

To: All holders of an electricity transmission licence

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 all electricity transmission licences granted or treated as granted under section 6(1)(b) of the Act by amending the following standard conditions:
 - Condition B12 (System Operator – Transmission Owner Code)
 - Condition B18 (Offshore Transmission Owner of Last Resort)
 - Condition C3 (Balancing and Settlement Code (BSC))
 - Condition C5 (Use of system charging methodology)
 - Condition C6 (Connection charging methodology)
 - Condition C10 (Connection and Use of System Code (CUSC))
 - Condition E21 (Offshore Transmission Owner of Last Resort)

2. The reason why the Authority proposes to make these licence modifications is set out in Appendix 1 of the decision letter that is published with this Notice but, in summary, the reasons for the proposed modifications are to:
 - Insert a new code objective and a relevant objective requiring compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency for the Cooperation of Energy Regulators.
 - Add the licensee and the Authority to those who may raise a System Operator – Transmission Owner code (STC) modification (the Authority only in relation to modifications which it reasonably considers are necessary to comply with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency for the Cooperation of Energy Regulators).
 - Clarify when the Authority's consent is required for a licensee to withdraw a code modification proposal that it has raised.
 - Place a requirement on the licensee and the panel (where applicable) to comply with any direction/s issued by the Authority.
 - Reflect changes introduced as a result of our First Code Governance Review (CGR) Final Proposals .¹
 - Remove and renumber paragraphs and amend terminology to reflect our Code Governance Review (Phase 2) (CGR2) modification decision Notice.²
 - Remove repealed provisions and allow a Section B or Section E (Offshore Transmission Owner of Last Resort) Direction to take effect following proposals to modify any of the conditions of the licence to which the Direction applies.
 - Correct a minor typographical error in the Balancing and Settlement Code (BSC) licence condition.

3. The effect of the proposed modifications is set out in Appendix 1 of the decision letter that is published with this Notice. In summary the proposed modifications:
 - Require code modification proposals to comply with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency for the Cooperation of Energy Regulators.
 - Provide for the licensee to raise STC modification proposals.

¹ First CGR Final Proposals appear here:

http://www.ofgem.gov.uk/Licensing/IndCodes/CGR/Documents1/CGR_Finalproposals_310310.pdf

² CGR2 Final proposals appear at:

<http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=450&refer=Licensing/IndCodes/CGR>

- Allow the Authority to raise STC modification proposals which it reasonably considers are necessary to comply with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency for the Cooperation of Energy Regulators.
- Prevent the licensee from withdrawing code modifications which the Authority reasonably considers are necessary to comply with or implement the Electricity Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency for the Cooperation of Energy Regulators without the Authority's prior consent.
- Mandate the licensee and the panel (where applicable) to comply with any direction/s issued by the Authority.
- Remove repealed provisions and provisions that have become redundant as a result of our First CGR Final Proposals.
- Reflect our CGR2 modification decision Notice.
- Correct a minor typographical error in the BSC licence condition that improves the existing text.
- Enable an Offshore Transmission Owner of Last Resort Direction to take effect following proposals to modify any of the conditions of the licence to which that Direction applies.

4. Further detail and background on these proposed changes is set out at:

<http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=239&refer=LICENSING/WORK>

5. Relevant licence holders for the purposes of this Notice are all holders of an electricity transmission licence at the relevant time with any of the Standard Conditions referred to in paragraph 1 in force.

6. A copy of the proposed modifications and other documents referred to in this Notice are available (free of charge) from the Ofgem library (telephone 020 7901 7003) or the Ofgem website (www.ofgem.gov.uk)

7. Any representations on the proposed licence modifications must be made on or before 28 August 2013 to: Abid Sheikh, Office of Gas and Electricity Markets, 107 West Regent Street, Glasgow, G2 2BA or by email to: licensing@ofgem.gov.uk

8. All responses will normally be published on Ofgem's website. 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.

9. If the Authority decides to make the proposed modifications, they will take effect 56 days after the decision is published.

Lesley Nugent
Head of Industry Codes and Licensing
Duly authorised on behalf of the
Gas and Electricity Markets Authority

29 July 2013

Schedule 1

Condition B12: System Operator - Transmission Owner Code

Paragraph 3

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 co-ordinated 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;

(e) promotion of good industry practice and efficiency in the implementation and administration of the arrangements described in the STC; ~~and~~

(f) facilitation of access to the national electricity transmission system for generation not yet connected to the national electricity transmission system or distribution system; and

(g) compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency.

Paragraphs 6(a), (aa), (ab)

6. The STC shall include procedures for its own ~~amendment~~ **modification** (including procedures for the ~~amendment~~ **modification** of the ~~amendment~~ **modification** procedures themselves), so as better to facilitate achievement of the applicable STC objectives, which procedures shall provide:

(a) for proposals for ~~amendment~~ **modification** of the STC to be made by any of the STC parties, the Authority (in relation only to ~~amendments~~ **modifications** which it reasonably considers are necessary to comply with or implement the Electricity Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency), the licensee or such other persons or bodies as the STC may provide;

(aa) for ~~amendment~~-**modification** proposals made by the Authority or the licensee under 6(a) and 6(ab)(i) respectively which the Authority reasonably considers are necessary to comply with or implement the Electricity Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency:

- (i) to be accepted into the STC ~~amendment~~ **modification** procedures by the ~~Committee~~ **panel**;
- (ii) where they are raised by the licensee, not to be withdrawn without the Authority's prior consent; and
- (iii) to proceed in accordance with any timetable(s) directed by the Authority in accordance with paragraph 6(ab);

(ab) for compliance by the licensee and (where applicable) the ~~Committee~~ **panel** with any direction(s) issued by the Authority under this paragraph setting and/or amending a timetable (in relation only to ~~amendments~~ **modifications** which the Authority reasonably considers are necessary to comply with or implement the Electricity Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency) for:

- (i) the licensee to raise an ~~amendment~~ **modification** proposal(s); and/or
- (ii) the completion of each of the procedural steps outlined in paragraph 6, to the extent that they are relevant; and/or
- (iii) the implementation of an ~~amendment~~ **modification**.

Paragraph 6(c), (d), (e), (f)

(c) for the timetable (referred to in sub-paragraph (b)(vi)) for implementation of any ~~amendment~~ **modification** to be either:

- (i) in accordance with any direction(s) issued by the Authority under paragraph 6(ab); or
- (ii) where no direction has been issued by the Authority under paragraph 6(ab),

such as will enable the ~~amendment~~ **modification** to take effect as soon as practicable after the Authority has directed such ~~amendment~~ **modification** to be made (or after a determination by the panel in accordance with paragraph 6A), account being taken of the complexity, importance and urgency of the ~~amendment~~ **modification**, 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 the completion of each of the procedural steps outlined in this paragraph 6, to the extent that they are relevant, to be in accordance with any timetable(s) directed by the Authority under paragraph 6(ab); and

(e) for separate processes for the ~~amendment~~ **modification** 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~~ **modification** of other parts of the STC set out in sub-paragraphs (a) to ~~(e)~~ above and paragraphs ~~6A-7~~; and

(ef) for the revision and resubmission of the modification report submitted to the Authority pursuant to sub-paragraphs 6(b)(vi) and 6(b)(vii) upon, and in accordance with, a direction issued to the panel by the Authority where the Authority determines that it cannot properly form an opinion on the approval of the modification proposal.

Schedule 2

Condition B18: Functions of the Authority

Paragraph 7

7. A Section E (offshore transmission owner of last resort) Direction shall not take effect unless the Authority has formally proposed modifications to the ~~special~~ conditions of this licence, pursuant to section 11A of the Act, that will prescribe the rights and obligations of the licensee with respect to the relevant transmission assets, including the annual revenue that the licensee is able to earn for providing transmission services through the relevant transmission assets in an economic and efficient manner, and:

~~(a)~~ that the modifications are made by the Authority in accordance with section 11A to section 11F of the Act, ~~with the consent of the licensee; or~~

~~(b)~~ that the modifications are made by the Authority in the form originally proposed by the Authority following a reference to the Competition Commission under section 12 of the Act on the proposed modification of the conditions; or

~~(c)~~ that the modifications are made by the Authority in such modified form as the Competition Commission may specify following a reference to the Competition Commission under section 12 of the Act on the proposed modification of the conditions.

Schedule 3

Condition C3: Balancing and Settlement Code (BSC)

Paragraph 4, (a)

- (a) subject to paragraphs 4A and 4B, for proposals for modification of the BSC to be made by the licensee, BSC parties, the Authority (in relation only to modifications which it reasonably considers are necessary to comply with or implement the Electricity Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency), and such other persons or bodies as the BSC may provide;

Schedule 4

Condition C3: Balancing and Settlement Code (BSC)

Paragraph 4, (ad)

- (ad) for modification proposals made by the Authority ~~and~~ or the licensee in accordance with paragraphs 4(a), 4(aa) and 4(ae)(i) respectively which the Authority reasonably considers are necessary to comply with or implement the Electricity Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency:
 - (i) to be accepted into the BSC modification procedures by the panel;
 - (ii) where they are raised by the licensee, not to be withdrawn without the Authority's prior consent; and
 - (iii) to proceed in accordance with any timetable(s) directed by the Authority in accordance with paragraph 4(ae);

Schedule 5

Condition C5: Use of system charging methodology

Paragraphs 2, 2A, 4, 5, 6 and 7

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. [Not used].~~
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. [Not used].~~~~
5. In paragraphs 1 and 2 "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 which are compatible with standard condition C26 (Requirements of a connect and manage connection); ~~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; and
- d. compliance with the Electricity Regulation and any relevant legally binding decisions of the European Commission and/or the Agency.

~~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. [Not used].~~

~~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. [Not used].~~

Schedule 6

Condition C6: Connection charging methodology

Paragraphs 2-15B

~~2-1.~~ 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 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.

~~3-2.~~ 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.

~~4-3.~~ 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, make such modifications to the connection charging methodology as may be requisite for the purpose of better achieving the relevant objectives.

~~5-4.~~ 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.

~~6.~~ 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.

~~7.~~ 6. Nothing in this condition shall affect the ability of the licensee to charge according to the statement issued pursuant to paragraph 4.

~~8.~~ 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.

~~9.~~ 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).

~~10.~~ 9. [Not used].

~~11.~~ 10. (a) [Not used].

(b) Where changes to the connection charging methodology, 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.

~~12.~~ 11. In paragraphs 2 and 3 "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.

~~13.~~ 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.

~~14.~~ 13. The licensee shall send a copy of any statement or revision of a statement or report furnished under paragraphs 4 or 10 to any person who asks for any such statement or revision thereof or report.

~~15.~~ 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.

~~16.~~ 15. Nothing in this condition shall impact on the application of special conditions AA5A to AA5E (Revenue restriction provisions).

~~16~~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. [Not used].~~

~~16~~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. [Not used].~~

Schedule 7

Condition C10: Connection and Use of System Code (CUSC)

Paragraph 6 (ae)

(ae) for modification proposals made by the Authority ~~and~~ or the licensee in accordance with paragraphs (6a), 6(aa) and 6(af)(i) respectively which the Authority reasonably considers are necessary to comply with or implement the Electricity Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency:

- (i) to be accepted into the CUSC modification procedures by the panel;
- (ii) where they are raised by the licensee, not to be withdrawn without the Authority's prior consent; and
- (iii) to proceed in accordance with any timetable(s) directed by the Authority in accordance with paragraph 6(af);

Schedule 8

Condition E21: Offshore Transmission Owner of Last Resort

Paragraph 7

7. A Section E (offshore transmission owner of last resort) Direction shall not take effect unless the Authority has formally proposed modifications to the ~~special~~ conditions of this licence, pursuant to section 11A of the Act, that will prescribe the rights and obligations of the licensee with respect to the relevant transmission assets, including the annual revenue that the licensee is able to earn for providing transmission services through the relevant transmission assets in an economic and efficient manner, and:

(i) that the modifications are made by the Authority in accordance with section 11A to section 11F of the Act. ~~with the consent of the licensee;~~ or

~~(ii) that the modifications are made by the Authority in the form originally proposed by the Authority following a reference to the Competition Commission under section 12 of the Act on the proposed modification of the conditions; or~~

~~(iii) that the modifications are made by the Authority in such modified form as the Competition Commission may specify following a reference to the Competition Commission under section 12 of the Act on the proposed modification of the conditions.~~