

Electricity Act 1989

Sections 11A(1)(b) and 49A(1)(b)

MODIFICATION OF THE ELECTRICITY TRANSMISSION LICENCE GRANTED UNDER SECTION 6(1)(b) OF THE ELECTRICITY ACT 1989; AND

NOTICE UNDER SECTION 49A(1)(b) OF THE ELECTRICITY ACT 1989 FOR THE REASONS FOR THE DECISION TO MODIFY THE LICENCE

Whereas:

1. National Grid Electricity Transmission plc (NGET), SP Transmission Limited (SPTL) and Scottish Hydro-Electric Transmission plc (SHETL) hold electricity transmission licences as granted under section 6(1)(b) of the Electricity Act 1989 (the Act).
2. In accordance with section 11A(2) of the Act, the Gas and Electricity Markets Authority (the Authority) gave notice on 12 December 2011 (the Notice) that it proposed to modify standard condition C8 (Requirement to offer terms) (SLC C8) and standard condition D4A (Obligations in relation to offers for connection etc) (SLC D4A) of the licence and requiring any representations to the proposed modification to be made on or before 23 January 2012.
3. In accordance with section 49A(1)(b) to the Act the reasons for making the licence modifications are those set out in the Authority's statutory consultation letter which accompanied the Notice. In summary, the effect of the modification is to include reporting obligations on NGET, SPTL and SHETL that will allow Ofgem to identify and monitor issues that may be delaying timely connections.
4. In accordance with section 11A(4)(b) of the Act, the Authority gave such notice of its intention to make the modifications to the Secretary of State and has not received a direction not to make the modifications.
5. Prior to the close of the consultation period in respect of the Notice, the Authority received three responses all of which were non-confidential.
6. The Authority has carefully considered the responses made in relation to the proposed licence modifications and has amended the drafting with the purpose of:
 - clarifying the periods that the reports will cover, ie "that six month period" of 1 April to 30 September or 1 October to 31 March which has just passed.
 - clarifying the timescales in which we expect NGET, as system operator, to publish a non-confidential version of the combined reports.

These amendments are identified using blue font to allow them to be distinguishable from those in the red font in the drafting contained in the schedule to the Notice.

7. A printed copy of any document referred to in this document is available free of charge from the Ofgem Research and Information Centre, 9 Millbank, London SW1P 3GE (020 7901 7003 or library @ofgem.gov.uk) or from the Ofgem website (www.ofgem.gov.uk). The responses received are also available from the Ofgem Research and Information Centre or on the Ofgem website.

Now therefore:

In accordance with the powers contained in section 11A(1)(b) of the Act, the Authority hereby modifies SLC C8 and SLC D4A of the licence in the manner specified in the attached schedule 1. This decision will take effect on and from 6 April 2012.

This document also constitutes notice of the reasons for the decision to modify the Licence as required by section 49A(1)(b) 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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**Andrew Burgess, Associate Partner, Transmission and Distribution PolicyDuly
authorised on behalf of the Gas and Electricity Markets Authority**

9 February 2012

Schedule 1

Condition C8: Requirement to offer terms

1. Unless otherwise determined by the Authority under standard condition C9 (Functions of the Authority), on application made on or after the BETTA go-live date by:
 - (a) any authorised electricity operator in the case of an application for use of system;
and
 - (b) any person in the case of an application for connection,

the licensee shall (subject to paragraph 6) offer to enter into the CUSC Framework Agreement.
2. On application made on or after the BETTA go-live date by any person or any authorised electricity operator in accordance with paragraph 1, the licensee shall, where required by the STC, notify other STC parties in accordance with the STC and, for the purpose of making an offer for connection or modification to an existing connection or for use of system, shall co-operate and co-ordinate its activities with any other STC parties in accordance with the STC.
3. On application made on or after the BETTA go-live date by any person the licensee shall (subject to paragraph 6) offer to enter into a bilateral agreement and/or a construction agreement relating to connection or modification to an existing connection and such offer shall reflect any associated TO offer which relates to that offer and shall make detailed provision regarding:
 - (a) the carrying out of work (if any) required to connect the national electricity transmission system to any other system for the transmission or distribution of electricity and for the obtaining of any consents necessary for such purpose;
 - (b) the carrying out of works (if any) in connection with the extension or reinforcement of the national electricity transmission system rendered (at the discretion of an STC party where the works are to be carried out on that STC party's transmission system) appropriate or necessary by reason of making the connection or modification to an existing connection and for the obtaining of any consents necessary for such purpose;

- (c) where there is a need for the Authority to identify an offshore transmission owner, the initial assumptions made by the licensee regarding the carrying out of works in connection with the extension or reinforcement of the national electricity transmission system rendered appropriate or necessary by reason of making the connection or modification to an existing connection and for the obtaining of any consents necessary for such purpose;
 - (d) the installation of appropriate meters (if any) required to enable the licensee to measure electricity being accepted into the national electricity transmission system at the specified entry point or points or leaving such system at the specified exit point or points;
 - (e) the date by which any works required to permit access to the national electricity transmission system (including for this purpose any works to reinforce or extend the national electricity transmission system) shall be completed (time being of the essence unless otherwise agreed by the person seeking connection);
 - (f) the connection charges to be paid to the licensee, such charges:
 - (i) to be presented in such a way as to be referable to the connection charging methodology or any revision thereof; and
 - (ii) to be set in conformity with the requirements of paragraph 8 of standard condition C6 (Connection charging methodology) and (where relevant) paragraph 4; and
 - (g) such further terms as are or may be appropriate for the purpose of the agreement.
4. For the purpose of determining an appropriate proportion of the costs directly or indirectly incurred in carrying out works under a bilateral agreement and/or construction agreement, the licensee will have regard to:
- (a) the benefit (if any) to be obtained or likely in the future to be obtained by any transmission licensee or any other person as a result of carrying out such works whether by reason of the reinforcement or extension of the national electricity transmission system or the provision of additional entry or exit points on such system or otherwise; and

- (b) the ability or likely future ability of any transmission licensee to recoup a proportion of such costs from third parties.
5. The licensee shall offer terms in accordance with paragraphs 1 and 3 above as soon as practicable and (except where the Authority consents to a longer period) in any event not more than the period specified in paragraph 7 below after receipt by the licensee of an application containing all such information as the licensee may reasonably require for the purpose of formulating the terms of the offer.
6. The licensee shall not be obliged pursuant to this condition to offer to enter or to enter into any agreement if:
- (a) to do so would be likely to involve the licensee:
 - (i) in breach of its duties under section 9 of the Act;
 - (ii) in breach of any regulations made under section 29 of the Act or of any other enactment relating to safety or standards applicable in respect of the transmission business;
 - (iii) in breach of the Grid Code; or
 - (iv) in breach of the conditions; or
 - (b) the person making the application does not undertake to be bound insofar as applicable by the terms of the Grid Code and/or the CUSC from time to time in force; or
 - (c) in the case of persons making application for use of system under paragraph 1, such person ceases to be an authorised electricity operator; or
 - (d) it is unable to do so due to another transmission licensee having notified the licensee that, for one or more of the reasons set out in paragraph 4 of standard condition D4A and E17 (Obligations in relation to offers for connection etc), it is not obliged to offer to enter or to enter into any agreement with the licensee in accordance with paragraph 1 or paragraph 3 of standard condition D4A or E17 (Obligations in relation to offers for connection etc) and that it does not intend to offer to enter or to enter into any such agreement; or

- (e) it is unable to do so due to another STC party having notified the licensee in accordance with the STC that it is not obliged to offer to enter or to enter into any agreement with the licensee; or
- (f) if to do so would extend the national electricity transmission system beyond the transmission area defined in special condition AA of the licensee's or any other transmission licensee's licence and the required works could not be undertaken by an offshore transmission owner.

6A. In any such case the licensee shall give duly substantiated reasons for not offering to enter or not entering into any agreement.

7. For the purposes of paragraph 5, the period specified shall be:

- (a) in the case of persons seeking use of system only and seeking to become a party to the CUSC Framework Agreement if not already a party, in connection with such use, 28 days; and
- (b) in the case of persons seeking a bilateral connection agreement or a construction agreement (and seeking to become a party to the CUSC Framework Agreement if not already a party, in connection with such agreements), 3 months; and
- (c) in any other case, 28 days.

8. The licensee shall within 28 days following receipt of a request from any person, give or send to such person such information in the possession of the licensee as may be reasonably required by such person for the purpose of completing an application under the Application Regulations or such provisions of similar effect contained in any further regulations.

9. On receipt of notice from the Authority that an offshore transmission owner has been identified, the licensee shall propose to vary the contractual terms of a bilateral connection agreement and/or construction agreement entered into pursuant to paragraph 3, within 3 months to reflect any changes needed as a consequence of a TO offer from an offshore transmission owner being different from the initial assumptions made by the licensee under paragraph 3(c).

10. For the period between offshore transmission go-active and offshore transmission go-live, the licensee shall for the purposes of paragraph 3 of this condition:

- (a) treat a notification made by a distribution licensee in respect of a relevant offshore agreement between the distribution licensee and an existing offshore generator, as an application on behalf of that existing offshore generator for connection to and use of the national electricity transmission system; and
- (b) treat a notice issued by the licensee in accordance with the CUSC, to an existing offshore generator in respect of a relevant offshore agreement as an application on behalf of that existing offshore generator for modification to an existing connection to the national electricity transmission system.

11. In making an offer to an existing offshore generator in accordance with paragraph 3 of this condition, the licensee shall offer to enter into an agreement that reflects the terms of any relevant offshore agreement that:

- (a) the licensee has with the existing offshore generator;
- (b) that a distribution licensee has with the existing offshore generator that has been notified to the licensee in accordance with the CUSC.

12. The Licensee shall within 28 days after the end of the following six monthly periods:

(a) 1 April until 30 September; and

(b) 1 October until 31 March

submit to the Authority a report in relation to all offers made under paragraph 3 of this condition during that six month period setting out the factors which have influenced the date identified in each offer in accordance with paragraph 3(e) of this condition including the following:

- (i) information on the timescales for connection, and how this may vary by location, type and size of connection
- (ii) key issues that have an impact or have had an impacted on the timetable for delivery of the connection; and

(iii) any issues likely to impact timing of connections going forward.

13. A non-confidential, combined version of this report and the reports provided to the licensee under standard condition D4A (Obligations in relation to offers for connection etc) must also be published by the licensee within 10 days after the later of :

(i) the receipt by the licensee of the last of the reports under standard condition D4A

(ii) the date by which the licensee is required to submit its report to the Authority pursuant to paragraph 12.

~~submission to the Authority.~~

~~1432~~ In this condition:

“existing offshore generator”	means a generator with a generating station located in offshore waters that has a relevant offshore agreement for connection via lines of 132kV or above that are wholly or partly in offshore waters.
“offshore waters”	has the meaning given in the Act.
“relevant offshore agreement”	means an agreement between an existing offshore generator and the licensee for connection to and/or use of the national electricity transmission system or an agreement between an existing offshore generator and a distribution licensee for connection to its distribution system.

Condition D4A: Obligations in relation to offers for connection etc

1. On notification by the system operator of receipt on or after the BETTA go-live date of an application for connection or for modification to an existing connection in accordance with paragraph 2 of standard condition C8 (Requirement to offer terms), the licensee shall (subject to paragraph 2 and paragraph 4) offer to enter into an agreement with the system operator and such offer shall make detailed provision regarding:
 - (a) the carrying out of work (if any) on the licensee's transmission system required to connect the national electricity transmission system to any other system for the transmission or distribution of electricity and for the obtaining of any consents necessary for such purpose;
 - (b) the carrying out of works (if any) on the licensee's transmission system in connection with the extension or reinforcement of the licensee's transmission system which is rendered (in the licensee's discretion) appropriate or necessary by reason of making the connection or modification to an existing connection to the national electricity transmission system and for the obtaining of any consents necessary for such purpose;
 - (c) where the system operator requests the same, the installation of meters (if any) on the licensee's transmission system required to enable the system operator to measure electricity being accepted onto the national electricity transmission system at the specified entry point or points or leaving such system at the specified exit point or points;
 - (d) the date by which any works required on the licensee's transmission system to facilitate access to the national electricity transmission system (including for this purpose any works on the licensee's transmission system to reinforce or extend the licensee's transmission system) shall be completed (time being of the essence unless otherwise agreed by the system operator);
 - (e) such costs as may be directly or indirectly incurred in carrying out the works, the extension or reinforcement of the licensee's 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, which works are detailed in the offer;

- (f) such further terms as are or may be appropriate for the purpose of the agreement; and

in providing such information, the licensee shall co-operate and co-ordinate its activities with other STC parties in accordance with the STC.

2. Subject to paragraph 4, the licensee shall, after receipt by the licensee of an application containing all such information as the licensee may reasonably require for the purpose of formulating the terms of the offer, offer terms in accordance with paragraph 1 above as soon as practicable and (except where the Authority consents to a longer period) in accordance with the time periods specified for this purpose in the STC.
3. On notification by the system operator in accordance with paragraph 2 of standard condition C8 (Requirement to offer terms) of receipt by the system operator on or after the BETTA go-live date of an application for use of system, the licensee shall (subject to paragraph 4), where the system operator requests that it do so in accordance with the STC, offer to enter into an agreement with the system operator in respect of such application in the manner provided in the STC and for the purposes of making such offer shall cooperate and co-ordinate its activities with other STC parties in accordance with the STC.
4. The licensee shall not be obliged pursuant to this condition to offer to enter into or to enter into any agreement pursuant to this condition if to do so would be likely to involve the licensee:
 - (a) in breach of its duties under section 9 of the Act;
 - (b) in breach of any regulations made under section 29 of the Act or of any other enactment relating to safety or standards applicable in respect of the transmission business; or
 - (c) in breach of the conditions,

and where the licensee is not obliged pursuant to this condition to offer to enter into or to enter into an agreement with the system operator, the licensee shall notify the system operator of that fact (and of the fact that it does not intend to offer to enter into or to enter into an agreement pursuant to paragraph 1 or paragraph 3) and shall give duly substantiated reasons to the system operator for not offering to enter or not entering into any agreement as soon as practicable in accordance with the STC.

5. The Licensee shall within 28 days after the end of the following six monthly periods:

(a) 1 April until 30 September; and

(b) 1 October until 31 March

submit to the Authority a report in relation to all agreements it has offered to enter into with the system operator made under paragraph 1 of this condition during that six month period setting out the factors which have influenced the date identified in each offer made to the system operator in accordance with paragraph 1(d) of this condition including the following:

(i) information on the timescales for connection, and how this may vary by location, type and size of connection

(ii) key issues that have an impact or have had an impacted on the timetable for delivery of the connection; and

(iii) any issues likely to impact timing of connections going forward.

6. The Licensee shall provide a non-confidential version of the report to the system operator within 5 days of submission of its report to the Authority.