

**To: UK Power Distribution Limited
(Company number 06339585)**

NOTICE UNDER SECTION 8A(3) OF THE ELECTRICITY ACT 1989

The Gas and Electricity Markets Authority (the Authority) hereby gives notice under section 8A(3) of the Electricity Act 1989 (the Act) as follows:

1. The Authority received an application (the Application) for an electricity distribution licence under section 6(1)(c) of the Act (the Licence) made by UK Power Distribution Limited and received by the Authority on 9 March 2015.
2. In accordance with section 8A(2) of the Act, the Authority proposes to modify the standard conditions of the Licence that it is minded to grant to UK Power Distribution Ltd by omitting from the Licence all the standard conditions in, and the whole of, Section B (Additional Standard Conditions for Electricity Distributors who are Distribution Services Providers).
3. The Authority also proposes to modify the standard conditions of the Licence that it is minded to grant to UK Power Distribution Limited by inserting into the Licence a new Section BA which would include the following amended standard conditions titled:
 - (a) Standard Licence Condition BA1. Not used;
 - (b) Standard Licence Condition BA2. Regulation of charging arrangements;
 - (c) Standard Licence Condition BA3. Credit Rating of Licensee; and
 - (d) Standard Licence Condition BA4. Indebtedness.
4. The conditions that the Authority proposes to insert into the Licence are set out in the Annex to this notice.
5. The reasons why the Authority proposes to make the licence modifications is to protect the interests of consumers by:
 - (a) ensuring that the conditions in Section B of the standard conditions, that are in effect for Distribution Services Providers, are removed from the licences of independent distribution network operators¹ to whom those conditions do not apply;
 - (b) regulating UK Power Distribution Limited's charges in respect of domestic customers for the use of its distribution system on grant of the Licence; and
 - (c) imposing requirements on UK Power Distribution Limited in respect of its creditworthiness and indebtedness on grant of the Licence.

¹ Independent distribution network operators develop, operate and maintain electricity distribution networks embedded in the larger networks operated by incumbent Distribution Services Providers.

6. The effect of the proposed licence modifications is to:
 - (a) establish, on grant of the Licence, arrangements for regulating UK Power Distribution Limited's charges to domestic customers for the use of its distribution system;
 - (b) set out, on grant of the licence, requirements for UK Power Distribution Limited to maintain an investment grade credit rating or to comply with alternative arrangements approved by the Authority; and
 - (c) place restrictions on UK Power Distribution Limited relating to its indebtedness and the types of payments and transfers it can make on and following grant of the Licence.
7. A copy of the proposed licence modifications and other documents referred to in this notice are available on the Ofgem website (www.ofgem.gov.uk).
8. Any representations or objections in relation to the proposed licence modifications must be made in writing on or before 9 October 2015, which is not less than 28 days from the date of this notice, to: Paul Darby, Office of Gas and Electricity Markets, 9 Millbank, London, SW1P 3GE or by email to: regulatoryfinance@ofgem.gov.uk
9. 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.

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Ian Rowson
Associate Partner, Regulatory Finance and Governance
Duly authorised on behalf of the
Gas and Electricity Markets Authority

10 August 2015

ANNEX TO NOTICE UNDER SECTION 8A(3) OF THE ELECTRICITY ACT 1989

AMENDED STANDARD CONDITIONS PARTICULAR TO THIS LICENCE

SECTION BA. SPECIFIC

Standard Condition BA1.

Not used

Standard Condition BA2. Regulation of charging arrangements

Introduction

1. The licensee must make, and continue to make, charges available, in accordance with the requirements of this condition, for the provision of Use of System to any Authorised supplier of electricity that uses or wishes to use the licensee's Distribution System to supply electricity to Domestic Customers.

Setting and restriction of charges

2. The licensee's Use of System Charges in relation to Domestic Customers may vary according to the Distribution Services Area of the Electricity Distributor within which Domestic Premises are connected to the licensee's Distribution System.
3. The licensee must set those Use of System Charges so that, except with the Authority's consent, the standing charge, unit rate, and any other component of the charges does not exceed the Use of System Charges to equivalent Domestic Customers ("the equivalent charges").
4. For the purposes of paragraph 3, equivalent charges are the Use of System Charges made by the Electricity Distributor which has a Distribution Services Direction that specifies the Distribution Services Area in which the Domestic Premises connected to the licensee's Distribution System are located.
5. The Authority may give the licensee a direction that specifies which of the Use of System Charges made by the Distribution Services Provider for the Distribution Services Area mentioned in paragraph 4 are relevant for the purposes of determining the equivalent charges.

Procedure for disapplying this condition

6. The charging arrangements set out above will remain in force until such time and in such circumstances as are described in paragraphs 7 to 13.

7. The licensee may ask the Authority to consent to the disapplication of this condition (in whole or in part) by giving it a disapplication request made in accordance with paragraph 8.
8. A disapplication request shall:
 - (a) be in Writing addressed to the Authority;
 - (b) specify the paragraph or paragraphs of this condition to which the request relates; and
 - (c) state the date proposed by the licensee (which must not be earlier than the date specified in paragraph 9) on and after which the specified paragraph or paragraphs would no longer have effect (“the disapplication date”).
9. Except with the Authority’s consent, no disapplication of this condition following its receipt of a disapplication request under paragraph 7 may have effect until whichever is the later of:
 - (a) a date not less than 18 months after delivery of the disapplication request; and
 - (b) 31 March 2011.
10. The licensee may withdraw a disapplication request at any time.

Licensee’s right to disapply this condition

11. If the licensee has given the Authority a disapplication request under paragraph 7, it may subsequently give the Authority a Notice that terminates the application of this condition or the part or parts of it specified in the request:
 - (a) in the circumstances described in paragraph 12, with effect from either the disapplication date or such earlier date to which the Authority has given its consent under paragraph 9; or
 - (b) in the circumstances described in paragraph 13, with effect from the disapplication date, so long as the licensee gives Notice within 30 days after the publication of the report mentioned in that paragraph.
12. The circumstances described in this paragraph are these:
 - (a) the Authority has not made a reference to the Competition Commission under section 12 of the Act relating to the modification of this condition as specified in the disapplication request before the beginning of the period of 12 months which will end with the disapplication date; and
 - (b) the licensee has not withdrawn its request.

13. The circumstances described in this paragraph are these:

- (a) the Competition Commission has made a report on a reference made by the Authority relating to the modification of this condition as specified in the licensee's disapplication request; and
- (b) the Commission's report does not find that the ending of the charging arrangements in this condition, in whole or in part, would operate or might be expected to operate against the public interest.

Standard Condition BA3. Credit Rating of Licensee

1. The licensee shall take all appropriate steps to ensure that the licensee maintains at all times an investment grade issuer credit rating, or with the prior written permission of the Authority, any such arrangements as the Authority considers appropriate.

2. In this condition:

“issuer credit rating” means:

- (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 Service Inc. or any of its subsidiaries; or
- (c) an issuer credit rating by Fitch Ratings Ltd or any of its subsidiaries; or
- (d) an issuer credit rating by DBRS Ratings Limited or any of its affiliates; or
- (e) a rating which, in the opinion of the Authority, notified in writing to the licensee, is equivalent to those referred to in sub-paragraphs (a), (b), (c), or (d) and issued by:
 - (i) any of the credit rating agencies referred to in sub-paragraphs (a), (b), (c) or (d); or
 - (ii) any other reputable credit rating agency which, in the opinion of the Authority, notified in writing to the licensee, has comparable standing in the United Kingdom and the United States of America.

In relation to any issuer credit rating, “investment grade” means:

- (a) unless sub-paragraph (b) below applies:
 - (i) an issuer credit rating of not less than BBB- by Standard & Poor’s Ratings Group or any of its subsidiaries; or
 - (ii) an issuer credit rating of not less than Baa3 by Moody’s Investors Service Inc. or any of its subsidiaries; or
 - (iii) an issuer credit rating of not less than BBB- by Fitch Ratings Ltd or any of its subsidiaries; or
 - (iv) an issuer credit rating of not less than BBB (low) by DBRS Ratings Limited or any of its affiliates; or

- (v) a rating which, in the opinion of the Authority, notified in writing to the licensee, is equivalent to those referred to in sub-paragraphs (i), (ii), (iii) or (iv) and issued by:
 - aa) any of the credit rating agencies referred to in sub-paragraphs (i), (ii), (iii) or (iv), or;
 - bb) any other reputable credit rating agency which, in the opinion of the Authority, notified in writing to the licensee, has comparable standing in the United Kingdom and the United States of America.
- (b) such higher rating as may be specified by those agencies from time to time as the lowest investment grade issuer credit rating.

Standard Condition BA4. Indebtedness

1. In addition to the requirements of standard condition 29 (Disposal of Relevant Assets) as in force at 31 May 2008, the licensee shall not without the prior written consent of the Authority (following the disclosure by the licensee of all material facts):
 - (a) create or continue or permit to remain in effect any mortgage, charge, pledge, lien or other form of security or encumbrance whatsoever, undertake any indebtedness to any other person or enter into or continue or permit to remain in effect any guarantee or any obligation otherwise than:
 - (i) on an arm's length basis,
 - (ii) on normal commercial terms,
 - (iii) for a permitted purpose, and
 - (iv) if the transaction is within the ambit of standard condition 29 (Disposal of Relevant Assets) in accordance with that condition;
 - (b) transfer, lease, license or lend any sum or sums, asset, right or benefit to any affiliate or related undertaking of the licensee otherwise than by way of:
 - (i) a dividend or other distribution out of distributable reserves,
 - (ii) repayment of capital,
 - (iii) payment properly due for any goods, services or assets provided on an arm's length basis and on normal commercial terms,
 - (iv) 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 made in compliance with the payment condition referred to in paragraph 2,
 - (v) repayment of or payment of interest on a loan not prohibited by subparagraph (a),
 - (vi) 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
 - (vii) an acquisition of shares or other investments in conformity with paragraph 2 of standard condition BA2 (Restriction on Activity and Financial Ring Fencing) as in force at 31 May 2008, made on an arm's length basis and on normal commercial terms,

provided, however, that the provisions of paragraph 3 or 4 below, as the case may be, shall prevail in any circumstances described or referred to therein;

- (c) enter into an agreement or incur a commitment incorporating a cross-default obligation; or
 - (d) continue or permit to remain in effect any agreement or commitment incorporating a cross-default obligation subsisting at date of this licence, save that the licensee may permit any cross-default obligation in existence at that date to remain in effect for a period not exceeding twelve months from that date, provided that the cross-default obligation is solely referable to an instrument relating to the provision of a loan or other financial facilities granted prior to that date and the terms on which those facilities have been made available as subsisting on that date are not varied or otherwise made more onerous, provided, however, that the provisions of sub-paragraphs (c) and (d) shall not prevent the licensee from giving any guarantee permitted by and compliant with the requirements of sub-paragraph (a).
2. The payment condition referred to in paragraph 1(b)(iv) is that the consideration due in respect of the transaction in question is 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 has and maintains an investment grade issuer credit rating.
3. Where the Authority has not granted permission for the use of alternative arrangements in accordance with paragraph 1 of standard condition BA3 (Credit Rating of Licensee), then except with the prior consent of the Authority, the licensee shall not enter into or complete any transaction of a type referred to or described in paragraph 1(b) save in accordance with paragraph 10, if any of the circumstances set out in paragraphs 4 to 8 applies.
4. The circumstance described by this paragraph is that the licensee does not hold an investment grade issuer credit rating.
5. 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.
6. The circumstance described by this paragraph is that any issuer credit rating held by the licensee is BBB- by Standard & Poor's Ratings Group or Fitch Ratings Ltd or Baa3 by Moody's Investors Service, Inc. or BBB (low) by DBRS Ratings Ltd or any of its affiliates (or such higher issuer credit rating as may be specified by any of these 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 BA3 (Credit Rating of Licensee) and:
- (a) is on review for possible downgrade; or

- (b) is on Credit Watch or Rating Watch with a negative designation; or, where neither (a) nor (b) applies:
- (c) the rating outlook of the licensee as specified by any credit rating agency referred to in paragraph 6 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.

7. 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; or
- (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.

8. 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.

9. Where the Authority has granted permission for the use of alternative arrangements in accordance with paragraph 1 of standard condition BA3 (Credit Rating of Licensee), then except with the prior consent of the Authority, the licensee shall not enter into or complete any transaction of a type referred to or described in paragraph 1(b) save in accordance with paragraph 10, if:

- (a) the alternative arrangements for which the Authority has granted permission are not maintained in accordance with the conditions imposed by the Authority when giving written permission pursuant to paragraph 1 of standard condition BA3 (Credit Rating of Licensee); or
- (b) either of the circumstances described in paragraphs 7 and 8 applies.

10. Where, under the provisions of either paragraph 3 or paragraph 9, the licensee is prohibited from entering into or completing any transaction of a type referred to or described in paragraph 1(b), the licensee may not without the prior written consent of the Authority (following disclosure of all material facts) transfer, lease, license or lend any sum or sums, asset, right or benefit to any associate of the licensee as described or referred to in paragraph 1(b), otherwise than by way of:

- (a) payment properly due for any goods, services or assets in relation to commitments entered into prior to the date on which the prohibiting circumstances arose, and which are provided on an arm's length basis and on normal commercial terms;
- (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;
- (c) repayment of, or payment of interest on, a loan not prohibited by paragraph 1(a) and which was contracted prior to the date on which the prohibiting

circumstances arose, provided that such payment is not made earlier than the original due date for payment in accordance with its terms; and

- (d) payments for group corporation tax relief calculated on a basis not exceeding the value of the benefit received, provided that the payments are not made before the date on which the amounts of tax thereby relieved would otherwise have been due.

11. 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 whereby the licensee’s liability to pay or repay any debt or other sum arises or is increased or accelerated or is capable of arising, increasing or of acceleration by reason of a default (howsoever such default 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 rights 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 paragraph (a) of the definition of permitted purpose set out in standard condition BA2 (Restriction on Activity and Financial Ring Fencing) as in force at 31 May 2008.

“indebtedness”

means all liabilities now or hereafter due, owing or incurred, whether actual or contingent, whether solely or jointly with any other person and whether as principal or surety, together with any interest accruing thereon and all costs, charges, penalties and expenses incurred in connection therewith.

“investment grade”

has the meaning given in paragraph 2 of standard condition BA3 (Credit Rating of Licensee).

“issuer credit rating”

has the meaning given in paragraph 2 of standard condition BA3 (Credit Rating of 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.