

To the Company Secretary:

UK Power Networks (IDNO) Ltd
Company number 06489447

NOTICE UNDER SECTION 11A(2) OF THE ELECTRICITY ACT 1989

The Gas and Electricity Markets Authority ("the Authority") hereby gives notice pursuant to section 11A(2) of the Electricity Act 1989 ("the Act") as follows:

1. The Authority proposes to modify the electricity distribution licence held by UK Power Networks (IDNO) Ltd granted or treated as granted under section 6(1)(c) of the Act by amending the following Amended Standard Licence Conditions:

- Condition 52. Credit rating of the licensee; and
- Condition 53. Restriction of Indebtedness and transfers of funds.

2. The Authority's reasons for proposing to make these licence modifications, in conjunction with the modification of certain Standard Licence Conditions in all electricity distribution licences, are set out in the following documents published by the Authority:

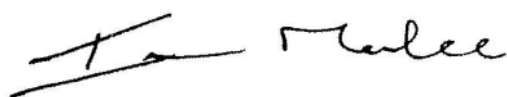
- Review of the 'Ring Fence' Conditions in Network Operator Licences (Ref 30/10) published 3 March 2010;
- Proposed Modifications to the 'Ring Fence' Conditions in Network Operator Licences (Ref 42/11) published 25 March 2011;
- Changes to the Ring Fence Conditions in Network Operator Licences (Ref 85/2012) published 3 July 2012; and
- Updated Proposals for Changes to Ring Fence Conditions (Ref 129/2012) published 11 October 2012; and
- Open letter dated 17 December 2012: Formal proposals to modify the ring fence conditions in network operator licences,

and in summary are to update and enhance the suite of 'Ring Fence' conditions in the electricity distribution licences granted under section 6(1)(c) of the Act so that it continues to protect the interests of existing and future consumers by helping to control the risks associated with the financial distress of a distribution system operator.

3. The effects of the proposed modifications are to:

- a) to add DBRS Ratings Ltd to the list of credit rating agencies specified in Amended Standard Licence Condition 52;
- b) to expand the definition of parties specified in restrictions placed on the licensee in Standard Licence Condition BA4 by the inclusion of a new defined term of "Associate"; and
- c) to specify additional circumstances in which a licensee could be subject to restrictions on the payments it can make to its Associates.

4. The proposed modifications are set out in marked-up text in Annexes 1 and 2 to this notice.
5. Copies of this notice and the documents referred to in paragraph 2 are available (free of charge) from the Ofgem Research and Information Centre (telephone 020 7901 7003) or on the Ofgem website (www.ofgem.gov.uk).
6. Any representations on the proposed licence modifications may be made on or before 22 January 2013 to: Paul Darby, Regulatory Finance Team, Office of Gas and Electricity Markets, 9 Millbank, London, SW1P 3GE or by email to paul.darby@ofgem.gov.uk.
7. All responses will normally be published on Ofgem's website and held in the Research and Information Centre. However, if respondents do not wish their response to be made public then they should clearly mark their response as not for publication. Ofgem prefers to receive responses in an electronic form so they can be placed easily on the Ofgem website.
8. If the Authority decides to make the proposed modification it will take effect not less than 56 days after the decision is published.



.....
Ian Marlee
Senior Partner, Smarter Grids and Governance (Transmission)

Duly authorised on behalf of the
Gas and Electricity Markets Authority

17 December 2012

Condition 52. Credit rating of the licensee

Licensee's obligation

52.1 The licensee must take all appropriate steps within its power to ensure that at all times it maintains an Investment Grade Issuer Credit Rating (which is to be interpreted in accordance with the provisions of paragraphs 52.2 to 52.4) or such arrangements as the Authority considers appropriate and has approved.

Meaning of Issuer Credit Rating

52.2 For the purposes of paragraph 52.1, an Issuer Credit Rating is any of the following:

- (a) an issuer **credit** rating by Standard & Poor's Ratings Group or any of its subsidiaries; or
- (b) an issuer **credit** rating by Moody's Investors Services Inc or any of its subsidiaries; or
- (c) an issuer **credit senior unsecured debt** rating by Fitch Ratings Ltd or any of its subsidiaries;
- (d) **an issuer credit rating by DBRS Ratings Limited or any of its affiliates; or**
- (~~ed~~) a rating which, in the Authority's opinion given by Notice to the licensee, is equivalent to any of those specified in sub-paragraph (a), (b), ~~or~~ (c) **or (d)** and is issued by:
 - (i) any of the credit rating agencies referred to in those sub-paragraphs, or
 - (ii) any other reputable credit rating agency which, in the Authority's opinion given by Notice to the licensee, has comparable standing in both the United Kingdom and the United States of America.

Meaning of Investment Grade

52.3 An Investment Grade, in relation to any Issuer Credit Rating within the meaning of paragraph 52.2, is any of the following:

- (a) an issuer **credit** rating of not less than BBB– by Standard & Poor's Ratings Group or any of its subsidiaries; or
- (b) an issuer **credit** rating of not less than Baa3 by Moody's Investors Service Inc or any of its subsidiaries; or
- (c) an issuer **credit senior unsecured debt** rating of not less than BBB– by Fitch Ratings Ltd or any of its subsidiaries;
- (d) **an issuer credit rating of not less than BBB (low) by DBRS Ratings Limited or any of its affiliates; or**

(~~ed~~) a rating which, in the Authority's opinion given by Notice to the licensee, is equivalent to any of those specified in sub-paragraph (a), (b), ~~or~~ (c) or (d) and is issued by:

- (i) any of the credit rating agencies referred to in those sub-paragraphs, or
- (ii) any other reputable credit rating agency which, in the Authority's opinion given by Notice to the licensee, has comparable standing in both the United Kingdom and the United States of America.

Condition 53. Restriction of Indebtedness and transfers of funds

General prohibition

- 53.1 In addition to complying with the requirements of standard condition 26 (Disposal of Relevant Assets **and restrictions on charges over Receivables**), the licensee must not, without the consent of the Authority following the licensee's disclosure of all material facts, enter into any transaction or commitment of a type described or referred to in this condition that does not comply with the restrictions applicable to it under this condition.

Part A: Restricted Category 1

- 53.2 The licensee must not create or continue or permit to remain in effect any mortgage, charge, pledge, lien or other form of security or encumbrance, or undertake any Indebtedness to any other person, or enter into any guarantee or any obligation, except in accordance with all of the following requirements:
- (a) the transaction in question must be on an arm's length basis;
 - (b) it must be on normal commercial terms;
 - (c) it must be for a Permitted Purpose; and
 - (d) if it is within the ambit of standard condition 26 (Disposal of Relevant Assets **and restrictions on charges over Receivables**), it must comply with the requirements of that condition.

Part B: Restricted Category 2

- 53.3 The licensee must not transfer, lease, license, or lend any sum or sums, asset, right, or benefit to any ~~Affiliate or Related Undertaking~~ **Associate** of the licensee except by way of any of the following transactions:
- (a) a dividend or other distribution out of distributable reserves; or
 - (b) a repayment of capital; or
 - (c) a payment properly due for any goods, services, or assets provided on an arm's length basis and on normal commercial terms; or
 - (d) a transfer, lease, licence, or loan of any sum or sums, asset, right, or benefit that is on an arm's length basis, on normal commercial terms, and is made in compliance with the payment condition described in paragraph 53.4; or
 - (e) a repayment of, or payment of interest on, a loan that is not prohibited by paragraph 53.2; or
 - (f) payments for group corporation tax relief ~~or for the surrender of Advance Corporation Tax~~ calculated on a basis not exceeding the value of the benefit received; or

- (g) an acquisition of shares or other investments that is in conformity with paragraphs 29.2 and 29.3 of standard condition 29 (Restriction of activity and financial ring-fencing of the Distribution Business) and is made on an arm's length basis and on normal commercial terms.

53.4 The payment condition referred to in paragraph 53.3(d) is that the consideration due in respect of the transaction in question must be paid in full when the transaction is entered into unless either:

- (a) the counter-party to the transaction has and maintains until payment is made in full an Investment Grade Issuer Credit Rating; or
- (b) the obligations of the counter-party to the transaction are fully and unconditionally guaranteed throughout the period during which any part of the consideration remains outstanding by a guarantor ~~which~~ that has and maintains an Investment Grade Issuer Credit Rating.

53.5 The provisions of this Part B are subject to the provisions of Part C below.

Part C: Circumstances that trigger the provisions of Part D

53.6 ~~Where the licensee has not obtained the Authority's consent to the use of alternative arrangements under paragraph 1 of standard condition 52 (Credit rating of the licensee) The following paragraphs of this Part C set out each of the circumstances in which~~ the licensee must not, except with the Authority's consent, enter into or complete any transaction of a type described or referred to in Part B except in accordance with the provisions of Part D below ~~if any of the circumstances set out in paragraphs 53.7 to 53.11 applies.~~

53.7 The circumstance described by this paragraph is that the licensee does not hold an Investment Grade Issuer Credit Rating.

53.8 The circumstance described by this paragraph is that the licensee holds more than one Issuer Credit Rating and one or more of the ratings so held is not Investment Grade.

53.9 The circumstance described by this paragraph is that the licensee holds an Issuer Credit Rating that is BBB– by Standard & Poor's Ratings Group or Fitch Ratings Ltd, or is Baa3 by Moody's Investors Service Inc, ~~or BBB (low) by DBRS Ratings Ltd or any of its affiliates~~, or is such higher Issuer Credit Rating as may be specified by any of those credit rating agencies from time to time as the lowest Investment Grade ~~issuer~~ credit rating, or is an equivalent rating from another agency that has been notified to the licensee by the Authority as of comparable standing for the purposes of standard condition 52 (Credit rating of the licensee), and:

- (a) the rating in question is under review for possible downgrade; or
- (b) the licensee is on Credit Watch or Rating Watch with a negative designation; or, where neither sub-paragraph (a) nor (b) applies:

- (c) the licensee's rating outlook, as specified by any credit rating agency referred to in this paragraph 53.9 which at the relevant time has assigned the lower or lowest Investment Grade Issuer Credit Rating held by the licensee, has been changed from stable or positive to negative.

53.10 The circumstance described by this paragraph is that the licensee has:

- (a) given the Authority a certificate in the form of Certificate 3F under the requirement set out in paragraph 30.2 of standard condition 30 (Availability of resources) and has not subsequently given the Authority a certificate in the form of Certificate 1F or Certificate 2F as set out in the same condition;
- (b) given the Authority a certificate in the form of Certificate 3R under the requirement set out in paragraph 30.4 of standard condition 30 (Availability of resources) and:

- (i) the opinion expressed in the certificate arises in whole or in part from circumstances affecting an Associate of the licensee, and
 - (ii) the licensee has not subsequently given the Authority a certificate in the form of Certificate 1R or Certificate 2R as set out in the same condition;

or

- (c) informed the Authority of any circumstance of the type referred to at paragraph 30.7 of standard condition 30 (Availability of resources) and:

- (i) the circumstances giving rise to the licensee's report relate to the licensee's financial resources and the licensee has not subsequently given the Authority a certificate in the form of Certificate 1F or 2F as set out in the same condition; or
 - (ii) the circumstances giving rise to the licensee's report relate to the licensee's operational resources and:
 - (aa) relate in whole or in part to circumstances affecting an Associate of the licensee; and
 - (bb) the licensee has not subsequently given the Authority a certificate in the form of Certificate 1R or 2R as set out in the same condition.

53.11 The circumstance described by this paragraph is that the licensee has, after 1 April 2013, materially breached any formal covenant contained in any loan agreement, commercial paper, bond issue or committed facility that it has entered into with a counterparty, unless one of the following applies:

- (a) the licensee has remedied the breach to the satisfaction of the counterparty concerned;
- (b) the licensee has renegotiated the covenant or arrangement to the satisfaction of the counterparty concerned;

and in either case (a) or (b) the remedy or renegotiation has been notified in Writing to the Authority;

or

- (c) in response to a written request from the licensee, either the Authority has confirmed in Writing, before the breach occurs, that the breach in question shall not trigger the provisions of Part D, or the Authority has not provided a substantive response to such a written request within seven days of receiving it.

53.12 Where the licensee has obtained the Authority's consent to the use of alternative arrangements under paragraph 1 of standard condition 52 (Credit rating of the licensee) then except with the prior consent of the Authority, the licensee shall not enter into or complete any transaction of a type described or referred to in paragraph 53.3 except in accordance with the provisions of Part D if:

- (a) those alternative arrangements are not maintained in accordance with any conditions imposed by the Authority when it gave its consent; or
- (b) either of the circumstances described in paragraphs 53.10 and 53.11 applies.

Part D: Restricted Category 3

~~53.130~~ Where, under the provisions of either paragraph 53.6 or 53.12, the licensee is prohibited from entering into or completing any transaction of a type described or referred to in paragraph 53.3, ~~any of the circumstances described or referred to under Part C applies,~~ the licensee may not, without the consent of the Authority following the licensee's disclosure of all material facts, transfer, lease, license, or lend any sum or sums, asset, right, or benefit to any ~~Affiliate or Related Undertaking~~ Associate of the licensee except by way of any of the following transactions:

- (a) a payment properly due for any goods, services, or assets in relation to commitments entered into before the date on which the relevant circumstance under Part C arose, and which are provided on an arm's length basis and on normal commercial terms; or
- (b) a transfer, lease, licence, or loan of any sum or sums, asset, right, or benefit on an arm's length basis, on normal commercial terms, and where the value of the consideration due in respect of the transaction in question is payable wholly in cash and is paid in full when the transaction is entered into; or
- (c) a repayment of, or payment of interest on, a loan that is not prohibited by paragraph 53.2 and which was contracted before the date on which the relevant circumstance under Part C arose, provided that such payment is not made earlier than the original due date for payment in accordance with its terms; or
- (d) payments for group corporation tax relief ~~or for the surrender of Advance Corporation Tax~~ calculated on a basis not exceeding the value of the benefit received, so long as the payments are not made before the date on which the amounts of tax thereby relieved would otherwise have been due.

Part E: Restricted Category 4

~~53.144~~ ~~Subject to paragraph 53.12, +~~ The licensee must not: ~~(a) enter into any agreement or incur any commitment that incorporates a Cross-Default Obligation; or (b) continue or permit to remain in effect any agreement or commitment that incorporates a Cross-~~

~~Default Obligation subsisting at the date on which this condition takes effect in this licence.53.12 The licensee may permit any Cross Default Obligation in existence at the date mentioned in paragraph 53.11(b) to remain in effect for a period of not more than 12 months from that date, so long as:~~

- ~~(a) the Cross Default Obligation is referable solely to an instrument that relates to the provision of a loan or other financial facilities granted before that date; and~~
- ~~(b) the terms on which those facilities have been made available as at that date are not varied or made more onerous.~~

53.1~~35~~ Nothing in paragraph 53.1~~14~~ ~~or 53.12~~ prevents the licensee from giving any guarantee that is permitted by and compliant with the requirements of Part A.

~~Part F: Variation of provision~~

53.14 ~~Where the licensee has obtained the Authority's consent to the use of alternative arrangements under paragraph 1 of standard condition 52 (Credit rating of the licensee):~~

- ~~(a) the provisions of Part C will not apply to the licensee; but~~
- ~~(b) if those alternative arrangements are not maintained in accordance with any conditions imposed by the Authority when it gave its consent, the licensee must then not, without the Authority's consent, enter into or complete any transaction of a type described or referred to in paragraph 53.3 except in accordance with the provisions of Part D.~~

~~Part G F: Interpretation~~

53.1~~56~~ In this condition:

~~Associate~~ means:

- ~~(a) an Affiliate or Related Undertaking of the licensee;~~
- ~~(b) an Ultimate Controller of the licensee;~~
- ~~(c) a Participating Owner of the licensee; or~~
- ~~(d) a Common Control Company.~~

~~Common Control Company~~ means any company, any of whose Ultimate Controllers (applying the definition set out in standard condition 1 (Definitions for the standard conditions) but substituting that company for the licensee) is also an Ultimate Controller of the licensee.

~~Cross-Default Obligation~~ means a term of any agreement or arrangement under which the licensee's liability to pay or repay any debt or other sum arises or is increased or accelerated, or is capable of arising or increasing or of being accelerated, because of a default (however it may be described or defined) by any person other than the licensee, unless:

- (a) that liability can arise only as the result of a default by a Subsidiary of the licensee;
- (b) the licensee holds a majority of the voting shares in that Subsidiary and has the right to appoint or remove a majority of its board of directors; and
- (c) that Subsidiary carries on business only for a purpose within sub-paragraph (a) or (b) of the definition of Permitted Purpose set out in standard condition 1 (Definitions for the standard conditions).

Investment Grade has the meaning given in standard condition 52 (Credit rating of the licensee).

Issuer Credit Rating has the meaning given in standard condition 52 (Credit rating of the licensee).

Participating Owner: For the purposes of the definition of Associate above, a person is subject to a Participating Interest by another person (a Participating Owner) if:

- (a) that other person holds a Participating Interest in the person; or
- (b) the person is subject to a Participating Interest by a person who is himself subject to a Participating Interest by that other person.

Participating Interest has the meaning given in section 421A of the Financial Services and Markets Act 2000.