

**To: TC Robin Rigg OFTO Limited
TC Gunfleet Sands OFTO Limited
TC Barrow OFTO Limited
TC Ormonde OFTO Limited
TC Linc OFTO Limited
Thanet OFTO Limited
Blue Transmission Walney 1 Limited
Blue Transmission Walney 2 Limited
Blue Transmission Sheringham Shoal Limited
Blue Transmission London Array Limited
Greater Gabbard OFTO plc.**

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

**MODIFICATION OF THE AMENDED STANDARD CONDITIONS OF THE OF
ELECTRICITY TRANSMISSION LICENCES GRANTED UNDER SECTION 6(1)(b) OF
THE ELECTRICITY ACT 1989**

Whereas –

1. Each of the companies to whom this modification is addressed (a Licence Holder) has been granted a licence (a Licence and together the Licences) 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 17 December 2014 (the Notice) that it proposed to modify Amended Standard Condition E12-J11 (The Network Innovation Competition) of the Licences and by requiring any representations to the modification to be made on or before 19 January 2015.
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 modification.
4. Prior to the close of the consultation period in respect of the Notice, the Authority received no responses.
5. The Authority gives the following reasons for making the licence modifications:

these licence modifications give effect to the Authority's decision that electricity distributors should participate in the Electricity Network Innovation Competition from the start of the RIIO-ED1 price control: in addition we have previously decided that funding for NIC projects should be funded through transmission charges and that learning should be shared amongst all relevant licensees.

Further details of reasons for the licence modifications are stated in the following documents:

- a) Strategy decision for RIIO-ED1¹, and

¹ <https://www.ofgem.gov.uk/publications-and-updates/strategy-decision-riio-ed1-overview>

b) Decisions on the Network Innovation Competition and the timing and next steps on implementing the Innovation Stimulus.²

6. The effect of the modification(s) will be to:

require the licensee to transfer funding to electricity distributors where it is required to do so by a funding direction issued under Amended Standard Condition E12-J11 and the Electricity Network Innovation Competition Governance Document and to share learning with electricity distribution licensees under the Network Innovation Competition Governance Document.

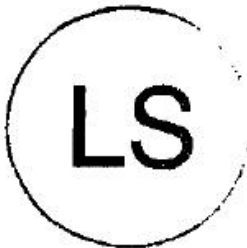
7. Where an application for permission to appeal the Authority's decision is made to the Competition and Markets Authority under section 11C of the Act, Rule 5.7 of the CMA's Energy Licence Modification Appeals Rules³ requires that the appellant must send to any relevant licence holders who are not parties to the appeal a non-confidential notice setting out the matters required in Rule 5.2. The attached Schedule 2 provides a list of the relevant licence holders in relation to this modification notice. 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 the licences of all offshore transmission licensees in the manner specified in attached Schedule 1. This decision will take effect on and from 1 April 2015.

This document constitutes notice of the reasons for the decision to modify the offshore electricity transmission licences 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



.....
Min Zhu
Associate Director, Offshore Transmission
Duly authorised on behalf of the
Gas and Electricity Markets Authority

2 February 2015

² <https://authors.ofgem.gov.uk/ofgem-publications/56919/march-decision-document-final.pdf>

³ The rules were 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: Licence Drafting

Amended Standard Condition E12-J11: The Network Innovation Competition

Introduction

1. The purpose of this condition is to establish arrangements known as the Network Innovation Competition (NIC) with respect to the funding of innovative low carbon or environmental projects carried out by the licensee.
2. This condition also makes provision for arrangements relating to the regulation, administration, and governance of the NIC.

Part A: Function of the Network Innovation Competition (NIC)

3. The function of the NIC is to enable the licensee to fund Eligible NIC Projects by means of payments received from the System Operator in accordance with the determination process described in Part B below as varied, where appropriate, by the Funding Return Mechanism described in Part C below.

Part B: The NIC Funding Mechanism

4. The NIC Funding Mechanism is the mechanism by which the licensee receives the amount of authorised NIC Funding in any Relevant Year from the System Operator, less any Funding Return as described in Part C and in accordance with the NIC Governance Document.

Part C: The Funding Return Mechanism

5. The Funding Return Mechanism relates to payments to be made by the licensee to the System Operator, in each of the following cases to such extent (if any) as may be relevant, of:
 - (a) Halted Project Revenues;
 - (b) Disallowed Expenditure; and
 - (c) Returned Royalty Income.
6. The Funding Return is the total amount, in respect of the licensee, of any amounts arising under paragraph 5.
7. Halted Project Revenues are any revenues received by the licensee from the System Operator under the NIC Funding Mechanism in respect of an Eligible NIC Project which have not yet been spent, or otherwise committed, at the time that the Authority requires that project to be halted in accordance with the applicable provisions of the NIC Governance Document or the terms of the relevant Project Direction.
8. Disallowed Expenditure is any revenue received by the licensee from the System Operator under the NIC Funding Mechanism that the Authority determines has not been spent in accordance with the applicable provisions of the NIC Governance Document or the terms of the relevant Project Direction.
9. Returned Royalty Income is revenue earned from intellectual property generated through Eligible NIC Projects undertaken by the licensee, less Directly Attributable Costs, and that is payable to customers under the NIC Funding Mechanism, as calculated in accordance with the provisions of the NIC Governance Document.
10. For the purposes of paragraph 9, Directly Attributable Costs are costs relating to the

maintenance and management of intellectual property generated through Eligible NIC Projects undertaken by the licensee that have not been otherwise remunerated under any of the arrangements by which the licensee recovers its Allowed Transmission Owner Revenue (OFTO_t) from the System Operator, Excluded Services, or the NIC Funding Mechanism.

11. In each Relevant Year *t*, in accordance with the appropriate provisions of the NIC Governance Document, the Authority will calculate and then, by direction given to the licensee, will specify:
 - (a) the amount of any Funding Return that the licensee must pay to the System Operator; and
 - (b) the manner in which and the timescale over which that amount is to be so paid.
12. The licensee must comply with any direction that is issued by the Authority under paragraph 11.

Part D: Determination of the NIC term

13. The NIC term is the net amount of NIC Funding less any Funding Return for the Relevant Year *t* that is to be paid to the licensee by the System Operator, or vice versa, in compliance with the determination made for that purpose in a direction issued by the Authority pursuant to the provisions of Part D of Special Condition 3I (The Network Innovation Competition) in the Transmission Licence held by the System Operator.
14. The NIC Funding to which paragraph 4 refers is the proportion (if any) of total NIC Funding raised by the System Operator from its Transmission Network Charges in accordance with the NIC Funding Mechanism that the Authority determines is to be allocated to the licensee in respect of its Eligible NIC Projects, as adjusted by the amount of any Funding Return (as to which, see Part C above).
15. In each Relevant Year *t*, as provided for by the NIC Governance Document and in accordance with the appropriate provisions of the System Operator's Transmission Licence the Authority will calculate and then, by direction given to the licensee and other electricity Transmission Licensees, will specify, in accordance with the appropriate provisions set out in the NIC Governance Document:
 - (a) the net amount of the NIC term (whether negative or positive);
 - (b) how the amount of that term has been calculated, taking account of any Funding Return; and
 - (c) the manner in which and the timescale over which the System Operator is required to transfer that amount to the licensee or vice versa.

Part E: The NIC Governance Document

16. The Authority will issue, and may from time to time revise, a document, to be known as the NIC Governance Document, for purposes connected with the regulation, governance, and administration of the NIC.
17. The NIC Governance Document may, without limitation, make appropriate provision about or impose requirements in respect of:
 - (a) the eligibility criteria to be applied by, and information to be provided to, the Authority in relation to the assessment and approval of proposed NIC Projects;
 - (b) the evaluation criteria against which the funding of such projects will be assessed

- and approved (where necessary);
- (c) the process and procedures that will be in place for the assessment, approval, and financing of such projects' funding (where necessary);
 - (d) arrangements to ensure that relevant learning from the implementation of Eligible NIC Projects can be captured and disseminated by the licensee to other electricity Transmission Licensees and electricity Distribution Licensees;
 - (e) the nature of the reporting obligations in respect of such projects (which may include reporting in respect of the funding and the completion of such projects, as well as reporting on compliance with this condition and the provisions of the NIC Governance Document);
 - (f) arrangements relating to the treatment of intellectual property rights including Returned Royalty Income in respect of Eligible NIC Projects; and
 - (g) any other matters relating to the regulation, governance, or administration of the NIC.
18. Where provisions of the NIC Governance Document require the compliance of the licensee, the licensee must comply with those provisions as if the NIC Governance Document were part of this condition.

Part F: Procedure for issuing and revising the NIC Governance Document

19. Before issuing the NIC Governance Document under this condition, the Authority, by Notice given to the licensee and other electricity Transmission Licensees and electricity Distribution Licensees with a condition of similar effect to this condition in their license, must:
- (a) state that it proposes to issue the NIC Governance Document, and specify the date on which it proposes that the document should take effect;
 - (b) set out the text of the NIC Governance Document and the Authority's reasons for proposing to issue it; and
 - (c) specify the date (which must not be less than a period of 28 days from the date of the notice) within which representations with respect to the proposed NIC Governance Document may be made.
20. The Authority will consider any representations that are duly made.
21. The requirements of paragraphs 19 and 20 may be satisfied by action taken before, as well as by action taken after, the commencement of this condition.
22. In paragraph 19, "issuing the NIC Governance Document" includes issuing any revision of the document, and the procedure provided for under that paragraph will apply to any such revision.

Schedule 2: Relevant Licence Holders⁴

TC Robin Rigg OFTO Limited
TC Gunfleet Sands OFTO Limited
TC Barrow OFTO Limited
TC Ormonde OFTO Limited
TC Linc OFTO Limited
Thanet OFTO Limited
Blue Transmission Walney 1 Limited
Blue Transmission Walney 2 Limited
Blue Transmission Sheringham Shoal Limited
Blue Transmission London Array Limited
Greater Gabbard OFTO plc

⁴ Electricity licence holders are listed at: <https://www.ofgem.gov.uk/publications-and-updates/all-electricity-licensees-registered-addresses>