

## **Code Governance Review Final Proposals Licence Drafting Consultation:**

### **Appendix 9: Environment Assessment and Code Objectives (Grid Code, STC, Distribution code, DCUSA, and IGT UNC) ('clean' format)**

**Document type:** Consultation document appendices

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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. This appendix sets out the proposed licence drafting for the Environment and Code Objectives final proposal in respect of the Grid Code, the STC, the Distribution code, the DCUSA, and the IGT UNC in 'clean' format.

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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

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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 9 – Consolidated illustrative licence drafting on code objectives and environmental impacts

### Condition C14: Grid Code

1. The licensee shall in consultation with authorised electricity operators liable to be materially affected thereby prepare and at all times have in force and shall implement and comply (subject to paragraph 11) with the Grid Code:
  - a. covering all material technical aspects relating to connections to and the operation and use of the national electricity transmission system or (in so far as relevant to the operation and use of the national electricity transmission system) the operation of electric lines and electrical plant connected to the national electricity transmission system or any distribution system of any authorised distributor and (without prejudice to the foregoing) making express provision as to the matters referred to in paragraph 5 below; and
  - b. which is designed so as:
    - (i) to permit the development, maintenance and operation of an efficient, coordinated and economical system for the transmission of electricity;
    - (ii) to facilitate competition in the generation and supply of electricity (and without limiting the foregoing, to facilitate the national electricity transmission system being made available to persons authorised to supply or generate electricity on terms which neither prevent nor restrict competition in the supply or generation of electricity); and
    - (iii) subject to sub-paragraphs (i) and (ii), to promote the security and efficiency of the electricity generation, transmission and distribution systems in the national electricity transmission system operator area taken as a whole.
2. The Grid Code shall be the code which existed and which the licensee maintained pursuant to its licence immediately prior to the start of the transition period, modified from time to time in accordance with the transition modification provisions and the provisions of this condition.
- 2A. The licensee shall (in consultation with authorised electricity operators liable to be materially affected thereby) periodically review (including upon the request of the Authority) the Grid Code and its implementation.
- 2B. The review undertaken under paragraph 2A shall involve an evaluation of whether any revision or revisions to the Grid Code would better facilitate the achievement of the Grid Code objectives and, where the impact is likely to be material, this shall include an assessment of the [quantifiable] impact of any such revision on greenhouse gas emissions, to be conducted in accordance with any guidance (on the [treatment of carbon costs and] evaluation of greenhouse gas emissions) as may be issued by the Authority from time to time.

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- 2C. Following any such review, the licensee shall send to the Authority:
- a. a report on the outcome of such review conducted in accordance with paragraphs 2A and 2B; and
  - b. any proposed revisions to the Grid Code from time to time as the licensee (having regard to the outcome of such review reasonably thinks fit for the achievement of the objectives referred to in paragraph (b) of paragraph 1; and
  - c. any written representations or objections from authorised electricity operators liable to be materially affected thereby (including any proposals by such operators for revisions to the Grid Code not accepted by the licensee in the course of the review) arising during the consultation process and subsequently maintained.
3. Revisions to the Grid Code proposed by the licensee and sent to the Authority pursuant to paragraph 2 shall require to be approved by the Authority.
4. Having regard to any written representations or objections referred to in subparagraph (c) of paragraph 2, and following such further consultation (if any) as the Authority may consider appropriate, the Authority may issue directions requiring the licensee to revise the Grid Code in such manner as may be specified in the directions, and the licensee shall forthwith comply with any such directions.
5. The Grid Code shall include codes relating to the technical operation of the national electricity transmission system, including:
- a. connection conditions specifying the technical, design and operational criteria to be complied with by the licensee and by any person connected or seeking connection with the national electricity transmission system or by any person authorised to generate who is connected with or seeks connection with the national electricity transmission system or any distribution system of any third party which is located in the national electricity transmission system operator area.
  - b. an operating code specifying the conditions under which the licensee shall operate the national electricity transmission system and under which persons shall operate their plant and/or distribution systems in relation to the national electricity transmission system, in so far as necessary to protect the security and quality of supply and safe operation of the national electricity transmission system under both normal and abnormal operating conditions;
  - c. a planning code specifying the technical and design criteria and procedures to be applied in the planning and development of the national electricity transmission system and to be taken into account by persons connected or seeking connection with the national electricity transmission system in the planning and development of their own plant and systems; and
  - d. procedures relating to the outage of generation sets and a balancing code specifying, among other matters, information to be submitted by authorised electricity operators to the licensee for the purposes of, and
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the making of offers and bids in, the balancing mechanism, and the issuing by the licensee of instructions by reference to such offers and bids.

6. The licensee shall, upon receipt of a direction from the Secretary of State to do so, revise the Grid Code 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.
7. Not used.
8. The licensee shall give or send a copy of the Grid Code (as from time to time revised) to the Authority.
9. The licensee shall (subject to paragraph 9) give or send a copy of the Grid Code (as from time to time revised) to any person requesting the same.
10. The licensee may make a charge for any copy of the Grid Code (as from time to time revised) given or sent pursuant to paragraph 8 of an amount which will not exceed any amount specified for the time being for the purposes of this condition in directions issued by the Authority.
11. In preparing, implementing and complying with the Grid Code (including in respect of the scheduling of maintenance of the national electricity transmission system), the licensee shall not unduly discriminate against or unduly prefer any person or class or classes of person in favour of or as against any person or class or classes of persons.
12. The Authority may (following consultation with the licensee) issue directions relieving the licensee of its obligations to implement or comply with the Grid Code in respect of such parts of the national electricity transmission system and/or to such extent as may be specified in the directions.
13. In this condition, authorised electricity operator includes any person transferring electricity to or from the national electricity transmission system operator area across an interconnector; and

"Grid Code objectives" means the objectives referred to in paragraph 1(b) of this condition; and

"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 revise the Grid Code in certain circumstances.

### Condition B12: System Operator – Transmission Owner Code

1. The licensee shall, in common with those other transmission licensees to which this condition applies, at all times have in force a STC, being a document which:
  - a. sets out terms as between STC parties whereby the national electricity transmission system and each STC party's transmission system forming part thereof is to be planned, developed or operated and transmission services are to be provided together with any associated arrangements;
  - b. is designed to facilitate achievement of the objectives set out in paragraph 3;
  - c. includes the amendment procedures required by paragraph 6; and
  - d. provides for mechanisms for the resolution of any disputes arising in relation to any of the matters addressed in the STC.

The licensee shall be taken to comply with this paragraph by:

- (i) adopting (through entry into the STC Framework Agreement), as the STC in force with effect from the date this condition comes into effect, the document designated by the Secretary of State for the purposes of this condition; and
  - (ii) amending such document from time to time in accordance with the transition modification provisions and the provisions of paragraphs 6 and 7 below.
2. For the purposes of this condition, the terms and arrangements referred to in paragraph 1(a) whereby the national electricity transmission system and each STC party's transmission system forming part thereof are to be planned, developed or operated and transmission services are to be provided are those which:
  - a. are requisite for the enjoyment and discharge of the rights and obligations of transmission licensees and STC parties arising under any relevant licences codes or other document as may be specified from time to time by the Authority including, but not limited to, rights and obligations which may arise under each of the core industry documents, the BSC and the CUSC; and
  - b. provide for matters which include:
    - the provision of transmission services,
    - the operation, including the configuration, of the national electricity transmission system,
    - the co-ordination of the planning of STC parties' transmission systems,
    - the progression of matters necessary to respond to applications for new connections (or modifications of existing connections),
    - planning for, and co-ordination of, transmission outages,



- procedures for developing, agreeing and implementing party entry processes,
- the resolution of disputes,
- the exchange of information between STC parties, which information they are free to disclose and relates to the discharge of their duties under the Act, transmission licences and other relevant statutory obligations,
- procedures to enable the system operator to produce information about the national electricity transmission system in accordance with standard condition C11 (Production of information about the national electricity transmission system), and
- procedures established in pursuance of paragraph 6.

Nothing in this condition shall preclude the licensee entering into other terms and arrangements connected with these terms and arrangements, outside of the STC, where such other arrangements are not inconsistent or in conflict with this licence or the STC or other relevant statutory requirements.

3. The objectives of the STC referred to in sub-paragraph 1(b) are the:
  - a. efficient discharge of the obligations imposed upon transmission licensees by transmission licences and the Act;
  - b. development, maintenance and operation of an efficient, economical and coordinated system of electricity transmission;
  - c. facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the distribution of electricity;
  - d. protection of the security and quality of supply and safe operation of the national electricity transmission system insofar as it relates to interactions between transmission licensees; and
  - e. promotion of good industry practice and efficiency in the implementation and administration of the arrangements described in the STC.
4. The STC shall provide for:
  - a. there to be referred to the Authority for determination such matters arising under the STC as may be specified in the STC; and
  - b. a copy of the STC or any part(s) thereof (which excludes any confidential information contained in the STC, as provided in that document) 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 1, 2, 4 and 10 shall not limit the matters which may be provided for in the STC.
6. The STC shall include procedures for its own amendment (including procedures for the amendment of the amendment procedures themselves), so as better to facilitate achievement of the applicable STC objectives, which procedures shall provide:

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- a. for proposals for amendment of the STC to be made by any of the STC parties or such other persons or bodies as the STC may provide;
  - b. where such a proposal is made:
    - (i) for bringing the proposal to the attention of the STC parties and such other persons as may properly be considered to have an appropriate interest in it;
    - (ii) for proper consideration of any representations on the proposal itself or on the likely effect of the proposal on the core industry documents;
    - (iii) for the preparation by the STC Committee of an assessment of the likely impact of the proposal on each STC party's transmission system and its other systems, provided that, so far as any such assessment requires information which is not generally available concerning any STC party or STC party's transmission system, such assessment shall be made on the basis of the STC Committee's proper assessment (which that STC Committee shall make available for these purposes) of the impact of the proposal on each STC party's transmission system;
    - (iv) for properly evaluating whether the proposed amendment would better facilitate achieving the applicable STC objectives, provided that so far as any such evaluation by the STC Committee requires information which is not generally available concerning another any STC party or STC party's transmission system or the national electricity transmission system, such evaluation shall be made on the basis of the STC Committee's proper assessment (which the licensee shall make available for these purposes) of the effect of the proposed amendment on the matters referred to in paragraph 3;
    - (v) for development of any alternative amendment which may, as compared with the proposed amendment, better facilitate achieving the applicable STC objectives;
    - (vA) for the evaluation required under paragraph 6(b)(iv) (and, if applicable, paragraph 6(b)(v)) in respect of the applicable STC 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 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;
    - (vi) for the preparation of a report on behalf of the STC parties which includes the following:
      - the proposed amendment and any alternative;
      - an evaluation of the proposed amendment and any alternative;
      - an assessment of the extent to which the proposed amendment or any alternative would better facilitate achieving the applicable STC objectives (such assessment to include, where
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- applicable, an assessment [of the [quantifiable] impact of greenhouse gas emissions] in accordance with paragraph 6(b)(vA));
      - to the extent practicable, an assessment of the likely impact on each STC party's transmission system and any other systems of that STC party and an assessment of the likely impact on the national electricity transmission system, of the proposed amendment;
      - an assessment of the impact of the amendment on the core industry documents and the changes expected to be required to such documents as a consequence of the amendment;
      - to the extent practicable, the inclusion in the report of a recommendation or recommendations being the combined views of the STC parties concerning the amendment and any alternative and, where a combined view is not practicable, setting out the views of each STC party;
      - a timetable for implementation of the amendment and any alternative, including the date with effect from which such amendment (if made) is to take effect; and
    - (vii) 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 amendment) for the proper execution and completion of the steps in sub-paragraphs (i) to (vi);
  - c. for the timetable (referred to in sub-paragraph (b)(vi)) for implementation of any amendment to be such as will enable the amendment to take effect as soon as practicable after the Authority has directed such amendment to be made, account being taken of the complexity, importance and urgency of the amendment, and for that timetable to be extended with the consent of or as required by the Authority after those persons likely to be affected by the revision of the timetable have been consulted; and
  - d. for separate processes for the amendment of STC procedures and the schedule listing the STC procedures in force from time to time and which otherwise forms a part of the STC to those for the amendment of other parts of the STC set out in sub-paragraphs (a) to (c) above and paragraph 7.
7. a. If a report has been submitted to the Authority pursuant to procedures described in paragraph 6(b)(vii), and the Authority is of the opinion that an amendment set out in such report would, as compared with the then existing provisions of the STC and any alternative amendments set out in such report, better facilitate achieving the applicable STC objectives, the Authority may direct the system operator to make that amendment on behalf of the STC parties and the system operator shall provide a copy of the direction to all other STC parties.

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- b. The system operator, on behalf of the STC parties, shall only amend the STC:
    - (i) in order to comply with any direction of the Authority pursuant to subparagraph (a); or
    - (ii) in order to comply with any direction from the Secretary of State to do so, 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; or
    - (iii) with the consent of the Authority,
 and it shall not have the power to amend the STC in any other circumstance; and the system operator shall furnish the Authority with a copy of any amendment made.
  - c. Only the system operator shall have the power to amend the STC.
  - d. The system operator shall ensure that a copy of any direction of the Authority pursuant to sub-paragraph (a) is made available to each STC party, including by way of publication.
  - e. The system operator shall ensure that the other STC parties are furnished with a copy of any amendment so made.
  - 8. The system operator shall prepare and publish a summary of the STC as amended 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 STC Framework Agreement and shall comply with the STC.
  - 10. The STC Framework Agreement shall contain provisions:
    - a. for admitting as an additional party to the STC Framework Agreement any person who accepts the terms and fulfils the conditions (each as specified in the STC) on which accession to the STC 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 STC Framework Agreement has fulfilled any accession conditions; and if the Authority determines that the person seeking accession has fulfilled all relevant accession conditions, for admitting such person to be a party to the STC Framework Agreement.
  - 11. The licensee shall, in conjunction with the other STC parties, 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 (other than the Grid Code) 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 amendment which has been made to the STC.
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12. The licensee shall, in conjunction with the other STC parties, take all reasonable steps to secure and implement (consistently with the procedures for amendment set out in the STC and in this condition), and shall not take any steps to prevent or unduly delay, changes to the STC which are appropriate in order to give full and timely effect to or in consequence of any change which has been made to the core industry documents (other than the Grid Code).
13. For the avoidance of doubt, paragraphs 11 and 12 are without prejudice to any rights of approval, veto or direction in respect of proposed changes to the documents referred to in those paragraphs, which the Authority may have.
14. The licensee shall comply with any direction to the licensee made pursuant to this condition.
15. The Authority may (following consultation with all affected STC parties) issue directions relieving the licensee of its obligations to implement or comply with the STC in respect of such parts of the licensee's transmission system or the national electricity transmission system or to such extent as may be specified in the direction.
16. In this condition:

"applicable STC objectives"	means: <ol style="list-style-type: none"><li>a. in relation to a proposed amendment of the amendment procedures, the requirements of paragraph 6 (to the extent that they do not conflict with the objectives set out in paragraph 3); and</li><li>b. in relation to any other proposed amendment, the objectives set out in paragraph 3.</li></ol>
"party entry processes"	means the procedures, processes and steps to be followed by a party following accession to the STC Framework Agreement.
"STC Committee"	means the committee established by STC parties in accordance with the provisions of the STC.
"STC procedures"	means the processes and procedures from time to time listed in the STC that the parties to such processes and procedures consider and agree are appropriate to support their compliance with the rest of the STC.
"transition modification provisions"	means the provisions of this condition which apply or applied during the

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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 STC in certain circumstances.

**Condition 21. The Distribution Code****Licensee's obligation**

1. The licensee must take all steps within its power to ensure that the Distribution Code in force under this licence at 31 May 2008 remains a code approved by the Authority that complies with each of the following requirements.
2. The first requirement is that the Distribution Code must cover all material technical aspects relating to connections to and the operation and use of the licensee's Distribution System or (so far as is relevant to such operation and use) the operation of electric lines and electrical plant connected to that system.
3. The second requirement, which is without prejudice to the first requirement, is that the Distribution Code must make express provision for the matters referred to in paragraphs 21.5 to 21.7.
4. The third requirement is that the Distribution Code, so far as is consistent with the first two requirements, must be designed so as to better facilitate the achievement of the Applicable Distribution Code Objectives, which are to:
  - a. permit the development, maintenance, and operation of an efficient, co-ordinated, and economical system for the distribution of electricity; and
  - b. facilitate competition in the generation and supply of electricity.

**Specific contents of the Distribution Code**

5. The Distribution Code must include a Distribution Planning and Connection Code (see paragraph 21.6) and a Distribution Operating Code (see paragraph 21.7).
6. The Distribution Planning and Connection Code must contain:
  - a. planning conditions that specify the technical and design criteria and procedures that are to be applied by the licensee in the planning and development of its Distribution System and taken into account by persons having a connection or seeking a connection to that system in the planning and development of their own plant and systems; and
  - b. connection conditions that specify the technical, design, and operational criteria to be complied with by any person having a connection or seeking a connection to the licensee's Distribution System.
7. The Distribution Operating Code must specify the conditions under which the licensee must operate its Distribution System, and under which persons must operate their own plant and systems in relation to that system, so far as is necessary to protect the security, quality of supply, and safe operation of the licensee's Distribution System under both normal and abnormal operating conditions.
8. The licensee must (in consultation with other Authorised Electricity Operators likely to be materially affected) periodically review (including at the Authority's request) the Distribution Code and its implementation.

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- 8A. The review undertaken under paragraph 8 shall involve an evaluation of whether any revision or revisions to the Distribution Code would better facilitate the achievement of the Applicable Distribution Code Objectives and, where the impact is likely to be material, this shall include an assessment of the [quantifiable] impact of any such revision 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.
9. After completing any such review, the licensee must send to the Authority:
- a. a report on the outcome of the review conducted in accordance with paragraphs 8 and 8A;
  - b. a statement of any proposed revisions to the Distribution Code that the licensee (having regard to the outcome of the review) reasonably thinks are appropriate for the continuing achievement of the objectives referred to in paragraph 21.4; and
  - c. any written representations or objections from Authorised Electricity Operators (including any proposals by such operators for revisions to the Distribution Code that have not been accepted by the licensee in the course of the review) that were received during the consultation process and have not been withdrawn.
10. Revisions to the Distribution Code that are proposed by the licensee and sent to the Authority under paragraph 21.9(b) must not be implemented without the Authority's approval.
11. The Authority (having regard to any representations or objections referred to in paragraph 21.9(c) and after any further consultation that it considers appropriate) may give a direction to the licensee that requires it to revise the Distribution Code in such manner as may be specified in the direction.

#### **Availability of the Distribution Code**

12. The licensee must give or send a copy of the Distribution Code (as from time to time revised):
- a. to the Authority; and
  - b. to any person who requests it.
13. The licensee may make a charge for any copy of the Distribution Code given or sent under paragraph 21.12(b) but this must not exceed the amount specified in directions issued by the Authority for the purposes of this condition generally, based on its estimate of the licensee's reasonable costs of providing the copy.

#### **Performance of obligations**

14. The licensee must fulfil its obligations under this condition in conjunction and co-operation with all other Electricity Distributors and in accordance with such arrangements for that purpose as are approved by the Authority.



## **Condition 22. Distribution Connection and Use of System Agreement**

### **Licensee's obligation**

1. The licensee must take all steps within its power to ensure that the Distribution Connection and Use of System Agreement ("the DCUSA") in force under this licence at 31 May 2008 remains an agreement that:
  - a. is designed to facilitate achievement of the Applicable DCUSA Objectives set out in Part A of this condition;
  - b. conforms to the requirements of Parts B to D of this condition in relation to the amendment of the DCUSA; and
  - c. makes express provision for the matters described in the Schedule of DCUSA Contents ("the Schedule") set out at Appendix 1, which is part of this condition.

### **Part A: Applicable DCUSA Objectives**

2. The Applicable DCUSA Objectives are these:
  - a. the development, maintenance and operation by the licensee of an efficient, co-ordinated, and economical Distribution System;
  - b. the facilitation of effective competition in the generation and supply of electricity and (so far as is consistent with that) the promotion of such competition in the sale, distribution, and purchase of electricity;
  - c. the efficient discharge by the licensee of the obligations imposed upon it by this licence; and
  - d. the promotion of efficiency in the implementation and administration of the DCUSA arrangements.

### **Part B: Principles for making an amendment to the DCUSA**

3. Any proposals to amend the DCUSA must be designed to better facilitate the achievement of the Applicable DCUSA Objectives.
4. The DCUSA may be amended at any time in accordance with such procedures (including procedures for amending those procedures) as may be Specified and are in conformity with the principles set out in paragraph 22.5.
5. Those principles are that:
  - a. proposals for the amendment of the DCUSA may be made by any
  - b. the amendment procedures for dealing with any such proposal must comply with the requirements of Part C below;
  - c. the making and implementation of any amendment of the DCUSA must comply with the provisions of Part D below; and
  - d. those parts of the DCUSA that are Specified pursuant to paragraph A3(g) of the Schedule may not be amended without the Authority's approval, which must be sought in accordance with the appropriate procedures set out in the DCUSA.

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**Part C: Procedures for making an amendment to the DCUSA**

6. The procedures contained in the DCUSA for the making of amendments to the DCUSA must have as their objective the achievement of the matters set out in the following provisions of this Part C.
7. The procedures must ensure that every proposed amendment is brought to the attention of all parties mentioned in or pursuant to paragraph 22.5(a).
8. They must ensure that any and all representations made in respect of a proposed amendment are able to be properly considered by the relevant decision makers.
9. They must ensure that the question of whether any proposed amendment better facilitates the achievement of the Applicable DCUSA Objectives is able to be properly evaluated.
- (9A) They must ensure that the evaluation required under paragraph 9 in respect of the Applicable DCUSA Objective(s) includes, where the impact is likely to be material, an assessment of the impact of the proposed amendment on greenhouse gas emissions, to be conducted in accordance with any such guidance (on the [treatment of carbon costs and] evaluation of the impact on greenhouse gas emissions) as may be issued by the Authority from time to time.
10. They must ensure that an amendment report is prepared in such manner and has all such contents as may be Specified, including:
  - a. a proposed implementation date that would enable any proposed amendment to take effect as soon as practicable after the decision to implement it has been reached, taking into account the complexity, importance, and urgency of that amendment; and
  - b. a summary of and copies of all submissions made in respect of the proposed amendment.
11. They must ensure that the proposed implementation date may be altered with the consent of or as directed by the Authority.
12. They must ensure that parties to the DCUSA, after considering the amendment report prepared in accordance with paragraph 22.10 and whether the amendment would, as compared with the existing provisions of the DCUSA, better facilitate the achievement of the Applicable DCUSA Objectives, are able to vote for:
  - a. the implementation or rejection of the proposed amendment, in the case of a proposal to amend any part of the DCUSA that is not Specified pursuant to paragraph A3(g) of the Schedule; or
  - b. a recommendation to the Authority to approve or reject the proposed amendment, in the case of a proposal to amend any part of the DCUSA that is Specified pursuant to paragraph A3(g) of the Schedule.
13. They must ensure that all votes cast pursuant to paragraph 22.12 are compiled so that the DCUSA Panel established in accordance with paragraph A3(d) of the Schedule may take such steps as are necessary to facilitate the implementation

of any proposed amendment or (as the case may be) to put forward a recommendation to the Authority.

**Part D: Implementation of an amendment to the DCUSA**

14. No amendment of the DCUSA may be made unless:
  - a. the parties to the DCUSA have voted, pursuant to paragraph 22.12(a), in favour of the amendment described in the relevant amendment report; or
  - b. the Authority, having had regard to the Applicable DCUSA Objectives, directs the licensee, in conjunction with every other Electricity Distributor, to amend the DCUSA in such manner as is stated in that direction following the making of a recommendation to the Authority by the parties to the DCUSA pursuant to paragraph 22.12(b).

**Part E: Interpretation**

15. For the purposes of this condition:
  - a. "amendment" must be read in accordance with the meaning given to the term "modification" in section 111 of the Act, and any related expressions are to be read accordingly; and
  - b. words and expressions appearing in Appendix 1 that are defined under any provision of the DCUSA have the meaning given by, or are to be read in accordance with, that provision.

**Specified means specified in the DCUSA.**

16. Appendix 1 follows immediately below.

## **Condition 9. Network Code and Uniform Network Code Transportation Arrangements**

1. The licensee shall establish transportation arrangements, pursuant to paragraphs 2 and 5 of this condition, in respect of matters other than those to which Standard Conditions 4 (Charging of Gas Shippers - General) and 4A (Obligations as Regards Charging Methodology) relate, which are calculated, consistent with the licensee's duties under section 9 of the Act, to facilitate the achievement of the following objectives –
  - a. the efficient and economic operation of the pipe-line system to which this licence relates;
  - b. so far as is consistent with sub-paragraph (a), the coordinated, efficient and economic operation of 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 between relevant shippers and between relevant suppliers;
  - 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 referred to in paragraphs 2 and 5 respectively of this condition;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 condition 16 (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.

#### *Network Code*

2. The licensee shall prepare 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) 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 4C (Charging Gas Shippers – Supplemental Connection Charges) 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.
3. 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.

4. The network code 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*

5. The licensee shall, together with the other relevant gas transporters, prepare 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 6.

*Network Code Modification Procedures*

6. 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.
7. The network code modification procedures shall provide for:
  - a. a mechanism by which
    - (i) the uniform network code; and
    - (ii) each of the network codes prepared by or on behalf of each relevant gas transporter, may be modified;
  - b.
    - (i). the making of proposals for the modification of the uniform network code in accordance with paragraph 8; 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 9(a);
  - c. the making of alternative modification proposals in accordance with paragraphs 8(b) and 9(b);
  - d. the giving of adequate publicity to any such proposal including, in particular, drawing it to the attention of all relevant gas transporters and all relevant shippers and sending a copy of the proposal to any person who asks for one;
  - e. 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,

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- any relevant shipper, or any gas shipper or other person likely to be materially affected were the proposal to be implemented;
  - g. a proposed implementation date such as to enable any modification proposal to be made as soon as practicable after receipt of a direction under paragraph 12(b);
  - h. establishing and maintaining, in accordance with such procedures for appointment or election as may be specified, a panel (the "panel") which is to be responsible, by way of proceedings as may be specified, for the governance and administration of the uniform network code; and
  - i. 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.
8. In respect of the uniform network code:
- a. a modification proposal may be made by the following:
    - (i) the licensee;
    - (ii) any 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
  - b. where a modification proposal has been made under paragraph 8(a) (an "original proposal") alternative modification proposals may be made, in respect of any such original proposal, by any of the parties listed in paragraph 8(a) with the exception of the person who made the original proposal.
9. In respect of each network code (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; or
    - (iii) a third party participant; and
  - b. where a modification proposal has been made under paragraph 9(a) in respect of any such original proposal, by any of the parties listed in paragraph 9(a) with the exception of the person who made the original proposal.

*Modification of Network Code and the Uniform Network Code*

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10. The licensee shall not make or permit any modification to the network code or to the uniform network code except:
    - a. to comply with paragraph 12(b) or 13; or
    - b. with the written consent of the Authority;
 and shall furnish the Authority with a copy of any such modification made.
  11. 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 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.
  12. Where a proposal is made in accordance with the network code modification procedures to modify the network code or the uniform network code the licensee shall:
    - a. as soon as is reasonably practicable, and no later than the time specified in the network code modification procedures, 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 the licensee, any relevant shipper or any other person with respect to those proposals;
      - (iv) including a recommendation by the Panel as to whether any proposed modification should or should not be made, and the factors which (in the opinion of such 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
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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. comply with any direction of the Authority to make a modification to the network code and/or the uniform network code in accordance with a proposal described in a notice given to the Authority under paragraph 12(a) which, in the opinion of the Authority, will, as compared to the existing provisions of the network code 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.
13. 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 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 Condition 4E (Requirement to Enter into Transportation Arrangements in Conformity with the Network Code).
14. The licensee shall provide a copy of the network code 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 given adequate publicity).

#### *Determinations by the Authority*

15. Where a provision of the network code 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.
16. The network code modification procedures shall provide that any question arising under those 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 and/or the uniform network code were it 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.
17. Following a direction under paragraph 12(b), the implementation date may be altered with the consent of, or as directed by the Authority.

#### *Joint Governance Arrangements*

18. The licensee shall:
- a. together with all other relevant gas transporters, establish, develop and operate (or otherwise procure the operation of (including without

limitation on a sub-contracted basis)) arrangements ("joint governance arrangements") for:

- (i) the administration of the network code modification procedures;
    - (ii) giving effect to the provisions of Standard Conditions 4 (Charging of Gas Shippers - General) and 4A (Obligations as Regards 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;
    - (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. enter into an agreement ("JGA agreement") with the other relevant gas transporters, providing for the establishment and operation of the joint governance arrangements;
  - c. provide to the Authority a copy of the JGA agreement and each amendment thereof; and
  - d. publish 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.
19. 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.

#### *Miscellaneous*

20. If the Authority so consents, this condition shall have effect as if the definition of "transportation arrangements" in Standard Condition 1 (Definitions and Interpretation) referred only to gas consisting wholly or mainly of methane.
21. In this condition "relevant gas transporter" shall mean the holder of a GT licence, for whom this condition is in effect.