

To: All holders of an electricity transmission licence

MODIFICATION OF THE STANDARD CONDITIONS OF THE ELECTRICITY TRANSMISSION LICENCES UNDER SECTION 11A OF THE ELECTRICITY ACT 1989

NOTICE OF THE REASONS FOR THE DECISION TO MODIFY THE STANDARD CONDITIONS OF THE ELECTRICITY TRANSMISSION LICENCES UNDER SECTION 49A OF THE ELECTRICITY ACT 1989

Whereas:

1. Each of the companies to whom this modification is addressed holds an electricity transmission licence granted, or treated as granted, pursuant to section 6(1)(b) of the Electricity Act 1989 (the "Act").
2. In accordance with paragraph 11A(3) and (4) of the Act, the Gas and Electricity Markets Authority (the "Authority") gave notice on 3 June 2010 (the "Notice") that it proposes to modify, in the manner as set out in the schedule to the Notice, the following standard conditions of electricity transmission licences:
 - (a) Standard condition B12 (System Operator – Transmission Owner Code);
 - (b) Standard condition C3 (Balancing and Settlement Code);
 - (c) Standard condition C4 (Charges for use of system);
 - (d) Standard condition C5 (Use of system charging methodology);
 - (e) Standard condition C6 (Connection Charging Methodology);
 - (f) Standard condition C10 (Connection and Use of System Code); and
 - (g) Standard condition C14 (Grid Code).
3. In summary, the proposed licence modifications obligate the relevant licence holder to implement by 31 December 2010 the Code Governance Review Final Proposals published on 31 March 2010¹ (the "Final Proposals"). The proposed licence modifications obligate the relevant licence holder to introduce, within the relevant code modification procedures as set out in Final Proposals; the 'Significant Code Review' and 'Self-Governance' process, requirements on Code Administrators to take a more active 'critical friend' role (particularly in providing assistance to smaller parties and consumer representatives), incorporate relevant charging methodologies into the relevant industry codes and utilise the relevant code modifications procedures for modifications to the relevant charging methodologies, and to clarify the requirement to assess the environmental impacts in accordance with Ofgem guidance published from time to time when considering code modification proposals.
4. Prior to the close of the consultation period in respect of the Notice, the Authority received two responses in relation to the proposed modifications which were not withdrawn. No notice of objection to the proposed licence modification was given to the Authority within the time specified in the Notice by a relevant licence holder. The

¹ A copy of the Code Governance Review Final Proposals can be found here: http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?file=CGR_Finalproposals_310310.pdf&refer=Licensing/IndCodes/CGR.

Authority has considered the responses made in relation to the proposed licence modifications.

5. Upon considering the response received, it has come to the Authority's attention that some minor clarificatory and typographical amendments to the proposed modifications are required as follows:
 - (a) in paragraph 4B(a) of standard condition C3 (Balancing and Settlement Code (BSC)): the words "subject to sub-paragraph (c) of this paragraph" have been added after the words "paragraph 4(b)" for clarity;
 - (b) in paragraph 4B(c) of standard condition C3 (Balancing and Settlement Code (BSC)): the words "at the Authority's direction" replace the words "without the Authority's prior consent" for clarity;
 - (c) in paragraph 13A(a)(i) of standard condition C3 (Balancing and Settlement Code (BSC)): the use of commas has been clarified;
 - (d) in paragraph 13A(e)(i) of standard condition C3 (Balancing and Settlement Code (BSC)): the reference to "15 days" should be a reference to "15 working days";
 - (e) in paragraph 13B of standard condition C3 (Balancing and Settlement Code (BSC)): the reference to "15 days" should be a reference to "15 working days";
 - (f) in the definition of "industry code" in paragraph 14 of standard condition C3 (Balancing and Settlement Code (BSC)): the word "of" is inserted after the words "or 7A";
 - (g) the numbering in paragraph 6 of standard condition C10 (Connection and Use of System Code (CUSC)) has been corrected;
 - (h) in paragraph 6B(a) of standard condition C10 (Connection and Use of System Code (CUSC)): the words "subject to sub-paragraph (c) of this paragraph" have been added after the words "paragraph 6(b)" for clarity;
 - (i) in paragraph 6B(c) of standard condition C10 (Connection and Use of System Code (CUSC)): the words "at the Authority's direction" replace the words "without the Authority's prior consent" for clarity;
 - (j) in paragraph 13A(a)(i) of standard condition C10 (Connection and Use of System Code (CUSC)): the use of commas has been clarified;
 - (k) in paragraph 13A(e)(i) of standard condition C10 (Connection and Use of System Code (CUSC)): the reference to "15 days" should be a reference to "15 working days";
 - (l) in paragraph 13B of standard condition C10 (Connection and Use of System Code (CUSC)): the reference to "15 days" should be a reference to "15 working days";
 - (m) in paragraphs 13B(a)(ii)(1) and 13B(a)(ii)(2) of standard condition C10 (Connection and Use of System Code (CUSC)): the references to the "applicable BSC objectives" should be references to the "applicable CUSC objectives";

(n) in the definition of “charging methodologies” in paragraph 15 of standard condition C10 (Connection and Use of System Code (CUSC)): the reference to “standard condition C5 (Use of system charging methodology)” should be a reference to “standard condition C4 (Charges for use of system)”;

(o) in the definition of “industry code” in paragraph 15 of standard condition C10 (Connection and Use of System Code (CUSC)): the word “of” is inserted after the words “or 7A”;

and, for the avoidance of doubt, these amendments do not amount to a substantive change to the modifications proposed in the schedule to the Notice.

6. In accordance with section 11A(4)(b) of the Act, the Authority gave notice of its intention to modify the standard conditions of the electricity transmission licences referred to in paragraph 2 of this modification to the Secretary of State and did not receive a direction from the Secretary of State not to make the modifications.
7. In accordance with section 49A of the Act, the reasons for modifying the standard conditions of the electricity transmission licences referred to in paragraph 2 of this modification are that, in summary, as part of the Code Governance Review, we have identified a number of deficiencies in the existing code arrangements which the Final Proposals seeks to remedy. Firstly, the proposals seek to reduce unnecessary barriers and red tape in the existing industry codes governance arrangements. Where possible we have sought to simplify existing change processes, making them more consistent between industry codes, more transparent and more accessible. Second, whilst we recognise that the existing code governance arrangements have worked well in providing incremental change to industry codes, they have not been effective in supporting larger scale and more complex change. The detailed reasons for proposing the licence modifications are contained in the following documents:
 - a. Code Governance Review: Final Proposals, Ofgem Ref: 43/10.
 - b. Code Governance Review: Governance of charging methodologies: Initial proposals - Ofgem Ref: 108/09.
 - c. Code Governance Review: Major Policy Reviews and Self-Governance - Initial Proposals - Ofgem Ref: 84/09.
 - d. Code Governance Review – role of code administrators and small participant/consumer initiatives – initial proposals - Ofgem Ref: 85/09.
 - e. Review of Industry Code Governance - Environment and Code Objectives - Ofgem Ref: 66/09.
 - f. Review of Industry Code Governance – Code Administrators Working Group - Ofgem open letter, 20 April 2009.
 - g. Review of Industry Code Governance – role of code administrators and small participant/consumer initiatives - Ofgem Ref: 173/08.

- h. Review of Industry Code Governance – Environment and Code Objectives, Ofgem open letter, 21 November 2008.
 - i. Code Governance Review: Charging methodology governance options - Ofgem Ref: 132/08.
 - j. Review of industry code governance - scope of review - Ofgem Ref: 92/08.
 - k. Corporate Strategy and Plan 2008-2013 - Ofgem Ref: 34/08.
 - l. Open letter announcing review of industry code governance - Ofgem Ref: 284/07.
8. Documents referred to in this modification are available free of charge from the Ofgem Research and Information Centre, 9 Millbank, Westminster, SW1P 3GE (020 7901 7003 or library@ofgem.gov.uk) or from the Ofgem website (www.ofgem.gov.uk). Any non confidential responses are also available from Ofgem Research and Information Centre or on the Ofgem website.

Therefore:

In accordance with the powers contained in section 11A(1) of the Act, the Authority hereby modifies Standard condition B12 (System Operator – Transmission Owner Code), Standard condition C3 (Balancing and Settlement Code), Standard condition C4 (Charges for use of system), Standard condition C5 (Use of system charging methodology), Standard condition C6 (Connection Charging Methodology), Standard condition C10 (Connection and Use of System Code) and Standard condition C14 (Grid Code) of the electricity transmission licences granted, or treated as granted, pursuant to section 6(1)(b) of the Act in the manner set out in the schedule to this modification, with effect on and from 31 December 2010.

This document also constitutes notice of reasons for the decision to modify the standard conditions of the electricity transmission licences under section 49A of the Act.

The official seal of the Gas and Electricity Markets Authority here affixed is authenticated by the signature of:

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Mark Cox, Associate Partner, Industry Codes and Licensing

Duly authorised on behalf of the Gas and Electricity Markets Authority

5 July 2010

SCHEDULE

MODIFICATION OF THE STANDARD CONDITIONS OF THE ELECTRICITY TRANSMISSION LICENCE

Standard Conditions B12, C3, C4, C5, C6, C10 and C14 of the electricity transmission licence are modified in the manner set out in this schedule. The insertions are shown underlined and the deletions are shown crossed-through.

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:
 - 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 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.
 - 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 subparagraph (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:

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

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.
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:

- 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
- b. in relation to any other proposed amendment, the objectives set out in paragraph 3.

"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 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 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, in conjunction with other code administrators, 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 to the extent that they are relevant, 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 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) 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 paragraphs 13A (the "self-governance route") and 13C; and
 - ac. for the provision by the code administrator of assistance, insofar as is reasonably practicable and on reasonable 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;
 - 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 workgroup 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 significant code review or 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 modifications which may, as compared with the proposed modification, better facilitate achieving the applicable BSC objective(s), provided that:
 - the alternative proposals are made 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 panel and not objected to by the Authority after receiving notice, any workgroup stage shall last for a maximum period (to be as 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:
 - setting out the proposed modification and, separately, any alternatives,
 - evaluating the proposed modification and, separately, any alternatives,
 - 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 and any alternative 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 unless approved by the panel and not objected to by the Authority after receiving notice) 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, and
- e. for each of the procedural steps outlined in this paragraph 4, to the extent that they are relevant, to be consistent with the principles contained in the Code of Practice.

4A. The procedures for the modification of the BSC shall provide that 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, 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. The procedures for the modification of the BSC shall provide that where a modification proposal is made during the significant code review phase, unless otherwise exempted by the Authority, the panel shall:

- a. comply with the steps in paragraph 4(b) subject to sub-paragraph (c) of this paragraph; and
- b. as soon as practicable notify the Authority of:
 - (i) any representations received in relation to the suitability of the significant code review route; and

- (ii) 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
- c. not proceed with the modification proposal at the Authority's direction.

4C. The procedures for the modification of the BSC shall provide that if within twenty-eight (28) days after the Authority has published its significant code review conclusions, the Authority issues to the licensee:

- a. directions, the licensee shall comply with those directions;
- b. a statement that no directions under sub-paragraph (a) will be issued in relation to the BSC, the licensee shall treat the significant code review phase as ended;
- c. neither directions under sub-paragraph (a), or a statement under sub-paragraph (b), the significant code review phase will be deemed to have ended.

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, 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 modification 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.
- 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, c Only the licensee shall have power to modify the BSC.

6. The BSC shall provide for:

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

and for the licensee to be empowered to secure compliance with these requirements if so directed by the Authority.

7. ~~[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. The procedures for the modification of the BSC shall provide that modification proposals shall only be implemented without the Authority's approval pursuant to this paragraph 13A where:

- a. (i) in the view of the panel, the modification proposal meets all of the self-governance criteria and 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; and
- b. unless otherwise exempted by the Authority, the panel has sent copies of all consultation responses to the Authority at least seven (7) days before the panel intends to make its determination under paragraph 13A(d); and
- c. the Authority has not directed that the Authority's decision is required prior to the panel's determination under paragraph 13A(d); and
- d. the panel has, no earlier than seven (7) days after sending the consultation responses referred to at paragraph 13A(b), determined, in accordance with paragraphs 4(b)(i) to (v) of this condition as applicable, that the modification proposal or any alternative 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
- e. (i) no appeal has been raised up to and including 15 working days after the panel's determination under paragraph 13A(d) in respect of such modification proposal and any alternative in accordance with paragraph 13B; or

(ii) an appeal has been raised in respect of such a modification proposal and any alternative in accordance with paragraph 13B and the Authority has not quashed the panel's determination referred to at paragraph 13A(d) of this condition and either remitted the relevant modification proposal and any alternative back to the panel for reconsideration or taken the decision on the relevant modification proposal and any alternative itself following the appeal.

13B. The procedures for the modification of the BSC shall provide that those persons set out at paragraph 4(a) may appeal to the Authority the approval or rejection by the panel of a modification proposal and any alternative falling under the self-governance route, provided the appeal has been made up to and including 15 working days after the approval or rejection and in accordance with the procedures specified in the BSC and, in the opinion of the Authority:

a. (i) the appealing party is, or is likely to be, unfairly prejudiced by the implementation or non-implementation of that modification or alternative proposal; or

(ii) the appeal is on the grounds that:

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

(2) in the case of non-implementation, the modification or alternative proposal may better facilitate the achievement of at least one of the applicable BSC objectives; and

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

13C. The procedures for the modification of the BSC shall provide that:

a. where an appeal has been raised in respect of a modification proposal and any alternative in accordance with paragraph 13B that modification proposal and any alternative shall be treated in accordance with any decision and/or direction of the Authority following that appeal;

b. if the Authority quashes the panel's determination referred to at paragraph 13A(d) of this condition and takes the decision on the relevant modification proposal and any alternative itself following an appeal in accordance with paragraph 13B, the panel's determination of that modification proposal and any alternative referred to in paragraph 13A(d) of this condition shall be treated as a report submitted to the Authority in accordance with the procedures specified in paragraph 4(b)(vi) of this condition and paragraph 5(a) of this condition and the panel's determination shall be treated as its recommendation.

13D. Without prejudice to any rights of approval, veto or direction the Authority may have, the licensee shall use its best endeavours to 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 31 December 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.
<u>"Code of Practice"</u>	<u>means the Code Administration Code of Practice approved by the Authority and:</u> (a) <u>developed and maintained by the code administrators in existence from time to time; and</u> (b) <u>amended subject to the Authority's approval from time to time; and</u> (c) <u>re-published from time to time.</u>
<u>"directions"</u>	<u>means, in the context paragraph 4C,</u> <u>direction(s) issued following publication of significant code review conclusions which shall contain:</u> (i) <u>instructions to the licensee to make (and not withdraw, without the Authority's prior consent) a modification proposal;</u> (ii) <u>the timetable for the licensee to comply with the Authority's direction(s); and</u> (iii) <u>the Authority's reasons for its direction(s).</u>
<u>"industry code"</u>	<u>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 of the Gas Act 1986.</u>
<u>"self-governance criteria"</u>	<u>means, a proposal that, if implemented:</u> (a) <u>is unlikely to have a material effect on:</u> (i) <u>existing or future electricity consumers; and</u> (ii) <u>competition in the generation, distribution, or supply of electricity or any commercial activities connected with the generation, distribution, or supply of electricity; and</u>

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

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

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

(b) providing a detailed explanation of the panel's reasons for that opinion.

"significant code review"

means a review of one or more 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 particular significance in relation to its principal objective and/or general duties (under section 3A of the Act), statutory functions and/or relevant obligations arising under EU law; and

concerning which 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"

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

(a) on 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), on the date on which the licensee has made a modification proposal in accordance with paragraphs 4(aa), 4C(a) and 10(b); or

(c) immediately under paragraph 4C(c), if neither a statement, or directions are issued by the Authority up to and including twenty-eight (28) days from the Authority's publication of its significant code review conclusions.

"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 (Connection and Use of System Code (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 (Connection and Use of System Code (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 2A and standard condition C10 (Connection and Use of System Code (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.
- 2A. Unless the Authority directs otherwise, paragraphs 4, 5, 6 and 7 of this condition apply where a report in respect of any proposal for modification of the use of system charging methodology is furnished to the Authority in accordance with paragraph 4 of this condition as in force at 30 December 2010 before 31 December 2010.
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 5 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. 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 of this condition as in force at 30 December 2010 (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:
 - 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. The licensee shall send a copy of any report furnished under paragraph 3 of this condition as in force at 30 December 2010 to the Authority to any person who asks for any such report.
 7. 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 4~~ paragraphs 15A and 15B of this condition and standard condition C10 (Connection and Use of System Code (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 15A and 15B of this condition and standard condition C10 (Connection and Use of System Code (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).
- 15A Unless the Authority directs otherwise, paragraph 15B of this condition shall apply where a report in respect of any proposal for modification of the connection charging methodology is furnished to the Authority in accordance with paragraph 9 of this condition as in force at 30 December 2010 before 31 December 2010.
- 15B a. The licensee will not make any modification to the connection charging methodology if, within 28 days of the report being furnished to it under in accordance with paragraph 9 of this condition as in force at 30 December 2010, 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 to the connection charging methodology, it 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 15B from the date specified therein.

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, in conjunction with other code administrators, 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 to the extent that they are relevant, 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
 - (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 CUSC users, the National Consumer Council, BSC parties and/or a materially affected party and in accordance with the provisions of the CUSC 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") and 13C;
 - ac. for the provision by the code administrator of assistance insofar as is reasonably practicable and on reasonable 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, and/or

workgroup 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; and

ad. 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 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 significant code review or 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 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 panel and not objected to by the Authority after receiving notice, any workgroup stage shall last for a maximum period (to be as 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 proposed modification and, separately, any alternatives;
 - evaluating the proposed modification and, separately, any alternatives;
 - 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 and any alternative 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 unless approved by the panel and not objected to by the Authority after receiving notice) 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 the extent that they are relevant, to be consistent with the principles contained in the Code of Practice.

6A. The procedures for the modification of the CUSC shall provide that 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, 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. The procedures for the modification of the CUSC shall provide that where a modification proposal is made during the significant code review phase, unless otherwise exempted by the Authority, the panel shall:

a. comply with the steps in paragraph 6(b) subject to sub-paragraph (c) of this paragraph; and

b. as soon as practicable notify the Authority of:

(i) any representations received in relation to the suitability of the significant code review route; and

(ii) 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

c. not proceed with the modification proposal at the Authority's direction.

6C. The procedures for the modification of the CUSC shall provide that if within twenty-eight (28) days after the Authority has published its significant code review conclusions, the Authority issues to the licensee:

a. directions, the licensee shall comply with those directions;

b. a statement that no directions under sub-paragraph (a) will be issued in relation to the CUSC, the licensee shall treat the significant code review phase as ended;

c. neither directions under sub-paragraph (a), or a statement under sub-paragraph (b), the significant code review phase will be deemed to have ended.

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).

7. a. Without prejudice to paragraph 13A, 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.
- 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 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 44 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. The procedures for the modification of the CUSC shall provide that modification proposals shall only be implemented without the Authority's approval pursuant to this paragraph 13A where:

- a. (i) in the view of the panel, the modification proposal meets all of the self-governance criteria and 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; and
- b. unless otherwise exempted by the Authority, the panel has sent copies of all consultation responses to the Authority at least seven (7) days before the panel intends to make its determination under paragraph 13A(d); and
- c. the Authority has not directed that the Authority's decision is required prior to the panel's determination under paragraph 13A(d); and
- d. the panel has, no earlier than seven (7) days after sending the consultation responses referred to at paragraph 13A(b), determined, in accordance with paragraphs 6(b)(i) to (v) of this condition as applicable, that the modification proposal or any alternative 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
- e. (i) no appeal has been raised up to and including 15 working days after the panel's determination under paragraph 13A(d) in respect of such modification proposal and any alternative in accordance with paragraph 13B; or
(ii) an appeal has been raised in respect of such a modification proposal and any alternative in accordance with paragraph 13B and the Authority has not quashed the panel's determination referred to at paragraph 13A(d) of this

condition and either remitted the relevant modification proposal and any alternative back to the panel for reconsideration or taken the decision on the relevant modification proposal and any alternative itself following the appeal.

13B. The procedures for the modification of the CUSC shall provide that those persons set out at paragraph 6(a) may appeal to the Authority the approval or rejection by the panel of a modification proposal and any alternative falling under the self-governance route, provided the appeal has been made up to and including 15 working days after the approval or rejection and in accordance with the procedures specified in the CUSC and, in the opinion of the Authority:

a. (i) the appealing party is, or is likely to be, unfairly prejudiced by the implementation or non-implementation of that modification or alternative proposal; or

(ii) the appeal is on the grounds that:

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

(2) in the case of non-implementation, the modification or alternative proposal may better facilitate the achievement of at least one of the applicable CUSC objectives; and

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

13C. The procedures for the modification of the CUSC shall provide that:

a. where an appeal has been raised in respect of a modification proposal and any alternative in accordance with paragraph 13B that modification proposal and any alternative shall be treated in accordance with any decision and/or direction of the Authority following that appeal:

b. if the Authority quashes the panel's determination referred to at paragraph 13A(d) of this condition and takes the decision on the relevant modification proposal and any alternative itself following an appeal in accordance with paragraph 13B, the panel's determination of that modification proposal and any alternative referred to in paragraph 13A(d) of this condition shall be treated as a report submitted to the Authority in accordance with the procedures specified in paragraph 6(b)(vi) of this condition and paragraph 7(a) of this condition and the panel's determination shall be treated as its recommendation.

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 use its best endeavours to 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 31 December 2010.

15. In this condition:

"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 C4 (Charges for use of system); 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;

"Code of Practice"

means the Code Administration Code of Practice approved by the Authority and:

- (a) developed and maintained by the code administrators in existence from time to time; and
- (b) amended subject to the Authority's approval from time to time; and
- (c) re-published from time to time.

"directions"

means, in the context of paragraph 6C, direction(s) issued following publication of significant code review conclusions which shall contain:

- (i) instructions to the licensee to make (and not withdraw, without the Authority's prior consent) a modification proposal;

	<u>(ii) the timetable for the licensee to comply with the Authority's direction(s); and</u>
	<u>(iii) the Authority's reasons for its direction(s).</u>
<u>"industry code"</u>	<u>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 of the Gas Act 1986.</u>
<u>"materially affected party"</u>	<u>any person or class of persons designated by the Authority for this purpose.</u>
<u>"self-governance criteria"</u>	<u>means a proposal that, if implemented,</u> <ul style="list-style-type: none"> <u>a. is unlikely to have a material effect on:</u> <ul style="list-style-type: none"> <u>(i) existing or future electricity consumers; and</u> <u>(ii) competition in the generation, distribution, or supply of electricity or any commercial activities connected with the generation, distribution, or supply of electricity; and</u> <u>(iii) the operation of the national electricity transmission system; and</u> <u>(iv) matters relating to sustainable development, safety or security of supply, or the management of market or network emergencies; and</u> <u>(v) the CUSC's governance procedures or the CUSC's modification procedures, and</u> <u>b. is unlikely to discriminate between different classes of CUSC parties.</u>
<u>"self-governance statement"</u>	<u>means the statement made by the panel and submitted to the Authority in accordance with paragraph 13A(a)(i):</u> <ul style="list-style-type: none"> <u>a. confirming that, in its opinion, the self-governance criteria are met and the modification is suitable for the self-governance route; and</u> <u>b. providing a detailed explanation of the panel's reasons for that opinion.</u>
<u>"significant code review"</u>	<u>means a review of one or more matters which the Authority considers is likely to:</u> <ul style="list-style-type: none"> <u>a. relate to the CUSC (either on its own or in conjunction with other industry codes); and</u> <u>b. be of particular significance in relation to its principal objective and/or general duties</u>

(under section 3A of the Act), statutory functions and/or relevant obligations arising under EU law, and

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

(a) on the date on which the Authority issues a statement under paragraph 6C(b) (that no directions will be issued in relation to the CUSC); or

(b) if no statement is made under 6C(b), on the date on which the licensee has made a modification proposal in accordance with paragraphs 6(aa), 6C(a) and 7(d)(i); or

(c) immediately under paragraph 6C(c), if neither a statement, or directions are issued by the Authority up to and including twenty-eight (28) days from the Authority's publication of its significant code review conclusions.

"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.

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.
 - 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 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] [The licensee shall, upon receipt by the licensee of a direction from the Secretary of State to do so, revise the Grid Code so as to incorporate any changes to the Grid Code designated by the Secretary of State on or before 8 September 2004.]~~
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.