

**To: Scottish Hydro Electric Transmission plc**

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

**MODIFICATION OF SCOTTISH HYDRO ELECTRIC TRANSMISSION PLC'S  
ELECTRICITY TRANSMISSION LICENCE GRANTED UNDER SECTION 6(1)(b) OF  
THE ELECTRICITY ACT 1989**

1. Scottish Hydro Electric Transmission plc (the Licence Holder) is the holder of an electricity transmission licence (the Licence) granted or treated 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, also referred to in this document as "us" or "we") gave notice on 17 December 2014 (the Notice) that we proposed to modify Special condition 3I (The Network Innovation Competition) of the Licence and requiring any representations to the modification to be made on or before 19 January 2015.
3. We gave notice to the Secretary of State in accordance with section 11A(4)(b) of the Act, and have not received a direction not to make the modification.
4. We received two responses to our consultation on the Notice, which we carefully considered. Both responses supported the modification and have been placed on our website.
5. We are making the modifications to give effect to our decision that electricity distributors should participate in the Electricity Network Innovation Competition from the start of the RIIO-ED1 price control; and to reflect our earlier decisions that funding for NIC projects should be through transmission charges and that learning should be shared amongst all relevant licensees.

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

- (a) Our Strategy decision for RIIO-ED1<sup>1</sup>; and
  - (b) Decisions on the Network Innovation Competition and the timing and next steps on implementing the Innovation Stimulus.<sup>2</sup>
6. The effect of the modifications will be to:
- require the Licence Holder to transfer funding to electricity distributors where it is required to do so by a funding direction issued under Special Condition 3I 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 our decision is made to the Competition and Markets Authority under section 11C of the Act, Rule 5.7 of the

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

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

CMA's Energy Licence Modification Appeals Rules<sup>3</sup> 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.

In accordance with the powers contained in section 11A(1)(a) of the Act, we hereby modify the licence of the Licence Holder 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 electricity transmission licence held the Licence Holder 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**



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**Andrew Burgess**  
**Associate Partner, Transmission and Distribution Policy**  
**Duly authorised on behalf of the**  
**Gas and Electricity Markets Authority**

**2 February 2015**

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<sup>3</sup> 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**

### Special Condition 3I. The Network Innovation Competition

#### **Introduction**

- 3I.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.
- 3I.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)**

- 3I.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**

- 3I.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 Transmission System Operator, less any Funding Return as described in Part C of this condition and in accordance with the NIC Governance Document.

#### **Part C: The Funding Return Mechanism**

- 3I.5 The Funding Return Mechanism relates to payments to be made by the licensee to the Transmission System Operator, as maybe relevant 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.
- 3I.6 The Funding Return is the total amount, in respect of the licensee, of any amounts arising under paragraph 3I.5 of this condition.
- 3I.7 Halted Project Revenues are any revenues received by the licensee from the Transmission 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.
- 3I.8 Disallowed Expenditure is any revenue received by the licensee from the Transmission 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.
- 3I.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.

- 3I.10 For the purposes of paragraph 3I.9 of this condition, 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 by Base Transmission Revenue as defined in Special Condition 3A, Excluded Services, or the NIC Funding Mechanism.
- 3I.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:
- (d) the amount of any Funding Return that the licensee must pay to the Transmission System Operator; and
  - (e) the manner in which and the timescale over which that amount is to be so paid.
- 3I.12 The licensee must comply with any direction that is issued by the Authority under paragraph 3I.11 of this condition.

#### **Part D: Determination of the NIC term**

- 3I.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 Transmission 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.
- 3I.14 The NIC Funding to which paragraph 3I.4 of this condition refers is the proportion (if any) of total NIC Funding raised by the Transmission 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).
- 3I.15 In each Relevant Year t, as provided for by the NIC Governance Document and in accordance with the appropriate provisions of the Transmission System Operator's Transmission Licence, the Authority will calculate and then, by direction given to the licensee ~~and other licensees~~, other electricity Transmission Licensees and Electricity Distribution Licensees, will specify, in accordance with the appropriate provisions set out in the NIC Governance Document:
- (f) the net amount of the NIC term (whether negative or positive);
  - (g) how the amount of that term has been calculated, taking account of any Funding Return; and
  - (h) 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**

- 3I.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.
- 3I.17 The NIC Governance Document may, without limitation, make appropriate provision about or impose requirements in respect of:
- (i) 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;

- (j) the evaluation criteria against which the funding of such projects will be assessed and approved (where necessary);
- (k) the process and procedures that will be in place for the assessment, approval, and financing of such projects' funding (where necessary);
- (l) 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;
- (m) 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);
- (n) arrangements relating to the treatment of intellectual property rights including Returned Royalty Income in respect of Eligible NIC Projects; and
- (o) any other matters relating to the regulation, governance, or administration of the NIC.

3I.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**

3I.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 licence, shall:

- (p) state that it proposes to issue the NIC Governance Document, and specify the date on which it proposes that the document should take effect;
- (q) set out the text of the NIC Governance Document and the Authority's reasons for proposing to issue it; and
- (r) 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.

3I.20 The Authority will consider any representations that are duly made.

3I.21 The requirements of paragraphs 3I.19 and 3I.20 of this condition may be satisfied by action taken before, as well as by action taken after, the commencement of this condition.

3I.22 In paragraph 3I.19 of this condition, "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.

#### **Part G: Interpretation**

3I.23 Defined terms used in this condition and set out in Special Condition 1A (Definitions and Interpretation) are to be read and given effect subject to any further clarification that might be set out in the NIC Governance Document in relation to such terms.

## **Schedule 2: Relevant Licence Holders<sup>4</sup>**

Scottish Hydro Electric Transmission plc

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