

Electricity Act 1989
Section 11A(1)(a)

MODIFICATION OF THE ELECTRICITY TRANSMISSION LICENCE OF NATIONAL GRID PLC GRANTED UNDER SECTION 6(b) OF THE ELECTRICITY ACT 1989

Whereas -

1. National Grid Electricity Transmission PLC ("NGET") is the holder of an electricity transmission licence ("the Licence") granted, or treated as granted, under section 6(b) of the Electricity Act 1989 ("the Act") to participate in the transmission of electricity for the term and subject to the conditions contained in the Licence.
2. In accordance with section 11A(2) of the Act, the Gas and Electricity Markets Authority ("the Authority") gave notice on 7 July 2014 ("the Notice") that it proposed to modify Special Condition 1A (Definitions and Interpretations) and Special Condition 7D (Arrangements for the recovery of SO uncertain costs) of the Licence and by requiring any representations to the modification to be made by 5 August 2014.
3. In accordance with section 11A(4)(b) of the Act, the Authority gave Notice of its intention to make the modifications to the Secretary of State and has not received a direction not to make the modifications.
4. Prior to the close of the consultation period in respect of the Notice, the Authority received one representation, which is published alongside this Modification on the Ofgem website.
5. The Authority has considered the representation received in relation to Special Condition 7D in the proposed modifications set out in this Notice. The Authority considers it necessary to make four non-substantive referencing and format changes to the proposed modifications in light of the representation. These additional changes to correct the referencing are highlighted in blue in Schedule 1 to this modification.
6. The Authority's reason for making these modifications is to ensure that NGET can recover costs for activities it undertakes as the Electricity Market Reform (EMR) Delivery Body.
7. The effect of the modifications is to extend the RIIO-T1¹ price control to include additional funding for EMR through adjustments to revenue allowances. Special condition 7D introduces a new uncertainty category for EMR allowances ('SOEMRES'). The modifications will allow a provisional amount of £5m (£4.29m in 2009/10 prices) spread over 2014/15 and 2015/16. The modifications will allow a further funding determination to be made following an assessment of the full EMR business plan. Where determined to be appropriate, the further funding determination may replace the provisional allowances specified in the proposed modifications.
8. Further details on the reasons and effect of these modifications are set out in the Authority's 'Decision on Revenue for National Grid Electricity Transmission's (NGET) Role in Electricity Market Reform (EMR) and Statutory Consultation on Proposed Licence Modifications to NGET's Special Conditions'².
9. Where an application for permission to appeal the Authority's decision is made to the Competition and Markets Authority (CMA) under section 11C of the Act, Rule 5.7 of

¹ <https://www.ofgem.gov.uk/network-regulation-%E2%80%93-riio-model>.

² <https://authors.ofgem.gov.uk/publications-and-updates/decision-revenue-national-grid-electricity-transmissions-nget-role-electricity-market-reform-emr>

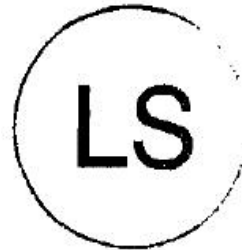
the CMA's Energy Licence Modifications Appeals³ rules requires the appellant to send to any relevant licence holders who are not parties to the appeal a non-confidential notice setting out the matters required in Rule 5.2. NGET is the relevant licence holder for the purposes of section 11A. The meaning of 'relevant licence holder' is set out in section 11A(10) of the Act.

Now therefore

In accordance with the powers contained in section 11A(1)(a) of the Act, the Authority hereby modifies Special Condition 1A and Special Condition 7D of NGET's Licence in the manner specified in the attached Schedule. This decision will take effect on and from 17 October 2014.

This document constitutes notice of the reasons for the decision to modify the licence held by NGET, as required by section 49A of the Act.

The Official Seal of the Gas and Electricity Markets Authority here affixed is authenticated by the signature of



.....
Paul Branston
Associate Partner, Costs and Outputs, Smarter Grids and Governance
Duly authorised on behalf of the Gas and Electricity Markets Authority

22 August 2014

³ This guidance was published by the Competition Commission in September 2012. On 1 April 2014, the Competition Commission was abolished and its functions transferred to the Competition and Markets Authority (CMA)

Schedule 1

Modification of Special Condition 1A. Definitions and Interpretation

In paragraph 1A.5 of Special Condition 1A, after the definition of *DNO Mitigation* insert:

“Electricity Market Reform Enduring Solution for the purposes of Special Condition 7D (Arrangements for the recovery of SO uncertain costs) means costs incurred, or expected to be incurred, by the licensee for the purposes of carrying on EMR Functions (as defined in Chapter 5 of Part 2 of the Energy Act 2013).”

Special Condition 7D. Arrangements for the recovery of SO uncertain costs

Introduction

7D.1 The purpose of this condition is as follows:

(a) to allow the licensee or the Authority to propose, and the Authority to determine, adjustments to the licensee's levels of Allowed Expenditure (“relevant adjustments”) in relation to ~~Enhanced Security Costs~~ the categories set out in paragraph 7D.3 of this condition (each “an uncertain cost category”); and

(b) to determine any appropriate revisions to PCFM Variable Values necessary to implement relevant adjustments and to determine the Relevant Years to which those revised PCFM Variable Values relate for use in the Annual Iteration Process for the ET1 Price Control Financial Model, as described in Special Condition 5B (Annual Iteration Process for the ET1 Price Control Financial Model).

7D.2 The application of the mechanisms set out in this condition ensures that, as a consequence of the Annual Iteration Process, the value of the term $SOMOD_t$ as calculated for Relevant Year t for the purposes of Part B of Special Condition 4A (Restriction of System Operator Internal Revenue) will result in an appropriate adjustment to the licensee’s Maximum SO Internal Revenue in a manner that takes account of Allowed Expenditure levels in relation to the uncertain cost categories specified in paragraph ~~7D.3~~ of this condition, determined under Part A of this condition for the purposes of the Totex Incentive Mechanism Adjustment, in accordance with the methodology set out in chapters 6 and 7 of the ET1 Price Control Financial Handbook.

7D.3 The uncertain cost categories referred to in paragraph 7D.1 of this condition are:

(a) Enhanced Security Costs; and

(b) Electricity Market Reform Enduring Solution.

~~7D.3~~7D.4 This condition should be read and construed in conjunction with Special Condition 5A (Governance of ET1 Price Control Financial Instruments) and Special Condition 5B.

Part A: Proposal and determination of relevant adjustments

~~7D.4~~7D.5 This Part provides for:

- (a) the proposal of relevant adjustments by the licensee or by the Authority;
- (b) the determination of relevant adjustments by the Authority; and
- (c) the deeming of relevant adjustments in certain circumstances.

Proposal of relevant adjustments

7D.~~6~~5 Subject to paragraph 7D.9 and 7D.10~~7D.8~~ of this condition, the licensee may by notice to the Authority, and the Authority may by notice to the licensee, propose a relevant adjustment in relation to any uncertain cost category for any Relevant Year or Relevant Years from 2013/14 to 2020/21, provided that the proposed change to Allowed Expenditure:

(a) is based on information about actual or forecast levels of efficient expenditure requirements, for an uncertain cost category that was not available when the licensee’s SO Opening Base Revenue Allowance was derived;

(b) takes account of any relevant adjustments previously determined under this condition;

(c) except where the proposed change is in relation to Electricity Market Reform Enduring Solution, in aggregate constitutes a material amount within the meaning of paragraph 7D.76 of this condition;

(d) relates to costs incurred or expected to be incurred after 1 April 2013; and

(e) constitutes an adjustment to Allowed Expenditure which cannot be made under the provisions of any other Special Condition of this licence.

7D.76 A material amount is an amount of change to Allowed Expenditure which, when multiplied by the licensee's Totex Incentive Strength Rate set out in Appendix 1 of this condition, exceeds or is likely to exceed one per cent of the licensee's materiality threshold amount as set out in Appendix 2 of this condition.

7D.87 A proposal made under paragraph 7D.65 of this condition must include statements setting out:

(a) the uncertain cost category to which the proposal relates;

(b) the changes to the licensee's Allowed Expenditure levels that are proposed and the Relevant Years to which those changes relate; and

(c) the basis of calculation for the changes to the licensee's Allowed Expenditure levels referred to in sub-paragraph (b) of this paragraph.

Application windows for relevant adjustment proposals

7D.98 In relation to relevant adjustment proposals that are not proposals on Electricity Market Reform Enduring Solution, the licensee and the Authority may only propose relevant adjustments during the following application windows:

(a) the first application window which opens on 1 May 2015 and closes on 31 May 2015; and

(b) the second application window which opens on 1 May 2018 and closes on 31 May 2018.

7D.10 In relation to relevant adjustment proposals on Electricity Market Reform Enduring Solution, and subject to paragraph 7D.12 of this condition, the licensee may only propose relevant adjustments during the application window which opens on 1 August 2014 and closes on 12 January 2015.

7D.119 Relevant adjustments relating to any uncertain cost category may be proposed during ~~both the first and second~~ any applicable application window provided that each such relevant adjustment proposal complies with the provisions of paragraphs 7D.56 to 7D.78 of this condition, ~~to the extent that those paragraphs apply.~~

7D.120 Except as provided for in this paragraph, Rrelevant adjustment proposals made outside the application windows set out in paragraph 7D.98 and 7D.10 of this condition will not be determined by the Authority under the provisions of this condition. If no relevant adjustment proposal on Electricity Market Reform Enduring Solution is made within the application window set out in paragraph 7D.10 of this condition, a proposal for relevant adjustments on Electricity Market Reform Enduring Solution may be made outside that application window and may be determined by the Authority under the provisions of this condition.

Authority's power to determine relevant adjustments

7D.134 Where a proposal has been duly made under paragraph 7D.65 of this condition, the Authority may ~~within four months after the close of the relevant application window,~~ determine any relevant adjustments that are to be made to the licensee's Allowed Expenditure levels and the Relevant Years to which those changes relate, in such manner as it considers appropriate:-

- (a) in the case of a proposal on Electricity Market Reform Enduring Solution, by 31 October 2015 (or as soon as reasonably practicable thereafter); and
- (b) -in the case of any other proposal, within four months after the close of the relevant application window.

~~7D.127~~7D.14 In determining any relevant adjustment under paragraph 7D.134 of this condition, the Authority will:

- (a) consult with the licensee and other interested parties;
- (b) have particular regard to the purposes of this condition; and
- (c) take no account of the general financial performance of the licensee under the price control arrangements set out in the Special Conditions of this licence.

7D.153 A determination under paragraph 7D.134 of this condition may confirm, reject, or vary the proposed relevant adjustment.

~~7D.14~~7D.16 Without limiting the general effect of paragraph 7D.153 of this condition, a determination by the Authority of a relevant adjustment may specify changes to Allowed Expenditure levels for the licensee in relation to an uncertain cost category for any Relevant Year from 2013/14 to 2020/21.

7D.175 The Authority will notify the licensee of any determination made under paragraph 7D.13 of this condition within 14 days of making the determination concerned.

7D.186 Except in relation to a proposal on Electricity Market Reform Enduring Solution, if the Authority has not determined a relevant adjustment in relation to a proposal duly made by the licensee under paragraph 7D.65 of this condition within four months after the close of the relevant application window, and the proposal has not been withdrawn, then the relevant adjustment, insofar as it relates to changes to Allowed Expenditure levels for the licensee for Relevant Years specified in the proposal, will be deemed to have been made.

Provisional allowance for Electricity Market Reform Enduring Solution

7D.19 Without limiting the general effect of paragraphs 7D.15 and 7D.16 of this condition, relevant adjustments to the licensee's levels of Allowed Expenditure in relation to Electricity Market Reform Enduring Solution for the Relevant Years 2014/15 and 2015/16 are set out in Appendix 3 of this Condition.

Part B: Determination of revisions to PCFM Variable Values

7D.2047 This Part provides for the determination and direction of revised PCFM Variable Values by the Authority for:

- (a) Enhanced Security Costs (SOIAEEPS values); and
- ~~(a)(b)~~ Electricity Market Reform Enduring Solution (SOEMRES values).-

7D.2148 The Authority will determine whether any PCFM Variable Values should be revised for the purposes of implementing any relevant adjustments determined or deemed to have been made under the provisions of Part A of this condition.

7D.~~22~~¹⁹ Determinations under paragraph 7D.~~21~~¹⁸ of this condition are to be made in accordance with the methodology contained in chapter 7 of the ET1 Price Control Financial Handbook.

7D.~~23~~⁰ Where the Authority directs any revised PCFM Variable Values for Relevant Years earlier than Relevant Year t, the effect of using those revised values in the Annual Iteration Process for the ET1 Price Control Financial Model will, subject to a Time Value of Money Adjustment, be reflected in the calculation of the term $SOMOD_t$ for Relevant Year t and, for the avoidance of doubt, no previously directed value of the term $SOMOD_t$ will be retrospectively affected.

Part C: Procedure to be followed for the direction of revised PCFM Variable Values relating to the recovery of uncertain costs

~~7D.24~~ ^{7D.24} Subject to paragraph ~~7D.24~~^{7D.27} of this condition, revised PCFM Variable Values determined by the Authority in accordance with the provisions of Part B of this condition will be directed by the Authority by:

(a) in the case of SOEMRES values:

(i) 30 November 2014 (or as soon as is reasonably practicable thereafter), in respect of the relevant adjustment set out in paragraph 7D.19 of this condition; and

(ii) 30 November 2015 (or as soon as is reasonably practicable thereafter), following the application window set out in paragraph 7D.10 of this condition.

(b) in the case of any of any other PCFM Variable Values:

(ia) 30 November 2015 (or as soon as is reasonably practicable thereafter), following the first application window set out in paragraph 7D.9 of this condition; and

(iib) 30 November 2018 (or as soon as is reasonably practicable thereafter), following the second application window set out in paragraph 7D.9 of this condition.

7D.~~25~~² Before issuing any directions under paragraph 7D.~~24~~¹ of this condition, the Authority will give notice to the licensee of all of the revised values that it proposes to direct.

7D.~~26~~³ The notice referred to in paragraph 7D.~~25~~² of this condition will:

(a) state that any revised PCFM Variable Values have been determined in accordance with Part B of this condition; and

(b) specify the period (which must not be less than 14 days from the date of the notice) within which the licensee may make any representations concerning the determination of any revised PCFM Variable Values.

~~7D.24~~^{7D.27} The Authority will determine the revised PCFM Variable Values having due regard to any representations duly received under paragraph 7D.~~26~~³ of this condition, and give reasons for its decisions in relation to them.

7D.~~28~~⁵ If, for any reason, the Authority does not make a direction required under paragraph 7D.~~24~~¹ of this condition by the date specified in that paragraph, the Authority will direct the values concerned as soon as is reasonably practicable thereafter, consistent with the purpose of paragraphs 5B.11 to 5B.13 of Special Condition 5B and, in any case, before directing a value for $SOMOD_t$ under paragraph 5B.12 of that condition.

Part D: Interpretation

7D.2926 Expressions used in this condition and defined in Special Condition 1A (Definitions and interpretation) are to be read and given effect subject to any further clarification set out in the relevant Regulatory Instructions and Guidance issued by the Authority under Special Condition B15 (Regulatory Instructions and Guidance).

APPENDIX 1: TOTEX INCENTIVE STRENGTH RATE

(see paragraph 7D.76 of this condition)

| Licensee | Totex Incentive Strength Rate (%) |
|--|-----------------------------------|
| National Grid Electricity Transmission plc | 46.89 |

APPENDIX 2: MATERIALITY THRESHOLD AMOUNT

(see paragraph 7D.76 of this condition)

| Licensee | £m |
|--|---------|
| National Grid Electricity Transmission plc | 120.517 |

APPENDIX 3: PROVISIONAL ALLOWANCE FOR ELECTRICITY MARKET REFORM ENDURING SOLUTION

(see paragraph 7D.19 of this condition)

| <u>Licensee</u> | <u>£m</u> (2009/10 prices) | |
|---|-------------------------------|-------------------------------|
| | <u>2014/15</u> (8 months) | <u>2015/16</u> (12 months) |
| <u>National Grid Electricity Transmission plc</u> | <u>1.72</u> | <u>2.57</u> |