iv) matters relating to sustainable development, safety or security of supply, or the management of market or network emergencies; and

(v) the CUSC's governance procedures or the CUSC's modification procedures; and

b. is unlikely to discriminate between different classes of CUSC parties];

"self-governance notice period" means

a period:

a. of [twenty-eight (28)] days following the Authority's receipt of the self-governance statement;
or

b. if earlier, expiring on the date on which the Authority has given written notice to the panel that the modification proposal is suitable for the self-governance route;

"self-governance statement" means the statement made by the panel and submitted to the Authority in accordance with paragraph 13A(b)(i):

a. confirming that, in its opinion, the self-governance criteria are met and the modification is suitable for the self-governance route;

b. providing a detailed explanation of the panel's reasons for that opinion; and

c. setting out any representations made regarding the suitability of the self-governance route (in accordance with paragraph 6(b)(ii and iiA));

"significant code review"

means a review of one or more [policy] matters which the Authority considers is likely to:

a. relate to the CUSC (either on its own or in conjunction with other industry codes); and

b. be of [particular/major] significance in relation to its principal objective and/or general duties (under section 3A of the Act), statutory functions and/or obligations arising under EU law; and concerning which

c. the Authority has issued a notice to the CUSC parties (among others, as appropriate) stating:

(i) that the review will constitute a significant code review;

(ii) the start date of the significant code review; and

(iii) the matters that will fall within the scope of the review;

"significant code review phase 1" means the period commencing on the start date of a significant code review as stated by the Authority, and ending on either:

- a. the date on which the Authority issues a statement under paragraph 6C(b) [(that no directions under will be issued in relation to the CUSC)]; or
- b. if no statement is made under paragraph 6C(b), the date on which the licensee has made a modification proposal in accordance with paragraphs 6(aA), 6C(a) and 14;

"small participant" means

- a. a generator, supplier, distributor, or new entrant to the electricity market in Great Britain that can demonstrate to the code administrator that it is resource-constrained and, therefore, in particular need of assistance;
- b. any other participant class of participant that the code administrator considers to be in particular need of assistance; and
- c. a participant or class of participant that the Authority has notified to the code administrator as being in particular need of assistance.

"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.

Chapter 2

NTS Gas Transporter Licence

Standard Condition 4B. Connection Charging Methodology [*Not proposed to be amended in respect of independent gas transporters, or GDN licence holders*]

1. Subject to paragraph 2, where any pipe is supplied and laid by the licensee in discharge of the duty imposed by section 10(2)(a) of the Act, for the purpose of connecting premises ("the premises concerned") to a relevant main, the licensee may charge the person requiring the connection ("the person concerned") in respect of the cost of supplying and laying the pipe-
provided that in a case in which the supply of gas is to domestic premises, the licensee shall only so charge in respect of the cost of supplying and laying the pipe insofar as it is attributable to the supplying and laying of -
 - a. so much of the pipe as is laid upon property owned or occupied by the person concerned, not being property dedicated to public use; and
 - b. so much of the pipe as is laid for a greater distance from a relevant main than 10 metres, although not on such property as is mentioned in subparagraph (a).
2. Paragraph 1 shall have effect as if the proviso thereto were omitted where –
 - a. the person concerned may be required in pursuance of regulations made, or having effect as if made, under section 10(7) of the Act to make a payment in respect of the expenses of the main used for the purpose of making the connection; or
 - b. the premises concerned are in an area designated for the purposes of standard condition 4C (Charging of Gas Shippers – Supplemental Connection Charges) and the charges to be made of a gas shipper by the licensee in respect of the conveyance of gas to those premises would include a supplemental charge where appropriate.
3. The licensee shall by 1 April 2008 determine and comply with a connection charging methodology approved by the Authority showing the methods by which, and the principles on which, (consistently with its duties under section 9 of the Act) -
 - a. where a connection is required in pursuance of subsection (2) of section 10 of the Act, charges in respect of the cost of connecting, supplying and laying a pipe or the expenses of the laying of a main are normally to be determined in different cases or circumstances;
 - b. where a connection is required in a case not falling within subsection (1)(a) or (b) of the said section 10 and the premises are not likely to be supplied with gas at a rate exceeding that from time to time mentioned in subsection (8) of the said section 10 (subject to section 8A(1) of the Act, 2,196,000 kilowatt hours in any period of 12 months), the charges to be made for the connection, including charges for supplying and laying a pipe are to be determined;
 - c. where a connection or disconnection is required in the case of any premises likely to be, or which have been, supplied with gas at a rate exceeding that from time to time mentioned in subsection (8) of the said section 10, the charges to be made for the connection or disconnection

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- including, so far as appropriate, charges for supplying or laying a pipe or main and charges in respect of anything done or provided in connection with the connection or disconnection in different cases or circumstances are to be determined;
 - d. without prejudice to sub-paragraph (a), in the circumstances mentioned in subsection (10) of the said section 10 (read with any regulations under subsection (11) thereof), charges under the said subsection (10) are normally to be determined in different cases and circumstances;
 - e. where a connection is required to a pipe comprised in the pipe-line system to which this licence relates to enable gas to be introduced into, or taken out of that system, charges in respect of the connection are normally to be determined in different cases or circumstances; and
 - f. where a connection is required for works including, in particular, works to increase the capacity of a high pressure pipe-line and by way of the supply and installation of a pipe-line, charges in respect of the connection are normally to be determined in different cases or circumstances.
4. The licensee shall, for the purpose of ensuring that the connection charging methodology continues to achieve the relevant objectives:
- a. review the connection charging methodology at least once in every year; and
 - b. subject to [the network code modification procedures as defined in Standard Special Condition A11 \(Network Code and Uniform Network Code\) paragraph 6](#), make such modifications (if any) of the connection charging methodology as are necessary for the purpose of better achieving the relevant objectives.
5. In paragraph 4 and below, the relevant objectives are that:
- a. compliance with the connection charging methodology facilitates the discharge by the licensee of the obligations imposed on it under the Act and by this licence;
 - b. compliance with the connection charging methodology facilitates competition in the supply of gas, and does not restrict, distort, or prevent competition in the transportation of gas conveyed through pipes;
 - c. compliance with the connection charging methodology results in charges which reflect, as far as is reasonably practicable (taking account of implementation costs), the costs incurred by the licensee in its transportation business and, where the Act enables, to charge a reasonable profit;
 - d. so far as is consistent with sub-paragraphs (a), (b) and (c), the connection charging methodology, as far as is reasonably practicable, properly takes account of developments in the licensee's transportation business; and
 - a. compliance with the connection charging methodology ensures that the licensee shall not show any undue preference towards, or undue discrimination against, any person who operates, or proposes to operate,

- a pipe-line system in relation to the connection of that system to the pipe-line system to which this licence relates.
6. ~~Not used. The licensee shall not make a modification to the connection charging methodology unless it has furnished the Authority with a report setting out:~~
- ~~a. the terms proposed for modification;~~
 - ~~b. how the proposed modification would better achieve the relevant objectives; and~~
 - ~~c. a timetable for implementing the modification and the date with effect from which the modification (if made) is to take effect, being not earlier than the date on which the period referred to in the sub-paragraph below will expire;~~
- ~~provided that where the licensee has complied with the requirements above, it will not make any modification to the connection charging methodology where the Authority has within 28 days (or within three months if the Authority intends to undertake an impact assessment) of the report being furnished to it under sub-paragraph (b) given a direction to the licensee that the modification shall not be made.~~
7. Where changes to the connection charging methodology are made in accordance with network code modification procedures as defined in Standard Special Condition A11 (Network Code and Uniform Network Code) ~~t~~The licensee shall, ~~before making the modification:~~
- a. revise the connection charging methodology so that it sets out the changed methods and principles and specifies the date from which it is to have effect; and
 - b. furnish the Authority with a copy of the revised connection charging methodology.
8. The licensee shall -
- a. publish the connection charging methodology under paragraph 3 or 7 in such manner as will secure adequate publicity for it and, in the case of a connection charging methodology furnished under paragraph 7, shall so publish it before the effective date thereof;
 - b. publish with any such connection charging methodology so published a statement that any complaint in respect of a charge to which the connection charging methodology relates, if not resolved between the licensee and the complainant, may be referred to the Authority by letter addressed to the Authority at an address specified in the statement; and
 - c. send a copy of any such connection charging methodology and statement so published to any person who asks for one.
9. The licensee shall prepare and furnish the Authority with a statement, or revision or amendment of a statement, which:
- a. sets out the basis on which charges will be made for the provision of connections to the pipe-line system to which this licence relates;

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- b. where appropriate and practicable, is in such form and with such details and examples as are necessary to illustrate to any person requiring a connection how charges are applied for different categories of connection; and
 - c. is in accordance with connection charging methodology.
10. The licensee shall not show any undue preference towards, or undue discrimination against, any person who operates, or proposes to operate, a pipe-line system in relation to the connection of that system to the licensee's pipe-line system.
11. The licensee shall:
 - a. publish the statement under paragraph 9 in such manner as will secure adequate publicity for it; and
 - b. send a copy of any statement under paragraph 9 to any person who asks for one.
12. References in this condition to charges exclude references to supplemental charges within the meaning of standard condition 4C (Charging of Gas Shippers – Supplemental Connection Charges).
13. The licensee shall establish, and keep up to date, a register (or separate registers for different areas) of pipes which have vested in it and become its property by virtue of section 10(6) of the Act and fall within section 10(13)(b) but have not been declared relevant mains under section 10(13) thereof; and an entry in the register in respect of a particular pipe-
 - a. shall contain sufficient particulars to enable the pipe to be identified;
 - b. shall be made within 28 days of the pipe vesting in, and becoming the property of, the licensee; but
 - c. shall be deleted, as soon as is reasonably practicable, if the pipe in question is subsequently declared a relevant main under the said section 10(13).
14. The licensee shall make arrangements for a copy of the said register (or of the information contained therein) to be available for inspection, electronically, where possible at reasonable times, if it has area offices, at those offices or, if it has not, at its principal office; and, for the purposes hereof, "area office" means one which is fixed for an area for the purposes of section 46(3) of the Act.
15. In this condition, any reference to the making of a charge -
 - a. in relation to the supplying or laying of a pipe in pursuance of section 10(2)(a) of the Act, is a reference to requiring that the person requiring the connection defrays the whole or a part of the cost thereof;
 - b. in relation to the laying of a main used for the purpose of making a connection and in the circumstances mentioned in section 10(7) of the Act, is a reference to requiring, in pursuance of regulations under that provision, that the person requiring the connection pays an amount in respect of the expenses of the laying of the main; and

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- c. in the circumstances mentioned in subsection (10) of section 10 of the Act (read with any regulations under subsection (11) thereof), is a reference to requiring the person requiring a connection to be made or maintained in pursuance of subsection (2) or (3) of the said section 10 to make such payments as are mentioned in the said subsection (10), and cognate expressions shall be construed accordingly.

Standard Special Condition A4. Charging – General [*Note potential deletion at paragraph 8(b)*]

1. The licensee shall furnish the Authority with a statement of -
 - a. the charges to be made in pursuance of transportation arrangements, other than those sold by way of auction pursuant to which the price payable for such transportation arrangements is determined, with specified descriptions of gas shippers [and/or DN operators as appropriate³] in different specified cases or descriptions of cases;
 - b. the reserve price, if any, to be applied in any auction in respect of transportation arrangements; and
 - c. the methods by which, and the principles on which, those charges or reserve prices are determined in accordance with the methodology referred to in paragraph 5;

and, without prejudice to paragraph 2, if any change is made in the charges to be so made, or in the reserve prices to be applied, or in the methods by which, or the principles on which, those charges or reserve prices are to be so determined, the licensee shall, before the change takes effect or, if that is not reasonably practicable, as soon as is reasonably practicable thereafter, furnish the Authority with a revision of the statement or, if the Authority so accepts, with amendments to the previous statement, which reflect the change.
2. The licensee shall –
 - a. use its reasonable endeavours:
 - (i) [not to make any changes to the charges or reserve prices mentioned in paragraph 1 more frequently than twice in each formula year and for such changes to take place on 1 April and/or 1 October in each formula year or at such other time as the Authority may by notice in writing direct; and
 - (ii) not to make any changes to charges or reserve prices in relation to NTS exit capacity (including NTS exit flat capacity and NTS exit flow flexibility) more frequently than once in each formula year and for such changes to take place on 1 October in each formula year or at such other time as the Authority may by notice in writing direct;
 - b. subject to sub-paragraph (a) above, if the licensee makes changes to the charges or reserve prices mentioned in paragraph 1 on dates other than those specified in sub-paragraphs (a) (i) and (a) (ii), inform the Authority in writing as soon as is reasonably practicable after the decision is made to make such a change to charges, and, in any event, not later than three months after the charge change has been implemented:
 - (i) stating the reasons for this change; and

³ Inserted by Special Condition C7

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- (ii) clearly identifying whether any of the information provided as part of the statement of reasons for the change is of a confidential nature;^{4]}
 - c. comply with the joint governance arrangements (as defined in Standard Special Condition A12 (Joint Office Governance Arrangements)) to the extent that such arrangements relate to the administration of any changes referred to in sub-paragraph (a), if applicable, whether made by the licensee and/or any other relevant gas transporter;
 - d. give the Authority notice of any proposals which it is considering, to change the charges or reserve prices mentioned in paragraph 1, together with a reasonable estimate of the effect of the proposals (if implemented) on those charges or auctions for which the reserve prices are to be applied, and shall use all reasonable endeavours to do so at least 150 days before the proposed date of their implementation; and
 - e. where the licensee has decided to implement any proposals to change the charges or reserve prices mentioned in paragraph 1, give the Authority notice of this decision and the date on which the proposals will be implemented which shall not, unless the Authority otherwise consents, be less than a month after that on which the notice required by this sub-paragraph was given.
- 2A In relation to any information provided under sub-paragraph (b) of paragraph 2, if applicable, the Authority:
- (i) may, if it considers that the information provided is insufficient, request by notice in writing that this information be supplemented with such additional material as it considers appropriate; and
 - (ii) shall make public the information (other than any confidential information) supplied by the licensee in any statement made under sub-paragraph (b) of paragraph 2 and, if applicable, any supplementary information provided to the Authority following its receipt in response to a request under sub-paragraph (i).
3. The licensee shall -
- a. publish any statement, or revision or amendment of a statement, furnished, or notice given, under paragraph 1 or 2 in such manner as will, in its reasonable opinion, secure adequate publicity for it; and
 - b. send a copy of any such statement, revision, amendment or notice so published to any person who asks for one.
4. Except in a case in which the Authority accepts otherwise, the licensee shall only enter into transportation arrangements which either
- a. secure that the charges in pursuance thereof will be in conformity with the statement last published under paragraph 3 either -
 - (i) before it enters into the arrangements; or
 - (ii) before the charges in question from time to time fall to be made,

⁴ Inserted by Special Condition C7

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- and, for the purposes of this paragraph, the reference to the statement last published under paragraph 3 shall be construed, where that statement is subject to amendments so published before the relevant time, as a reference to that statement as so amended; or
- b. are subject to prices set in an auction process which include either –
 - (i) a reserve price in conformity with the statement last published under paragraph 3 before the auction took place; or
 - (ii) no reserve price.
5. Subject to paragraph 6, if applicable, the licensee shall -
- a. establish a methodology showing the methods by which, and the principles on which (except in a case in which the Authority accepts otherwise) such charges as are mentioned in paragraph 1(a) and such reserve prices as are mentioned in paragraph 1(b) are to be determined; and
 - b. conform to the methodology so established as from time to time modified in accordance with Standard Special Condition A5 (Obligations as Regard Charging Methodology).
6. [In any case in which the licensee is willing to enter into LNG storage arrangements -
- a. if the charges in pursuance of those arrangements are not governed by the methodology established under paragraph 5, the licensee shall avoid any undue preference or undue discrimination in the terms on which it enters into such arrangements; and
 - b. if either those charges or any charges made in pursuance of transportation arrangements other than LNG storage arrangements are not governed as aforesaid, the licensee shall ensure so far as is reasonably practicable, that no unjustified cross-subsidy is involved between the terms on which it enters into the LNG storage arrangements and those on which it enters into other transportation arrangements.⁵
7. Any question which arises under paragraph 6 as to whether a cross subsidy is unjustified, shall be determined by the Authority.⁶]
8. References in paragraphs 1 to 5 to charges do not include references to -
- a. charges related to the acquisition or disposal of gas for purposes connected with the balancing of the pipe-line system to which this licence relates; or
 - b. [the extent (if any) to which the Authority has accepted that they should, as respects certain matters, be so determined, to charges determined by reference to provisions in that behalf set out in the network code,]
- and, subject as aforesaid, references in this condition and in Standard Special Condition A5 (Obligations as Regard Charging Methodology) and standard condition 4B (Connection Charges etc) to charges include references to the means whereby charges may be ascertained.

⁵ Inserted by Special Condition C1

⁶ Inserted by Special Condition C1

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9. [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 shall also include LNG storage arrangements.]⁷
 10. 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 the Authority’s view on that question, considers it appropriate that this condition should be modified by the omission of paragraph 9, then the paragraph shall be omitted with effect from a date specified in a notice published by the Authority for that purpose and the reference thereto in the definition of “transportation arrangements” in Standard Special Condition A3 (Definitions and Interpretation) shall cease to have effect]⁸.
 11. In this condition:

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|--------------------------------------|--|
| “transportation arrangements” | subject to any amendments made by paragraph 9 hereof, ⁹] shall have the meaning given in Standard Special Condition A3 (Definitions and Interpretation) save that references therein to the term “pipe-line system” shall be amended so as to refer to “pipe-line system or any part thereof”. |
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⁷ Inserted by Special Condition C1

⁸ Inserted by Special Condition C1

⁹ Inserted by Special Condition C1

Standard Special Condition A5. Obligations as Regard Charging Methodology

1. Except in so far as the Authority consents to the licensee not doing so, the licensee shall, subject to paragraphs 2, 2A and 3, and paragraph 10(aB) of Standard Special Condition A11 (Network Code and Uniform Network Code) from time to time make such modifications of the methodology established in pursuance of paragraph 5 of Standard Special Condition A4 (Charging – General) (“the charging methodology”) as may be requisite for the purpose of achieving the relevant methodology objectives.
2. Except in so far as the Authority otherwise approves, or in response to a determination by the Secretary of State under paragraph 2A of Standard Special Condition A27 (Disposal of Assets), the licensee shall not make a modification of the charging methodology unless it has complied with the requirements of the network code modification procedures as defined in Standard Special Condition A11 (Network Code and Uniform Network Code)~~†~~.
 - ~~a. — it has consulted relevant shippers and/or DN operators as appropriate¹⁰ on the proposed modification and allowed them a period of not less than 28 days within which to make written representations; and~~
 - ~~b. — it has furnished the Authority with a report setting out —~~
 - ~~(i) — the terms originally proposed for the modification;~~
 - ~~(ii) — the representation (if any) made by relevant shippers [and/or DN operators as appropriate¹¹]; and~~
 - ~~(iii) — any changes in the terms of the modification intended in consequence of such representations;~~

~~provided that, where the licensee has complied with the requirements of sub-paragraphs (a) and (b), it will not make any modification to the charging methodology where the Authority has, within 28 days (or within three months if the Authority intends to undertake an impact assessment) of the report being furnished to it under sub-paragraph (b) given a direction to the licensee that the modification shall not be made.~~
- 2A. The licensee shall –
 - a. for the purposes of ensuring that the charging methodology achieves the relevant methodology objectives, keep the charging methodology at all times under review;
 - b. [use its reasonable endeavours:
 - (i) not to make any changes to the charging methodology more frequently than twice in each formula year and for such changes to take place on 1 April and/or 1 October in each formula year or at such other time as the Authority may by notice in writing direct; and

¹⁰ Inserted by Special Condition C7

¹¹ Inserted by Special Condition C7

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- (ii) only to make changes to the charging methodology in relation to NTS exit capacity (including NTS exit flat capacity and NTS exit flow flexibility) on 1 October in each formula year or at such other time as the Authority may by notice in writing direct;¹² and]
 - c. comply with the joint governance arrangements (as defined in Standard Special Condition A12 (Joint Office Governance Arrangements)) to the extent that such arrangements relate to the administration of any changes referred to in sub-paragraph (b), if applicable, whether made by the licensee and/or any other relevant gas transporter.
 - 3. Subject to paragraph 4, the licensee shall in each formula year, by 31 December in that formula year, furnish the Authority with a report on the application of the charging methodology during the 12 months preceding 1st October in that year including a statement as to -
 - a. the extent to which, in the licensee's opinion, the relevant methodology objectives have been achieved during the period to which it relates;
 - b. whether those objectives could more closely be achieved by modification of the charging methodology; and
 - c. if so, the modifications which should be made for that purpose.
 - 4. As respects the formula year in which this licence came into force:
 - a. if it came into force on or after 1 October in that year, paragraph 3 shall not apply; or
 - b. if it came into force before that date, paragraph 3 shall have effect as if for the reference to the 12 months preceding that date there were substituted a reference to the period preceding that date beginning with the date on which the licence came into force.
 - 5. In paragraphs 1, [2A](#) and 3 the "relevant methodology objectives" means, subject to paragraph 6, the following objectives -
 - a. save in so far as paragraphs (aa) or (d) apply, that compliance with the charging methodology results in charges which reflect the costs incurred by the licensee in its transportation business;
 - aa. that, in so far as prices in respect of transportation arrangements are established by auction, either:
 - (i) no reserve price is applied, or
 - (ii) that reserve price is set at a level -
 - (I) best calculated to promote efficiency and avoid undue preference in the supply of transportation services; and
 - (II) best calculated to promote competition between gas suppliers and between gas shippers;

¹² Inserted by Special Condition C7

- b. that, so far as is consistent with sub-paragraph (a), the charging methodology properly takes account of developments in the transportation business;
 - c. that, so far as is consistent with sub-paragraphs (a) and (b), compliance with the charging methodology facilitates effective competition between gas shippers and between gas suppliers; and
 - d. that the charging methodology reflects any alternative arrangements put in place in accordance with a determination made by the Secretary of State under paragraph 2A(a) of Standard Special Condition A27 (Disposal of Assets).
 6. Where -
 - a. the charging methodology results in charges which, or the revenue derived from which, are, in the main, not controlled or limited in pursuance of any standard condition or Standard Special Condition of this licence other than Standard Special Condition A4 (Charging – General); and
 - b. the Authority has not accepted that, for a specified period, this paragraph should not apply or has so accepted subject to standard conditions or Standard Special Conditions which are not satisfied,

“the relevant methodology objectives” shall include the following objective, namely, that the charging methodology results in charges which, taking one charge with another and one year with another, permit the licensee to make a reasonable profit, and no more, from its transportation business so, however, that, for the purposes of this paragraph, there shall be disregarded -

 - (i) revenue derived from that business by way of charges (within the meaning of standard condition 4B (Connection Charges etc)) to which any provisions of that standard condition have effect and which are in respect of premises within an area for the time being so designated; and
 - (ii) any payments made by the licensee in connection with the proposed development of an area for the time being not so designated to a person who has an interest in land in that area, other than by way of reasonable consideration for an interest in land or for goods or services with which the licensee is provided.
 7. The licensee shall comply with any direction given from time to time by the Authority requiring the licensee -
 - a. subject to paragraphs 8 and 9 to publish such information as may be specified or described in the direction -
 - (i) as to any of the costs incurred by the licensee in its transportation business, or
 - (ii) relating to the charging methodology as modified from time to time in accordance with paragraph 1; and
 - b. to do so in such form and manner and with such frequency as may be so specified.

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8. The licensee shall not be required by paragraph 7 to publish any information or any document which it could not be compelled to give in evidence or produce in civil proceedings before the court.
9. In publishing any information in pursuance of paragraph 7 the licensee shall have regard to the need for excluding, so far as is practicable, any matter which relates to the affairs of any person where the publication of that matter would or might seriously and prejudicially affect his interests.
10. Any question arising under paragraph 9, as to whether the publication of some matter which relate to the affairs of a person would or might seriously and prejudicially affect his interests, shall be determined by the Authority.
11. In this condition:

["transportation business" shall have the meaning given in Standard Special Condition A3 (Definitions and Interpretation) but for the purposes of this conditions shall also include the LNG Storage Business.^{13]}

["supply of transportation services" shall have the meaning given in Standard Special Condition A3 (Definitions and Interpretation) save that references therein to "transportation system" shall be construed as meaning the facilities to which this licence relates which are used by the licensee for the conveyance of gas within Great Britain or any part thereof; and]¹⁴

~~**["as appropriate"** means, in the context of consulting DN operators pursuant to sub-paragraphs (a) and (b) of paragraph 2, that DN operators shall be consulted if a modification to the charging methodology in relation to NTS exit flat capacity and/or NTS exit flow flexibility is proposed by the licensee.^{15]}~~

"transportation arrangements" shall have the meaning given in Standard Special Condition A3 (Definitions and Interpretation) save that references therein to the term "pipe-line system" shall be amended

¹³ Inserted by Special Condition C1

¹⁴ Inserted by Special Condition C7

¹⁵ Inserted by Special Condition C7

so as to refer to "pipe-line system or any part thereof".

12. [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 the definition of "transportation business" from paragraph 11, then the definition shall be omitted with effect from a date specified in a notice published by the Authority for that purpose and the definition of "transportation business" in Standard Special Condition A3 (Definitions and Interpretation) shall apply to this condition save that the reference to this condition in the definition of "transportation business" in Standard Special Condition A3 (Definitions and Interpretation) shall cease to have effect.]¹⁶

¹⁶ Inserted by Special Condition C1

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 which, in respect of matters other than those to which ~~Standard Special Conditions A4 (Charging – General) and A5 (Obligations as Regard Charging Methodology)~~ the UNC charging methodologies 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-
 - (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. ~~Not used. 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 [\[including procedures required by paragraphs 15A to 15C\]](#), 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 \[as specified in the uniform network code and the joint governance arrangements established in accordance with Special Standard Condition A12 \(Joint Office Governance Arrangements\)\] \(the "code administrator"\) and setting out the code administrator's \[powers,\] duties and functions, which shall:](#)
 - [\(i\) include a requirement that the code administrator will maintain, publish, review and \(where appropriate\) amend from time to time the Code of Practice approved by the Authority and any amendments to the Code of Practice are to be approved by the Authority;](#)

- (ii) include facilitating the procedures established in accordance with paragraph 7; and
 - (iii) have regard to and, in particular, [accord/be consistent] with the principles contained in, the Code of Practice;
- d. the arrangements establishing a panel body, as specified in the uniform network code, (the “panel”) whose functions shall include [the matters required by this Condition] and whose composition shall include:
 - (i) an independent chairperson approved by the Authority; and
 - (ii) a consumer representative (appointed by the National Consumer Council[, or any successor body]) [and, any other consumer representative as may be appointed by the Authority],

[each of whom shall have a vote as specified in the uniform network code]; and
- e. the UNC charging methodologies.

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. [without prejudice to paragraphs 15A and 15B] 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;

aA. the provision by the code administrator of assistance, insofar as is reasonably practicable, on request to parties (including, in particular, small participants and consumer representatives) that request the code administrator's assistance in relation to the uniform network code including, but not limited to, assistance with:

 - (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 (including but not limited to panel, development work group, or review group meetings) as required by this condition, specified in the uniform network code, or described in the Code of Practice; and
 - (iv) accessing information relating to modification proposals and/or modifications;
- aB. in relation to proposals to modify the UNC charging methodologies, compliance (as applicable) with:
 - (i) paragraphs 7 and 8 of Standard Condition 4B (Connection Charging Methodology); and
 - (ii) paragraph[s] 2 [and 3] of Standard Special Condition A4 (Charging - General);
- aC. for
 - (i) the regular convening of the charging methodology forum for the purposes of discussing further development of the UNC charging methodologies; and
 - (ii) for the provision of information by the licensee in accordance with paragraphs 8, 11, 14 of Standard Condition 4b (Connection charging methodology) and paragraphs 3 of Standard Special Condition A4 (Charging - general); and
 - (iii) [insofar as reasonably practicable, the provision by the licensee of such other information or assistance as [a/an] [materially] affected party may reasonably request for the purposes of preparing a proposal to modify a UNC charging methodology];
- b.
 - (i) the making of proposals for the modification of the uniform network code in accordance with paragraphs 10(a), 10(aA), 10(aB), and 15D 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;
- bA. compliance with paragraphs 15A and 15B:
- 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, small participants and consumer representatives, and sending a copy of the proposal to any person who asks for one;
- dA. [proper] evaluation of the suitability of the self-governance route for a particular modification proposal:

- e. [except in respect of proposals falling within the scope of paragraph 15D.] the seeking of the views of the Authority on any matter connected with any such proposal;
 - 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; 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;
 - h. [for each of the procedural steps outlined in this paragraph 9 to [accord/be consistent with] [the principles contained in] the Code of Practice.]
10. In respect of the uniform network code:
- a. subject to paragraphs 15A and 15B, a modification proposal [which does not relate to a UNC charging methodology 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 code modification procedures as being entitled to propose a modification; ~~and~~
 - aA. a modification proposal shall be made (and not withdrawn without the Authority's prior consent) by the licensee in accordance with a direction issued by the Authority pursuant to paragraph 15C (the **"significant code review route"**): and
 - aB. [a modification proposal relating to a UNC charging methodology may only be made by the licensee and/or [a/an] [materially] affected party [in accordance with the provisions of the uniform network code] **OR** [during the [charging methodology window], unless otherwise permitted by the Authority:]
 - b. where a modification proposal has been made under paragraphs 10(a), 10(aA) or (aB) 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 [provided that:

(i) the alternative proposal is made during the [workgroup stage] of the consultation (as described in the Code of Practice and as further specified in the uniform network code); and

(ii) unless an extension of time has been approved by the Authority, such [workgroup stage] shall last for a maximum period (to be specified in the uniform network code) from the date on which the original modification was proposed.]

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 paragraphs 15(b) or 16; ~~or~~
 - b. with the written consent of the Authority; or
 - c. in accordance with paragraph 15D (the "self-governance route").

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 [unless, in the case of a proposal falling within the scope of paragraph 15D, otherwise directed by the Authority]:

- a. as soon as is reasonably practicable [in accordance with the time periods specified in the uniform network code, which shall not be extended without the Authority's prior approval], 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 [or, in the case of a proposal falling within the scope of paragraph 15D, a determination] ~~(on the part of such person or body as may be provided for in the network code modification procedures)~~ by the panel as to whether any proposed modification should or should not be made, and the factors which (in the opinion of the panel ~~such person or body~~) justify the

- making or not making of a proposed modification, which shall include:
- (aa) a detailed explanation of whether and, if so how, the proposed modification would better facilitate the achievement of the relevant objectives; and
 - (bb) where the impact is likely to be material, the evaluation of the proposed modification in respect of the relevant objectives shall include an assessment of the [quantifiable] impact of the proposed modification on greenhouse gas emissions, to be conducted in accordance with any such guidance (on the [treatment of carbon costs and] evaluation of greenhouse gas emissions) as may be issued by the Authority from time to time); and
 - (v) giving such further information as may be required to be given to the Authority by the network code modification procedures; and
- b. [without prejudice to paragraph 15D] 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 (including drafting or amending existing drafting of the amendment to the uniform network code), revisions (including timetable revisions), analysis or additional information specified in the direction to enable the Authority to form such an opinion in accordance with paragraph 15(b)(i) as soon after the Authority's direction as is appropriate (taking into account the complexity, importance and urgency of the modification.

Significant code reviews

15A. Proposals for modification of the uniform network code falling within the scope of a significant code review may not be made by the parties listed in paragraph 10(a)(i-iv) during the [significant code review phase 1] period, except where:

- a. the Authority determines that the modification proposal may be made, having taken into account (among other things) the urgency of the subject matter of the proposal; or
- b. the modification proposal is made by the licensee in accordance with paragraphs 10(aA) and 15C.

15B. Where a modification proposal is made during the [significant code review phase 1] period, [unless otherwise exempted by the Authority,] the panel shall:

- a. bring the proposal to the attention of the relevant gas transporters, relevant shippers, and such other persons as may have an [appropriate] interest in it (including small participants and consumer representatives);
- b. properly consider any representations made by the parties listed in subparagraph (a) above as to whether it falls within the scope of a significant code review;
- c. [properly] consider any representations made by the parties listed in subparagraph (a) above as to the applicability or otherwise of the exceptions under paragraphs 15A(a) or (b);
- d. prepare and submit to the Authority a report setting out:
 - (i) the proposal;
 - (ii) any representations made under subparagraphs (b) and (c) above;
 - (iii) the panel's assessment of whether the proposal falls within the scope of a significant code review and the applicability of the exceptions under paragraphs 15A(a) or (b), and its reasons for that assessment, and
- e. shall not accept a proposal into the modification procedures without the Authority's prior consent.

15C. Having conducted a significant code review, the Authority will publish its conclusions on that review and within [twenty-eight (28)] days of publishing those conclusions either:

- a. issue directions to the licensee [/relevant gas transporter(s)] containing:
 - (i) instructions to the licensee[/relevant gas transporter(s)] to make and not withdraw without the Authority's prior consent a modification proposal;
 - (ii) the timetable for the licensee[/relevant gas transporter(s)] to comply with the Authority's direction; and
 - (iii) the Authority's reasons for its direction; or

- b. state that no direction(s) under sub-paragraph (a) will be issued in relation to the uniform network code.

The Authority's published conclusions and directions to the licensee[/relevant gas transporter(s)], shall not fetter the voting rights of the members of the panel or the procedures informing the recommendation described at paragraph 15(a)(iv).]

Self-governance

15D. Modification proposals shall only be implemented without the Authority's approval pursuant to this paragraph 15D where:

- a. in the view of the panel the modification proposal meets all of the self-governance criteria; and
- b.
 - (i) the panel has submitted to the Authority in respect of the modification proposal, and not withdrawn, a self-governance statement; or
 - (ii) if a self-governance statement has not been made, or has been withdrawn, the Authority has determined that the requirements of paragraph 15D(a) are satisfied and the modification proposal is suitable for the self-governance route; and
- c. the panel has, no earlier than the expiry of the self-governance notice period, determined that the modification should be implemented on the basis that it would, as compared with the then existing provisions of the uniform network code [and any other modifications proposed in accordance with paragraph 10(b)], better facilitate the achievement of the relevant objective(s); and
- d. there is no outstanding appeal made in respect of such modification proposal in accordance with paragraph 15E; and
- e. the Authority has not directed that its approval is required either:
 - i. prior to the expiry of the self-governance notice period; or
 - ii. following an appeal in accordance with paragraph 15E.

15E. [Parties to the uniform network code / relevant gas transporters, gas shippers and/or DN operators] may appeal to the Authority the approval or rejection by the panel of a modification proposal falling under the self-governance

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- route, provided the appeal has been made in accordance with the procedures specified in the uniform network code and, in the opinion of the Authority:
- a. the appealing party [is, or is likely to be, unfairly prejudiced] by the implementation or non-implementation of that modification proposal:
 - b. the appeal is on the grounds that:
 - (i) in the case of implementation, the modification proposal does not better facilitate the achievement of at least one of the relevant objectives; or
 - (ii) in the case of non-implementation, the modification proposal does better facilitate the achievement of at least one of the relevant objectives; and
 - c. it is not brought for reasons that are trivial, vexatious or have no reasonable prospect of success.
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

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

[20A Without prejudice to any rights of approval, veto or direction which the Authority may have, the licensee:

- a. shall take all reasonable measures to secure and implement (consistently with the applicable procedures) changes to [industry codes] to which it is a party (or in relation to which it holds rights of amendment); and
 - b. shall not take steps to prevent or unduly delay changes to industry codes 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 uniform network code [, including, but not limited to, changes that are appropriate in order to avoid conflict or inconsistency as between the uniform network code and any industry code].]
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

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- “transportation arrangements” in Standard Special Condition A3 (Definitions and Interpretation) shall cease to have effect.¹⁷
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 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:
- financial resources,
 - skilled and experienced personnel, and
 - 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 person recognised by the Financial Services Authority under the Financial Services and Markets Act 2000 as an investment exchange; or
 - 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.¹⁸
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.

¹⁷ Inserted by Special Condition C1 – in respect of NTS licence only.

¹⁸ Inserted by Special Condition C6 – in respect of NTS licence only.

23A Without prejudice to any rights of approval, veto or direction the Authority may have, the licensee shall ensure that procedures are in place that facilitate its compliance with the requirements of this condition, and shall create or modify industry documents including, but not limited to, the uniform network code and industry codes where necessary no later than [1 November 2010].

24. a. In this condition:

"affected party" means, for the purposes of paragraphs 9(aC)(iii) and 10(aB) of this condition, [relevant shippers and/or DN operators as appropriate] and any person or class of persons designated by the Authority for that purpose;

"charging methodology forum" means the forum (and related arrangements) established in the manner specified in the uniform network code to facilitate meetings between the licensee, other relevant gas transporters, and any other persons whose interests are materially affected by the applicable charging methodologies [for the purpose of discussing the further development of the applicable charging methodologies], as shall be specified in the uniform network code;

["charging methodology window" means an annual period [as specified in the uniform network code] OR [of three calendar months] during which proposals to modify the charging methodologies may be made which:

[(i) commences [on a date determined by the licensee, having first obtained Authority's approval]; and

(ii) is published by the licensee [at least [six months] in advance of its start date];]

"Code of Practice" [means the Code Administration Code of Practice:

(a) developed and maintained by [the signatories to the Code of Practice, including but not limited to]:".

(i) [name of each code administrator to be inserted];

(ii) [name of each code administrator to be inserted];

(iii) [name of each code administrator to be inserted];

(b) approved by the Authority on [•]

(c) published by [•]: and

(d) subject to the Authority's approval, as may be amended and re-published from time to time];
(candidate for a global definition)

"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;

"industry code" means a multilateral code or agreement created and maintained pursuant to a licence granted by the Authority under section 6 of the Electricity Act 1989 or under sections 7, 7ZA or 7A the Act;

"network code modification

procedures" means the modification procedures referred to in paragraph 7 of this condition;

"relevant objectives" means:

(i) in respect of transportation arrangements pursuant to paragraphs 3 and 6 of this condition, in respect of matters other than those to which the charging methodologies relate, the objectives set out at paragraph 1 of this condition;

(ii) in respect of the UNC charging methodologies, only

(aa) in relation to a connection charging methodology regulated by Standard Condition 4B, the "relevant objectives" listed in paragraph 5 of that condition;

(bb) in relation to the charging methodology regulated by Standard Special Condition A5 the "relevant methodology objectives" listed in paragraph 5 of that condition,

as applicable; and

(iii) in relation to a proposed modification of the network code modification procedures only, the objectives set out in paragraph 9 of this condition (to the extent that those requirements do not conflict with the objectives set out in paragraph 1),

as applicable:

"self-governance criteria" means the proposal, if implemented it is

- (i) [likely to have a non-material/unlikely to have a material] effect on:
 - (aa) existing or future [gas] consumers;
 - (bb) competition [in the shipping, transportation or supply of gas conveyed through pipes or any commercial activities connected with the shipping, transportation or supply of gas conveyed through pipes];
 - (cc) the operation of [one or more pipe-line system(s)];
 - (dd) matters relating to sustainable development, safety or security of supply, or the management of market or network emergencies; and
 - (ee) the uniform network code governance procedures or the network code modification procedures; and
- (ii) is unlikely to discriminate between different classes of [parties to uniform network code / relevant gas transporters, gas shippers or DN operators];

"self-governance notice period" means a period:

- (i) of [twenty-eight (28)] days following the Authority's receipt of the self-governance statement; or
- (ii) if earlier, expiring on the date on which the Authority has given written notice to the panel that the modification proposal is suitable for the self-governance route;

"self-governance statement" means

- the statement made by the panel and submitted to the Authority in accordance with paragraph 15D(b)(i);
- (i) confirming that, in its opinion, the self-governance criteria are met and the modification is suitable for the self-governance route;
- (ii) providing a detailed explanation of the panel's reasons for that opinion; and

(iii) setting out any representations made regarding the suitability of the self-governance route (in accordance with paragraph 9(dA and f):

"significant code review" means

a review of one or more [policy] matters which the Authority considers are likely to:

- (i) relate to the uniform network code (either on its own or in conjunction with other industry codes); and
- (ii) be of [particular/major] significance in relation to its principal objective and/or general duties (under section 4AA of the Act), statutory functions and/or obligations arising under EU law; and concerning which
- (iii) the Authority has issued a notice to the parties listed in paragraph 10(a)(i-iv) (among others, as appropriate) stating:
 - that the review will constitute a significant code review;
 - the start date of the significant code review; and
 - the matters that will fall within the scope of the review;

["significant code review phase 1"] means

the period commencing on the start date of a significant code review as stated by the Authority, and ending on either:

- (i) the date on which the Authority issues a statement under paragraph 15C(b) [(that no directions under paragraph 15C(a) will be issued in relation to the uniform network code)], or
- (ii) if no statement is made under paragraph 15B(b), the date on which the licensee [/relevant gas transporter] has made a modification proposal in accordance with paragraphs 10 (aA) and 15C(a);

"small participant" means

- (i) a shipper, a supplier, or new entrant to the gas market in Great Britain that can demonstrate to the code administrator that it is resource-

constrained and, therefore, is in particular need of assistance;

(ii) any other participant or class of participant that the code administrator considers to be in particular need of assistance; and

(iii) a participant or class of participant that the Authority has notified the code administrator as being in particular need of assistance;

"UNC charging methodologies" means:

(i) in respect of the NTS operator only, the connection charging methodology regulated by Standard Condition 4B (Connection Charging Methodology);

(ii) in respect of the NTS operator and DN operator(s), the charging methodologies regulated by:

(aa) Standard Special Condition A4 (Charging – General); and

(bb) Standard Special Condition A5 (Obligations As Regards Charging Methodology).

b. 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.

Standard special condition A12: Joint Office Governance Arrangements

1. The licensee shall:
 - (a) together with all other relevant gas transporters, establish, develop and operate (or otherwise procure the operation of) arrangements ("joint governance arrangements") for:
 - (i) the administration of the network code modification procedures (as defined in paragraph 7 and further defined in paragraph 9 of Special Standard Condition A11 (Network Code and Uniform Network Code));
 - (ii) giving effect to the provisions of Standard Special Condition A11 (Network Code and Uniform Network Code), Standard Special Condition A4 (Charging – General) and Standard Special Condition A5 (Obligations as Regard Charging Methodology) relating to the administering of the coordination of the modification of the licensee's and the other relevant gas transporters' respective charges or reserve prices or charging methodologies (as the case may be);
 - (iii) the administration of such matters as are provided for in the uniform network code to be implemented by the relevant gas transporters on a common, joint or coordinated basis, consistent with the provisions of Standard Special Condition A15 (Agency);
 - (iv) so far as is consistent with sub-paragraphs (i) to (iii), the promotion of efficiency in the implementation and administration of the network code and/or uniform network code; and
 - (v) such other matters as they may decide, subject to their licence and statutory obligations;
 - (b) by the date at which this condition becomes effective (unless the Authority consents otherwise in writing), have entered into an agreement ("JGA agreement") with the other relevant gas transporters, providing for the establishment and operation of the joint governance arrangements;
 - (c) provide or cause to be provided to the Authority a copy of the JGA agreement and each amendment thereof; and
 - (d) publish, or cause to be published, a copy of the JGA agreement as modified from time to time, with the exception of information agreed in writing as being confidential by the Authority.
2. The joint governance arrangements shall, without limitation, be such as are calculated, consistent with the efficient discharge of each relevant gas transporter's obligations under the Act and its respective licence:
 - (a) to ensure compliance with the network code modification procedures;

- (b) so far as consistent with sub-paragraph (a), to promote efficiency in the administration of the network code modification procedures and the other matters subject to the JGA agreement; and
 - (c) to avoid undue discrimination or preference as between the relevant gas transporters.
3. The licensee shall submit, or cause to be submitted, any proposed amendment to the JGA agreement to the Authority and shall not make or permit any amendment to the JGA agreement until the expiry of 90 days from the date on which the Authority receives the proposed amendment unless prior to such date the Authority either:
 - (a) consents in writing to the licensee making or permitting the amendment on an earlier date, or
 - (b) directs the licensee in writing not to make or permit the amendment.
4.
 - (a) In relation to Standard Special Condition A11 (Network Code and Uniform Network Code) of this licence, the licensee shall comply directly or shall procure compliance by means of the joint governance arrangements, with the requirements in:
 - (i) paragraph 6 of Standard Special Condition A11 (Network Code and Uniform Network Code) to furnish to the Authority a copy of the uniform network code,
 - (ii) paragraph 13 of Standard Special Condition A11 (Network Code and Uniform Network Code) to furnish to the Authority a copy of any modification made,
 - (iii) paragraphs [10\(aA\) and 14](#) of Standard Special Condition A11 (Network Code and Uniform Network Code) to propose a modification,
 - (iv) paragraph 15(a) of Standard Special Condition A11 (Network Code and Uniform Network Code) to give notice to the Authority ~~and paragraph 15(b)(i) to furnish to the Authority a revised notice.~~
 - (v) paragraph 15(b) of Standard Special Condition A11 (Network Code and Uniform Network Code) to comply with a direction to make a modification
 - [\(vA\) paragraph 15D\(b\)\(i\) of Standard Special Condition A11 \(Network Code and Uniform Network Code\) to furnish to the Authority a self-governance statement;](#)
 - (vi) paragraph 16 of Standard Special Condition A11 (Network Code and Uniform Network Code) to make a modification; and
 - (vii) paragraph 17 of Standard Special Condition A11 (Network Code and Uniform Network Code) to prepare and publish a summary,

to send a copy, and to provide a copy on a freely available web-site.

(b) Where a licensee has, directly or indirectly by means of the joint governance arrangements, provided the information or taken the action specified in subparagraphs 4(a) (i) to 4(a) (vii) inclusive, it shall have, without prejudice to any other obligations it may have, been deemed to have complied with the requirement to have provided the information or to have taken the action specified.

Chapter 3

DN Gas Transporter Licence

Standard special condition A4: Charging – General [*Note potential deletion at paragraph 8(b)*]

1. The licensee shall [, for each Distribution Network (as defined in Special Condition E1 (Revenue Restriction Definitions in respect of the Distribution Network)), where applicable,¹⁹] furnish the Authority with a statement of –

- (a) the charges to be made in pursuance of transportation arrangements, other than those sold by way of auction pursuant to which the price payable for such transportation arrangements is determined, with specified descriptions of gas shippers in different specified cases or descriptions of cases;
- (b) the reserve price, if any, to be applied in any auction in respect of transportation arrangements; and
- (c) the methods by which, and the principles on which, those charges or reserve prices are determined in accordance with the methodology referred to in paragraph 5;

and, without prejudice to paragraph 2, if any change is made in the charges to be so made, or in the reserve prices to be applied, or in the methods by which, or the principles on which, those charges or reserve prices are to be so determined, the licensee shall, before the change takes effect or, if that is not reasonably practicable, as soon as is reasonably practicable thereafter, furnish the Authority with a revision of the statement or, if the Authority so accepts, with amendments to the previous statement, which reflect the change.

2. The licensee shall –

- (a) [use its reasonable endeavours not to make any changes to the charges or reserve prices mentioned in paragraph 1 more frequently than once in each formula year such that before 31 March 2009 any changes shall take place on 1 October in each formula year and after 31 March 2009 any such change shall take place on 1 April in each formula year or in either case, at such other time as the Authority may by notice in writing direct;²⁰]
- (b) [subject to sub-paragraph (a) above, if the licensee makes changes to the charges or reserve prices mentioned in paragraph 1 on a date other

¹⁹ Inserted by Standard Special Condition D11

²⁰ Inserted by Standard Special Condition D11

than that specified in sub-paragraph (a), inform the Authority in writing as soon as is reasonably practicable after the decision is made to make such a change to charges, and, in any event, not later than three months after the charge change has been implemented:

(i) stating the reasons for this change; and

(ii) clearly identifying whether any of the information provided as part of the statement of reasons for the change is of a confidential nature;^{21]}

(c) comply with the joint governance arrangements (as defined in Standard Special Condition A12 (Joint Office Governance Arrangements)) to the extent that such arrangements relate to the administration of any changes referred to in sub-paragraph (a), if applicable, whether made by the licensee and/or any other relevant gas transporter;

(d) give the Authority notice of any proposals which it is considering, to change the charges or reserve prices mentioned in paragraph 1, together with a reasonable estimate of the effect of the proposals (if implemented) on those charges or auctions for which the reserve prices are to be applied, and shall use all reasonable endeavours to do so at least 150 days before the proposed date of their implementation; and

(e) where the licensee has decided to implement any proposals to change the charges or reserve prices mentioned in paragraph 1, give the Authority notice of this decision and the date on which the proposals will be implemented which shall not, unless the Authority otherwise consents, be less than a month after that on which the notice required by this sub-paragraph was given.

2A. In relation to any information provided under sub-paragraph (b) of paragraph 2, if applicable, the Authority:

(i) may, if it considers that the information provided is insufficient, request by notice in writing that this information be supplemented with such additional material as it considers appropriate; and

(ii) shall make public the information (other than any confidential information) supplied by the licensee in any statement made under sub-paragraph (b) of paragraph 2 and, if applicable, any supplementary information provided to the Authority following its receipt in response to a request under sub-paragraph (i).

²¹ Inserted by Standard Special Condition D11

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3. The licensee shall –
 - (a) publish any statement, or revision or amendment of a statement, furnished, or notice given, under paragraph 1 or 2 in such manner as will, in its reasonable opinion, secure adequate publicity for it; and
 - (b) send a copy of any such statement, revision, amendment or notice so published to any person who asks for one.
 4. Except in a case in which the Authority accepts otherwise, the licensee shall only enter into transportation arrangements which either
 - (a) secure that the charges in pursuance thereof will be in conformity with the statement last published under paragraph 3 either –
 - (i) before it enters into the arrangements; or
 - (ii) before the charges in question from time to time fall to be made,and, for the purposes of this paragraph, the reference to the statement last published under paragraph 3 shall be construed, where that statement is subject to amendments so published before the relevant time, as a reference to that statement as so amended; or
 - (b) are subject to prices set in an auction process which include either –
 - (i) a reserve price in conformity with the statement last published under paragraph 3 before the auction took place; or
 - (ii) no reserve price.
 5. Subject to paragraph 6, if applicable, the licensee shall –
 - (a) establish a methodology showing the methods by which, and the principles on which (except in a case in which the Authority accepts otherwise) such charges as are mentioned in paragraph 1(a) and such reserve prices as are mentioned in paragraph 1(b) are to be determined; and
 - (b) conform to the methodology so established as from time to time modified in accordance with Standard Special Condition A5 (Obligations as Regard Charging Methodology).
 6. NOT USED
 7. NOT USED

8. References in paragraphs 1 to 5 to charges do not include references to –

(a) charges related to the acquisition or disposal of gas for purposes connected with the balancing of the pipe-line system to which this licence relates; or

(b) the extent (if any) to which the Authority has accepted that they should, as respects certain matters, be so determined, to charges determined by reference to provisions in that behalf set out in the network code, the

and, subject as aforesaid, references in this condition and in Standard Special Condition A5 (Obligations as Regard Charging Methodology) and standard condition 4B (Connection Charges etc) to charges include references to the means whereby charges may be ascertained.

9. NOT USED

10. NOT USED

11. In this condition:

“transportation arrangements”

shall have the meaning given in Standard Special Condition A3 (Definitions and Interpretation) save that references therein to the term “pipe-line system” shall be amended so as to refer to “pipeline system or any part thereof”.

Standard Special Condition A5. Obligations as Regard Charging Methodology

1. Except in so far as the Authority consents to the licensee not doing so, the licensee shall, [for each Distribution Network (as defined in Special Condition E1 (Revenue Restriction Definitions in respect of the Distribution Network)), where applicable,²²] subject to paragraphs 2, 2A and 3, and paragraph 10(aB) of Standard Special Condition A11 (Network Code and Uniform Network Code) from time to time make such modifications of the methodology established in pursuance of paragraph 5 of Standard Special Condition A4 (Charging – General) (“**the charging methodology**”) as may be requisite for the purpose of achieving the relevant methodology objectives.

~~2. Except in so far as the Authority otherwise approves, or in response to a determination by the Secretary of State under paragraph 2A of Standard Special Condition A27 (Disposal of Assets), the licensee shall not make a modification of the charging methodology unless it has complied with the requirements of the network code modification procedures as defined in Standard Special Condition A11 (Network Code and Uniform Network Code). –~~

~~(a) it has consulted relevant shippers on the proposed modification and allowed them a period of not less than 28 days within which to make written representations; and~~

~~(b) it has furnished the Authority with a report setting out –~~

~~(i) the terms originally proposed for the modification;~~

~~(ii) the representation (if any) made by relevant shippers; and~~

~~(iii) any changes in the terms of the modification intended in consequence of such representations;~~

~~provided that, where the licensee has complied with the requirements of subparagraphs (a) and (b), it will not make any modification to the charging methodology where the Authority has, within 28 days (or within three months if the Authority intends to undertake an impact assessment) of the report being furnished to it under subparagraph (b) given a direction to the licensee that the modification shall not be made.~~

2A. The licensee shall –

²² Inserted by Standard Special Condition D11

- (a) for the purposes of ensuring that the charging methodology achieves the relevant methodology objectives, keep the charging methodology at all times under review;
 - (b) [use its reasonable endeavours not to make any changes to the charging methodology more frequently than once in each formula year such that before 31 March 2009 any changes shall take place on 1 October in each formula year and after 31 March 2009 any such change shall take place on 1 April in each formula year or in either case at such other time as the Authority may by notice in writing direct;²³] and
 - (c) comply with the joint governance arrangements (as defined in Standard Special Condition A12 (Joint Office Governance Arrangements)) to the extent that such arrangements relate to the administration of any changes referred to in sub-paragraph (b), if applicable, whether made by the licensee and/or any other relevant gas transporter.
3. Subject to paragraph 4, the licensee shall in each formula year, by 31 December in that formula year, furnish the Authority with a report on the application of the charging methodology during the 12 months preceding 1st October in that year including a statement as to –
 - (a) the extent to which, in the licensee's opinion, the relevant methodology objectives have been achieved during the period to which it relates;
 - (b) whether those objectives could more closely be achieved by modification of the charging methodology; and
 - (c) if so, the modifications which should be made for that purpose.
4. As respects the formula year in which this licence came into force:
 - (a) if it came into force on or after 1 October in that year, paragraph 3 shall not apply; or
 - (b) if it came into force before that date, paragraph 3 shall have effect as if for the reference to the 12 months preceding that date there were substituted a reference to the period preceding that date beginning with the date on which the licence came into force.
5. In paragraphs 1, [2A](#) and 3 the “**relevant methodology objectives**” means, subject to paragraph 6, the following objectives –

²³ Inserted by Standard Special Condition D11

- (a) save in so far as paragraphs (aa) or (d) apply, that compliance with the charging methodology results in charges which reflect the costs incurred by the licensee in its transportation business;
- (aa) that, in so far as prices in respect of transportation arrangements are established by auction, either:
 - (i) no reserve price is applied, or
 - (ii) that reserve price is set at a level –
 - (I) best calculated to promote efficiency and avoid undue preference in the supply of transportation services; and
 - (II) best calculated to promote competition between gas suppliers and between gas shippers;
- (b) that, so far as is consistent with sub-paragraph (a), the charging methodology properly takes account of developments in the transportation business;
- (c) that, so far as is consistent with sub-paragraphs (a) and (b), compliance with the charging methodology facilitates effective competition between gas shippers and between gas suppliers; and
- (d) that the charging methodology reflects any alternative arrangements put in place in accordance with a determination made by the Secretary of State under paragraph 2A(a) of Standard Special Condition A27 (Disposal of Assets).

6. Where –

- (a) the charging methodology results in charges which, or the revenue derived from which, are, in the main, not controlled or limited in pursuance of any standard condition or Standard Special Condition of this licence other than Standard Special Condition A4 (Charging – General); and
- (b) the Authority has not accepted that, for a specified period, this paragraph should not apply or has so accepted subject to standard conditions or Standard Special Conditions which are not satisfied,

“the relevant methodology objectives” shall include the following objective, namely, that the charging methodology results in charges which, taking one charge with another and one year with another, permit the licensee to make a reasonable profit, and no more, from its transportation business so, however, that, for the purposes of this paragraph, there shall be disregarded –

-
- (i) revenue derived from that business by way of charges (within the meaning of standard condition 4B (Connection Charges etc)) to which any provisions of that standard condition have effect and which are in respect of premises within an area for the time being so designated; and
 - (ii) any payments made by the licensee in connection with the proposed development of an area for the time being not so designated to a person who has an interest in land in that area, other than by way of reasonable consideration for an interest in land or for goods or services with which the licensee is provided.
 - 7. The licensee shall comply with any direction given from time to time by the Authority requiring the licensee –
 - (a) subject to paragraphs 8 and 9 to publish such information as may be specified or described in the direction –
 - (i) as to any of the costs incurred by the licensee in its transportation business, or
 - (ii) relating to the charging methodology as modified from time to time in accordance with paragraph 1; and
 - (b) to do so in such form and manner and with such frequency as may be so specified.
 - 8. The licensee shall not be required by paragraph 7 to publish any information or any document which it could not be compelled to give in evidence or produce in civil proceedings before the court.
 - 9. In publishing any information in pursuance of paragraph 7 the licensee shall have regard to the need for excluding, so far as is practicable, any matter which relates to the affairs of any person where the publication of that matter would or might seriously and prejudicially affect his interests.
 - 10. Any question arising under paragraph 9, as to whether the publication of some matter which relate to the affairs of a person would or might seriously and prejudicially affect his interests, shall be determined by the Authority.
 - 11. In this condition:
- | | |
|---|---|
| <p>“supply of transportation services”</p> | <p>shall have the meaning given in Standard Special Condition A3 (Definitions and Interpretation)</p> |
|---|---|

| | |
|--------------------------------------|--|
| | <p>save that references therein to "transportation system" shall be construed as meaning the facilities to which this licence relates which are used by the licensee for the conveyance of gas within Great Britain or any part thereof; and</p> |
| "transportation arrangements" | <p>shall have the meaning given in Standard Special Condition A3 (Definitions and Interpretation) save that references therein to the term "pipe-line system" shall be amended so as to refer to "pipeline system or any part thereof".</p> |

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 which, in respect of matters other than those to which ~~Standard Special Conditions A4 (Charging — General) and A5 (Obligations as Regard Charging Methodology)~~ the UNC charging methodologies 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:
 - (iv) between relevant shippers;
 - (v) between relevant suppliers; and/or
 - (vi) 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-
 - (iii) over a year which would equal the aggregate annual demand for gas by those customers; and
 - (iv) 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-
- (iii) is given and published by the Authority for the purposes of this condition generally; and
 - (iv) 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. ~~Not used. 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~~1~~, 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 [\[including procedures required by paragraphs 15A to 15C\]](#), 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 \[as specified in the uniform network code and the joint governance arrangements established in accordance with Special Standard Condition A12 \(Joint Office Governance Arrangements\)\] \(the “code administrator”\) and setting out the code administrator’s \[powers,\] duties and functions, which shall:](#)
 - (i) [include a requirement that the code administrator will maintain, publish, review and \(where appropriate\) amend from time to time the Code of Practice approved by the Authority and any amendments to the Code of Practice are to be approved by the Authority;](#)
 - (ii) [include facilitating the procedures established in accordance with paragraph 7; and](#)
 - (iii) [have regard to and, in particular, \[accord/be consistent\] with the principles contained in, the Code of Practice;](#)
- d. [the arrangements establishing a panel body, as specified in the uniform network code, \(the “panel”\) whose functions shall include \[the matters required by this Condition\] and whose composition shall include:](#)
 - (i) [an independent chairperson approved by the Authority; and](#)
 - (ii) [a consumer representative \(appointed by the National Consumer Council\[, or any successor body\]\) \[and, any other consumer representative as may be appointed by the Authority\].](#)[\[each of whom shall have a vote as specified in the uniform network code\]; and](#)
- e. [the UNC charging methodologies.](#)

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. [without prejudice to paragraphs 15A and 15B] 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;

aA. the provision by the code administrator of assistance, insofar as is reasonably practicable, on request to parties (including, in particular, small participants and consumer representatives) that request the code administrator's assistance in relation to the uniform network code including, but not limited to, assistance with:

- (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 (including but not limited to panel, development work group, or review group meetings) as required by this condition, specified in the uniform network code, or described in the Code of Practice; and
- (iv) accessing information relating to modification proposals and/or modifications;

aB. in relation to proposals to modify the UNC charging methodologies, compliance (as applicable) with:

- (i) paragraphs 7 and 8 of Standard Condition 4B (Connection Charging Methodology); and
- (ii) paragraph[s] 2 [and 3] of Standard Special Condition A4 (Charging - General);

aC. for

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- (i) the regular convening of the charging methodology forum for the purposes of discussing further development of the UNC charging methodologies; and
 - (ii) for the provision of information by the licensee in accordance with paragraphs 8, 11, 14 of Standard Condition 4b (Connection charging methodology) and paragraphs 3 of Standard Special Condition A4 (Charging - general); and
 - (iii) [insofar as reasonably practicable, the provision by the licensee of such other information or assistance as [a/an] [materially] affected party may reasonably request for the purposes of preparing a proposal to modify a UNC charging methodology];
 - b.
 - (i) the making of proposals for the modification of the uniform network code in accordance with paragraphs 10(a), 10(aA), 10(aB), and 15D 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;
 - bA. compliance with paragraphs 15A and 15B:
 - 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, small participants and consumer representatives, and sending a copy of the proposal to any person who asks for one;
 - dA. [proper] evaluation of the suitability of the self-governance route for a particular modification proposal:
 - e. [except in respect of proposals falling within the scope of paragraph 15D,] the seeking of the views of the Authority on any matter connected with any such proposal;
 - 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; 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;

- h. [for each of the procedural steps outlined in this paragraph 9 to [accord/be consistent with] [the principles contained in] the Code of Practice.]

10. In respect of the uniform network code:

- a. subject to paragraphs 15A and 15B, a modification proposal [which does not relate to a UNC charging methodology 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 code modification procedures as being entitled to propose a modification; ~~and~~
- aA. a modification proposal shall be made (and not withdrawn without the Authority's prior consent) by the licensee in accordance with a direction issued by the Authority pursuant to paragraph 15C (the "significant code review route"); and
- aB [a modification proposal relating to a UNC charging methodology may only be made by the licensee and/or [a/an] [materially] affected party [in accordance with the provisions of the uniform network code] OR [during the [charging methodology window], unless otherwise permitted by the Authority;]
- b. where a modification proposal has been made under paragraphs 10(a), 10(aA) or (aB) 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 [provided that:
 - (i) the alternative proposal is made during the [workgroup stage] of the consultation (as described in the Code of Practice and as further specified in the uniform network code); and
 - (ii) unless an extension of time has been approved by the Authority, such [workgroup stage] shall last for a maximum period (to be

specified in the uniform network code) from the date on which the original modification was proposed.]

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 paragraphs 15(b) or 16; ~~or~~
 - b. with the written consent of the Authority; or
 - c. in accordance with paragraph 15D (the "self-governance route").

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 [\[unless, in the case of a proposal falling within the scope of paragraph 15D, otherwise directed by the Authority\]](#):

- a. as soon as is reasonably practicable [\[in accordance with the time periods specified in the uniform network code, which shall not be extended without the Authority's prior approval\]](#), 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 (or, in the case of a proposal falling within the scope of paragraph 15D, a determination) ~~(on the part of such person or body as may be provided for in the network code modification procedures)~~ by the panel as to whether any proposed modification should or should not be made, and the factors which (in the opinion of the panel ~~such person or body~~) justify the making or not making of a proposed modification, which shall include:
- (aa) a detailed explanation of whether and, if so how, the proposed modification would better facilitate the achievement of the relevant objectives; and
- (bb) where the impact is likely to be material, the evaluation of the proposed modification in respect of the relevant objectives shall include an assessment of the [quantifiable] impact of the proposed modification on greenhouse gas emissions, to be conducted in accordance with any such guidance (on the [treatment of carbon costs and] evaluation of greenhouse gas emissions) as may be issued by the Authority from time to time); and
- (v) giving such further information as may be required to be given to the Authority by the network code modification procedures; and
- b. [without prejudice to paragraph 15D] 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 (including drafting or amending existing drafting of the amendment to the uniform network code), revisions (including timetable revisions), analysis or additional information specified in the direction to enable the Authority to form such an opinion in accordance with paragraph

15(b)(i) as soon after the Authority's direction as is appropriate (taking into account the complexity, importance and urgency of the modification).

Significant code reviews

15A. Proposals for modification of the uniform network code falling within the scope of a significant code review may not be made by the parties listed in paragraph 10(a)(i-iv) during the [significant code review phase 1] period, except where:

- a. the Authority determines that the modification proposal may be made, having taken into account (among other things) the urgency of the subject matter of the proposal; or
- b. the modification proposal is made by the licensee in accordance with paragraphs 10(aA) and 15C.

15B. Where a modification proposal is made during the [significant code review phase 1] period, [unless otherwise exempted by the Authority,] the panel shall:

- a. bring the proposal to the attention of the relevant gas transporters, relevant shippers, and such other persons as may have an [appropriate] interest in it (including small participants and consumer representatives);
- b. properly consider any representations made by the parties listed in subparagraph (a) above as to whether it falls within the scope of a significant code review;
- c. [properly] consider any representations made by the parties listed in subparagraph (a) above as to the applicability or otherwise of the exceptions under paragraphs 15A(a) or (b);
- d. prepare and submit to the Authority a report setting out:
 - (i) the proposal;
 - (ii) any representations made under subparagraphs (b) and (c) above;
 - (iii) the panel's assessment of whether the proposal falls within the scope of a significant code review and the applicability of the exceptions under paragraphs 15A(a) or (b), and its reasons for that assessment, and
- e. shall not accept a proposal into the modification procedures without the Authority's prior consent.

15C. Having conducted a significant code review, the Authority will publish its conclusions on that review and within [twenty-eight (28)] days of publishing those conclusions either:

- b. issue directions to the licensee [/relevant gas transporter(s)] containing:

- (i) instructions to the licensee[/relevant gas transporter(s)] to make and not withdraw without the Authority's prior consent a modification proposal;
 - (ii) the timetable for the licensee[/relevant gas transporter(s)] to comply with the Authority's direction; and
 - (iii) the Authority's reasons for its direction; or
 - b. state that no direction(s) under sub-paragraph (a) will be issued in relation to the uniform network code.
- The Authority's published conclusions and directions to the licensee[/relevant gas transporter(s)], shall not fetter the voting rights of the members of the panel or the procedures informing the recommendation described at paragraph 15(a)(iv).]

Self-governance

15D. Modification proposals shall only be implemented without the Authority's approval pursuant to this paragraph 15D where:

- a. in the view of the panel the modification proposal meets all of the self-governance criteria; and
- b.
 - (i) the panel has submitted to the Authority in respect of the modification proposal, and not withdrawn, a self-governance statement; or
 - (ii) if a self-governance statement has not been made, or has been withdrawn, the Authority has determined that the requirements of paragraph 15D(a) are satisfied and the modification proposal is suitable for the self-governance route; and
- c. the panel has, no earlier than the expiry of the self-governance notice period, determined that the modification should be implemented on the basis that it would, as compared with the then existing provisions of the uniform network code [and any other modifications proposed in accordance with paragraph 10(b)], better facilitate the achievement of the relevant objective(s); and
- d. there is no outstanding appeal made in respect of such modification proposal in accordance with paragraph 15E; and
- e. the Authority has not directed that its approval is required either:
 - i. prior to the expiry of the self-governance notice period; or
 - ii. following an appeal in accordance with paragraph 15E.

15E. [Parties to the uniform network code / relevant gas transporters, gas shippers and/or DN operators] may appeal to the Authority the approval or rejection by the panel of a modification proposal falling under the self-governance route, provided the appeal has been made in accordance with the procedures specified in the uniform network code and, in the opinion of the Authority:

a. the appealing party [is, or is likely to be, unfairly prejudiced] by the implementation or non-implementation of that modification proposal;

b. the appeal is on the grounds that:

(i) in the case of implementation, the modification proposal does not better facilitate the achievement of at least one of the relevant objectives; or

(ii) in the case of non-implementation, the modification proposal does better facilitate the achievement of at least one of the relevant objectives; and

c. it is not brought for reasons that are trivial, vexatious or have no reasonable prospect of success.

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

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

[20A Without prejudice to any rights of approval, veto or direction which the Authority may have, the licensee:

- a. shall take all reasonable measures to secure and implement (consistently with the applicable procedures) changes to [industry codes] to which it is a party (or in relation to which it holds rights of amendment); and
- b. shall not take steps to prevent or unduly delay changes to industry codes 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 uniform network code [, including, but not limited to, changes that are

appropriate in order to avoid conflict or inconsistency as between the uniform network code and any industry code].]

20. NOT USED

21. NOT USED

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.

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 Without prejudice to any rights of approval, veto or direction the Authority may have, the licensee shall ensure that procedures are in place that facilitate its compliance with the requirements of this condition, and shall create or modify industry documents including, but not limited to, the uniform network code and industry codes where necessary no later than [1 November 2010].

24. a. In this condition:

“affected party” means, for the purposes of paragraphs 9(aC)(iii) and 10(aB) of this condition, [relevant shippers and/or DN operators as appropriate] and any person or class of persons designated by the Authority for that purpose;

“charging methodology forum” means the forum (and related arrangements) established in the manner specified in the uniform network code to facilitate meetings between the licensee, other relevant gas transporters, and any other persons whose interests are materially affected by the applicable charging methodologies [for the purpose of discussing the further development of the applicable charging methodologies], as shall be specified in the uniform network code;

[“charging methodology window” means an annual period [as specified in the uniform network code] OR [of three calendar months] during which proposals to modify the charging methodologies may be made which;

[(i) commences [on a date determined by the licensee, having first obtained Authority's approval]; and

(ii) is published by the licensee [at least [six months] in advance of its start date];]

"Code of Practice" [means the Code Administration Code of Practice:

(a) developed and maintained by [the signatories to the Code of Practice, including but not limited to]:",

(i) [name of each code administrator to be inserted];

(ii) [name of each code administrator to be inserted];

(iii) [name of each code administrator to be inserted];

(b) approved by the Authority on [•]

(c) published by [•]: and

(d) subject to the Authority's approval, as may be amended and re-published from time to time];
(candidate for a global definition)

"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;

"industry code"

means a multilateral code or agreement created and maintained pursuant to a licence granted by the Authority under section 6 of the Electricity Act 1989 or under sections 7, 7ZA or 7A the Act;

"network code modification

procedures"

means the modification procedures referred to in paragraph 7 of this condition;

"relevant objectives" means:

(i) in respect of transportation arrangements pursuant to paragraphs 3 and 6 of this condition, in respect of matters other than those to which the charging methodologies relate, the objectives set out at paragraph 1 of this condition;

(ii) in respect of the UNC charging methodologies, only
(aa) in relation to a connection charging methodology regulated

by Standard Condition 4B, the "relevant objectives" listed in paragraph 5 of that condition;

(bb) in relation to the charging methodology regulated by Standard Special Condition A5 the "relevant methodology objectives" listed in paragraph 5 of that condition.

as applicable; and

(iii) in relation to a proposed modification of the network code modification procedures only, the objectives set out in paragraph 9 of this condition (to the extent that those requirements do not conflict with the objectives set out in paragraph 1).

as applicable;

"self-governance criteria" means the proposal, if implemented it is

(i) [likely to have a non-material/unlikely to have a material] effect on:

(aa) existing or future [gas] consumers;

(bb) competition [in the shipping, transportation or supply of gas conveyed through pipes or any commercial activities connected with the shipping, transportation or supply of gas conveyed through pipes];

(cc) the operation of [one or more pipe-line system(s)];

(dd) matters relating to sustainable development, safety or security of supply, or the management of market or network emergencies; and

(ee) the uniform network code governance procedures or the network code modification procedures; and

(ii) is unlikely to discriminate between different classes of [parties to uniform network code / relevant gas transporters, gas shippers or DN operators];

"self-governance notice period" means a period:

(i) of [twenty-eight (28)] days following the Authority's receipt of the self-governance statement; or

(ii) if earlier, expiring on the date on which the Authority has given written notice to the panel that the modification proposal is suitable for the self-governance route;

"self-governance statement" means

the statement made by the panel and submitted to the Authority in accordance with paragraph 15D(b)(i):

(i) confirming that, in its opinion, the self-governance criteria are met and the modification is suitable for the self-governance route;

(ii) providing a detailed explanation of the panel's reasons for that opinion; and

(iii) setting out any representations made regarding the suitability of the self-governance route (in accordance with paragraph 9(dA and f):

"significant code review" means

a review of one or more [policy] matters which the Authority considers are likely to:

(i) relate to the uniform network code (either on its own or in conjunction with other industry codes); and

(ii) be of [particular/major] significance in relation to its principal objective and/or general duties (under section 4AA of the Act), statutory functions and/or obligations arising under EU law; and concerning which

(iii) the Authority has issued a notice to the parties listed in paragraph 10(a)(i-iv) (among others, as appropriate) stating: that the review will constitute a significant code review; the start date of the significant code review; and the matters that will fall within the scope of the review;

["significant code review phase 1"] means

the period commencing on the start date of a significant code review as stated by the Authority, and ending on either:

- (i) the date on which the Authority issues a statement under paragraph 15C(b) [(that no directions under paragraph 15C(a) will be issued in relation to the uniform network code)], or
- (ii) if no statement is made under paragraph 15B(b), the date on which the licensee [/relevant gas transporter] has made a modification proposal in accordance with paragraphs 10 (aA) and 15C(a);

"small participant" means

- (i) a shipper, a supplier, or new entrant to the gas market in Great Britain that can demonstrate to the code administrator that it is resource-constrained and, therefore, is in particular need of assistance;
- (ii) any other participant or class of participant that the code administrator considers to be in particular need of assistance; and
- (iii) a participant or class of participant that the Authority has notified the code administrator as being in particular need of assistance;

"UNC charging methodologies" means:

- (i) in respect of the NTS operator only, the connection charging methodology regulated by Standard Condition 4B (Connection Charging Methodology);
- (ii) in respect of the NTS operator and DN operator(s), the charging methodologies regulated by:
 - (aa) Standard Special Condition A4 (Charging – General); and
 - (bb) Standard Special Condition A5 (Obligations As Regards Charging Methodology);

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- c. 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.

Standard special condition A12: Joint Office Governance Arrangements

1. The licensee shall:
 - (a) together with all other relevant gas transporters, establish, develop and operate (or otherwise procure the operation of) arrangements ("joint governance arrangements") for:
 - (i) the administration of the network code modification procedures (as defined in paragraph 7 and further defined in paragraph 9 of Special Standard Condition A11 (Network Code and Uniform Network Code));
 - (ii) giving effect to the provisions of Standard Special Condition A11 (Network Code and Uniform Network Code), Standard Special Condition A4 (Charging – General) and Standard Special Condition A5 (Obligations as Regard Charging Methodology) relating to the administering of the coordination of the modification of the licensee's and the other relevant gas transporters' respective charges or reserve prices or charging methodologies (as the case may be);
 - (iii) the administration of such matters as are provided for in the uniform network code to be implemented by the relevant gas transporters on a common, joint or coordinated basis, consistent with the provisions of Standard Special Condition A15 (Agency);
 - (iv) so far as is consistent with sub-paragraphs (i) to (iii), the promotion of efficiency in the implementation and administration of the network code and/or uniform network code; and
 - (v) such other matters as they may decide, subject to their licence and statutory obligations;
 - (b) by the date at which this condition becomes effective (unless the Authority consents otherwise in writing), have entered into an agreement ("JGA agreement") with the other relevant gas transporters, providing for the establishment and operation of the joint governance arrangements;
 - (e) provide or cause to be provided to the Authority a copy of the JGA agreement and each amendment thereof; and
 - (f) publish, or cause to be published, a copy of the JGA agreement as modified from time to time, with the exception of information agreed in writing as being confidential by the Authority.

2. The joint governance arrangements shall, without limitation, be such as are calculated, consistent with the efficient discharge of each relevant gas transporter's obligations under the Act and its respective licence:
 - (a) to ensure compliance with the network code modification procedures;
 - (b) so far as consistent with sub-paragraph (a), to promote efficiency in the administration of the network code modification procedures and the other matters subject to the JGA agreement; and
 - (c) to avoid undue discrimination or preference as between the relevant gas transporters.
3. The licensee shall submit, or cause to be submitted, any proposed amendment to the JGA agreement to the Authority and shall not make or permit any amendment to the JGA agreement until the expiry of 90 days from the date on which the Authority receives the proposed amendment unless prior to such date the Authority either:
 - (a) consents in writing to the licensee making or permitting the amendment on an earlier date, or
 - (b) directs the licensee in writing not to make or permit the amendment.
4. (a) In relation to Standard Special Condition A11 (Network Code and Uniform Network Code) of this licence, the licensee shall comply directly or shall procure compliance by means of the joint governance arrangements, with the requirements in:
 - (i) paragraph 6 of Standard Special Condition A11 (Network Code and Uniform Network Code) to furnish to the Authority a copy of the uniform network code,
 - (ii) paragraph 13 of Standard Special Condition A11 (Network Code and Uniform Network Code) to furnish to the Authority a copy of any modification made,
 - (iii) paragraphs [10\(aA\) and](#) 14 of Standard Special Condition A11 (Network Code and Uniform Network Code) to propose a modification,
 - (iv) paragraph 15(a) of Standard Special Condition A11 (Network Code and Uniform Network Code) to give notice to the Authority [and paragraph 15\(b\)\(i\) to furnish to the Authority a revised notice.](#)
 - (v) paragraph 15(b) of Standard Special Condition A11 (Network Code and Uniform Network Code) to comply with a direction to make a modification

[\(vA\) paragraph 15D\(b\)\(i\) of Standard Special Condition A11 \(Network Code and Uniform Network Code\) to furnish to the Authority a self-governance statement;](#)

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- (vi) paragraph 16 of Standard Special Condition A11 (Network Code and Uniform Network Code) to make a modification; and
 - (vii) paragraph 17 of Standard Special Condition A11 (Network Code and Uniform Network Code) to prepare and publish a summary, to send a copy, and to provide a copy on a freely available web-site.
- (b) Where a licensee has, directly or indirectly by means of the joint governance arrangements, provided the information or taken the action specified in sub-paragraphs 4(a) (i) to 4(a) (vii) inclusive, it shall have, without prejudice to any other obligations it may have, been deemed to have complied with the requirement to have provided the information or to have taken the action specified.