

DRAFT: Guidance on the cap and floor conditions in Nemo Link Limited's electricity interconnector licence

Guidance

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Overview:

This document provides guidance on the electricity interconnector licence held by Nemo Link Limited (Nemo Link). It particularly focuses on the licence conditions which underpin the cap and floor regime for its electricity interconnector between Great Britain (GB) and Belgium. These licence conditions form a key part of the regulatory framework that governs the cap and floor regime applicable to Nemo Link. The licence confers a set of obligations, incentives and entitlements on Nemo Link.

This guidance note explains the purpose and mechanics of each of these licence conditions. The aim is to aid the understanding of readers; it is not intended to be a substitute for the licence. If this guidance contradicts any part of the licence, then the licence takes precedence.


This draft guidance is being published alongside the draft special conditions for Nemo Link for consultation.

Context

This guidance is intended to help readers understand the mechanisms of the licence conditions that underpin Nemo Link’s cap and floor regime.

It particularly focuses on the project specific special licence conditions that set out how Nemo Link’s cap and floor levels are calculated and how its revenue is assessed against those levels.

This guidance is not intended to be a substitute for the licence. If this guidance contradicts any part of the licence, then the licence shall take precedence.



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Associated documents

[Decision on the cap and floor regime for the GB-Belgium interconnector project Nemo](#)

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Executive Summary

The Gas and Electricity Markets Authority, GEMA (the Authority), may grant an electricity interconnector licence permitting the otherwise prohibited activity of participation in the operation of an electricity interconnector. Ofgem and the Belgian energy regulator – Commission de Régulation de l'Électricité et du Gaz (CREG) published final joint decisions to grant Nemo Link a cap and floor regime in December 2014.¹

Nemo Link holds an electricity interconnector licence which imposes a set of obligations upon Nemo Link that apply equally to all electricity interconnector licensees. Our proposed cap and floor standard licence conditions together with the proposed special conditions will impose specific obligations, incentives and entitlements upon Nemo Link with respect to its cap and floor regime. These obligations, incentives and entitlements are set out in the following parts of the licence:

Standard conditions: set out obligations that are applicable to all electricity interconnector licensees.²

Special conditions: set out specific obligations, incentives and entitlements with respect to Nemo Link's cap and floor regime.

This guidance note explains the purpose and mechanics of these parts of the licence.

¹ [Ofgem final decision on the cap and floor regime for the GB-Belgium interconnector project Nemo](#)

² With the exception of the proposed Section G (Cap and Floor Conditions) which is applicable only to licensees granted a cap and floor regime and where the Authority has issued a direction switching these conditions on in the licensees' respective licences.

1. Introduction

Background

1.1. The cap and floor regime is the regulated route for interconnector investment in GB, which sits alongside the exemption route (whereby project developers apply for exemptions from certain aspects of European Union legislation).

1.2. The regime sets a maximum (cap) and minimum (floor) level to the revenues accrued by interconnector developers. Developers sell the capacity of their interconnector in line with the requirements of European Network Codes.

1.3. The width between the cap and floor is designed so that developers are exposed to the benefits provided by the interconnection and so are incentivised to identify and develop projects in a way that maximises these benefits. Developers will receive a top-up from consumers if revenue falls below a predefined level (the floor). Consumers are protected through the cap, which ensures that high returns are passed back to network users.

1.4. It is a cost based regime that has been structured to ensure projects are compliant with Use of Revenues requirements in European legislation³ and designed to incentivise delivery of new electricity interconnection. It allows developers to receive reasonable but not excessive returns. Granting projects a floor underwritten by consumers reflects that it is in consumers' interests for more interconnector capacity to be built.

1.5. Projects are granted a cap and floor regime on the basis of benefits derived for consumers through lower wholesale prices in one jurisdiction or another. Granting a floor is therefore contingent on our assessment of the benefits a project confers to consumers.

1.6. Nemo Link is the first electricity interconnector to be granted a cap and floor regime and is developing a 1000MW electricity interconnector between Zeebrugge in Belgium and Richborough, Kent in GB. The project developers are Nemo Link (a subsidiary of National Grid and Elia). Together they will jointly own and operate the interconnector.

³ Article 16(6) of European Regulation 714/2009 describes how revenues generated from interconnector capacity allocation should be used.

1.7. We published our final decision to grant Nemo Link a cap and floor regime in December 2014.⁴

Overview of Nemo Link's cap and floor regime

1.8. Nemo Link is 100% regulated under the cap and floor model but with consumers in the UK and Belgium sharing the benefits/liabilities on a 50/50 basis.

1.9. The licence reflects the fact that Nemo Link's cap and floor regime, which is set for 25 years and applies to the project as a whole, governs the transaction of the GB share of any payments between Nemo Link and the GB System Operator.

1.10. Nemo Link's cap and floor levels are constructed using a 'building block' approach. These building blocks include our assessment of efficient construction costs, a return on capital and an assessment of operating expenditure.

1.11. The Authority has set the preliminary cap floor levels for Nemo Link as follows:

- (a) the preliminary cap level is set to £83,806,402 per year, expressed in real 2013/14 prices; and
- (b) the preliminary floor level is set to £48,807,317 per year, expressed in real 2013/14 prices.

1.12. These preliminary levels will be updated in accordance with Nemo Link's licence⁵ and the Post Construction Review to derive the cap and floor levels. The derived levels will then, subject to any further adjustments specified in Nemo Link's licence, remain fixed for the duration of Nemo Link's cap and floor regime.

1.13. An assessment, conducted in UK sterling, of Nemo Link's interconnector revenue (assessed revenue) against the cap and floor levels is carried out at the end of every five year period (the relevant assessment period) of the 25 year cap and floor regime to determine if the cap or floor is triggered. The length of the Nemo Link's cap and floor regime (the regime duration) is 25 years.

⁴ [Ofgem final decision on the cap and floor regime for the GB-Belgium interconnector project Nemo](#)

⁵ Special condition 2: Cap Level and Floor Level.

1.14. The cap level comes into force on the regime start date. The cap level comes into force on either the floor start date or date up to 12 months after the Nemo Link's target completion date⁶, whichever occurs earlier.

1.15. Any revenue earned above the cap in any relevant assessment period is returned to the GB System Operator and Belgium System Operator (the SOs) on a 50/50 basis. The SOs would then reduce the network charges for network users in both countries. If revenue falls below the floor in any relevant assessment period then Nemo Link would be compensated by the SOs who recover costs through their respective network charges.

1.16. Each relevant assessment period will be considered separately. Cap and floor adjustments in one assessment period will not affect the adjustments for future assessment periods, and total revenue earned in one relevant assessment period will not be taken into account in future relevant assessment periods.

1.17. The regime includes a financial incentive on Nemo Link to maintain the availability of the interconnector. Nemo Link has an Availability Target of 97.05% availability and a Minimum Availability Target threshold of 80%. These incentives are discussed further in chapter 3 under special condition 4: Interconnector Availability Incentives.

Types of licence conditions

Standard conditions

1.18. The standard conditions set out duties and obligations applicable to all holders of an electricity interconnector licence. The standard conditions are grouped into different sections. More details about these different sections are provided in chapter 2.

Special conditions

1.19. Special conditions are licensee specific and as such the special conditions discussed in this guidance will apply only to Nemo Link. The special conditions set out project specific detail about Nemo Link's cap and floor regime. More details about these special conditions are provided in chapter 3.

⁶ Nemo Link's target completion date is 31 January 2016.

2. Standard Conditions

Overview of the electricity interconnector standard conditions

2.1. The standard conditions apply to all electricity interconnector licensees and, unless stated otherwise, take effect from the date the licence is granted.⁷

2.2. We do not discuss each and every standard condition contained in the electricity interconnector licence in detail in this document. We do however draw out and discuss the standard conditions relating to the cap and floor regime that are currently applicable to Nemo Link and that, in due course, will also be applicable to other electricity interconnector licensees that are granted a cap and floor regime.

2.3. The electricity interconnector standard conditions are grouped into the following sections.

Section A: Interpretation, Application and Payments

2.4. This section contains standard conditions relating to definitions and interpretation of words and expressions used in the licence and payments by the licensee to the Authority. It also contains the following standard condition which provides for standard conditions relating to the cap and floor regime to be switched on by an Authority direction.

Standard condition 1A: Application of section G

2.5. This standard condition allows the Authority to bring into effect Section G: (Cap and Floor Conditions) of the standard conditions by issuing a "Section G (Cap and Floor Conditions) Direction".

2.6. Making the applicability of this condition subject to an Authority direction ensures that it's only brought into effect in the licences of relevant interconnector licensees (i.e. those granted a cap and floor regime) and has no effect in the licence of any other electricity interconnector licensees.

2.7. We intend to issue a direction to switch on the Section G conditions in Nemo Link's licence soon after the conditions come into force. They will remain switched off

⁷ Standard conditions 9, 10 and 11 relating to Use of Revenues, requirements to offer third party access and the approval of charging methodologies may be switched off by the Authority on successful application by the licensee for an exemption under Article 17 of EC Regulation 714/2009.

by default for all other electricity interconnector licensees until such time that the Authority issues a Section G (Cap and Floor Conditions) Direction to switch them on.

Section B: General

2.8. This section is applicable to all electricity interconnector licensees and sets out, amongst other things, obligations on the licensee to become a party to certain industry codes, the provision of information to the Authority and requirements to keep separate accounts for each electricity activity.

Section C: Revenue

2.9. This section contains only standard condition 9 (Use of Revenues) which is applicable to all electricity interconnector licensees.⁸ Standard condition 9 requires licensees to submit an annual Use of Revenues statement and ensure that revenues derived from the allocation of interconnector capacity are used in accordance with Article 16(6) of EC Regulation 714/2009.⁹

2.10. The cap provides an investment route that ensures cap and floor projects such as Nemo Link are compliant with Use of Revenues requirements. Standard condition 9 will therefore continue to apply to Nemo Link and future cap and floor projects, alongside more detailed provisions governing each project's cap and floor regime.

Section D: Third party access

2.11. This section applies to all electricity interconnector licensees and contains standard conditions relating to the licensee's obligation to provide third party access to its interconnector. It also sets out requirements on the licensee to secure the Authority's approval of the rules for access to its interconnector and the associated charging methodology.¹⁰

Section E: British electricity trading and transmission arrangements

2.12. The conditions in this section have ceased to have ongoing effect within the licence from the BETTA go-live date of 1 April 2005.

⁸ Unless the licensee has been granted an exemption from compliance with these conditions.

⁹ [EC Regulation 714/2009 on conditions for access to the network for cross-border exchanges in electricity](#)

¹⁰ The rules setting out the terms for access to the licensee's interconnector, together with the associated charging methodology, must be approved by the Authority.

Section F: Other provisions

2.13. This section is applicable to all electricity interconnector licensees and contains standard conditions that set obligations regarding the development and operation of the licensee's interconnector and requirements to notify the Authority of changes that may affect the licensee's eligibility for certification. This section also contains a standard condition prohibiting discrimination and cross-subsidies as well as general provisions on the disclosure of information and regional co-operation.

Section G: Cap and Floor Conditions

2.14. Section G contains standard conditions relating to reporting requirements and governing payments between a relevant licensee and NGET. We intend to issue a direction to switch on Section G in Nemo Link's licence soon after the Section G standard conditions and the special conditions described in this guidance come into force.

2.15. Once these changes have been made, Section G will be switched off by default for all other electricity interconnector licensees until such time that the Authority issues a Section G (Cap and Floor Conditions) Direction to switch them on.

Standard condition 24 (Definitions)

2.16. This condition sets out particular defined words and expressions that are used in the section G and gives their meaning.

Standard condition 25 (Cap and Floor Regulatory Instructions and Guidance)

2.17. This standard condition establishes the group of documents collectively referred to as the Cap and Floor Regulatory Instructions and Guidance (Cap and Floor RIGs). These documents include instructions and guidance on what data interconnector licensees must report and how, and the templates they must complete.

2.18. The Cap and Floor RIGs is the primary means by which we ensure that interconnector licensees collect and provide to us the information we require to monitor their performance and, where appropriate, make adjustments to the revenue the licensee is allowed to earn under the cap and floor regime.

2.19. This standard condition requires Nemo Link (and other electricity interconnector licensees granted a cap and floor regime) to record information in line

with the Cap and Floor RIGs¹¹ and provide such information to the Authority on the relevant dates.

2.20. A single set of the Cap and Floor RIGs documents will apply to all electricity interconnector licensees which ensures that a consistent approach to reporting requirements is applied to all electricity interconnector licensees granted a cap and floor regime.

Standard condition 26 (Provision of information to the GB System Operator)

2.21. This standard condition requires relevant licensees to liaise with the GB System Operator to inform its Transmission Network Use of System (TNUoS) charge setting process.

2.22. It stipulates that a relevant licensee must provide best estimates of revenue under its cap and floor regime (ie above cap or below floor payments) and continue to review these estimates and inform the GB System Operator of any significant changes. This standard condition also requires relevant licensees to inform the Authority of such estimates and any revisions to those estimates.

2.23. The intent of this standard condition is to ensure that GB System Operator has available the necessary information to facilitate its forecasting and setting of TNUoS charges.

¹¹ A draft version of the proposed Cap and Floor RIGs has been published alongside our consultation on these proposed licence changes.

3. Special Conditions

Special conditions applicable to Nemo Link

3.1. This section provides an overview of the special conditions that underpin Nemo Link’s cap and floor regime. It gives details of each of the special conditions that, together, implement the project specific elements of Nemo Link’s cap and floor regime. Amongst other things the special conditions set out how:

- (a) Nemo Link’s cap and floor levels are calculated;
- (b) its assessed revenue is calculated;
- (c) the different revenue adjustment components are determined;
- (d) any Within Period Adjustment requests are considered and calculated; and
- (e) availability of Nemo Link’s interconnector affects its cap and floor levels.

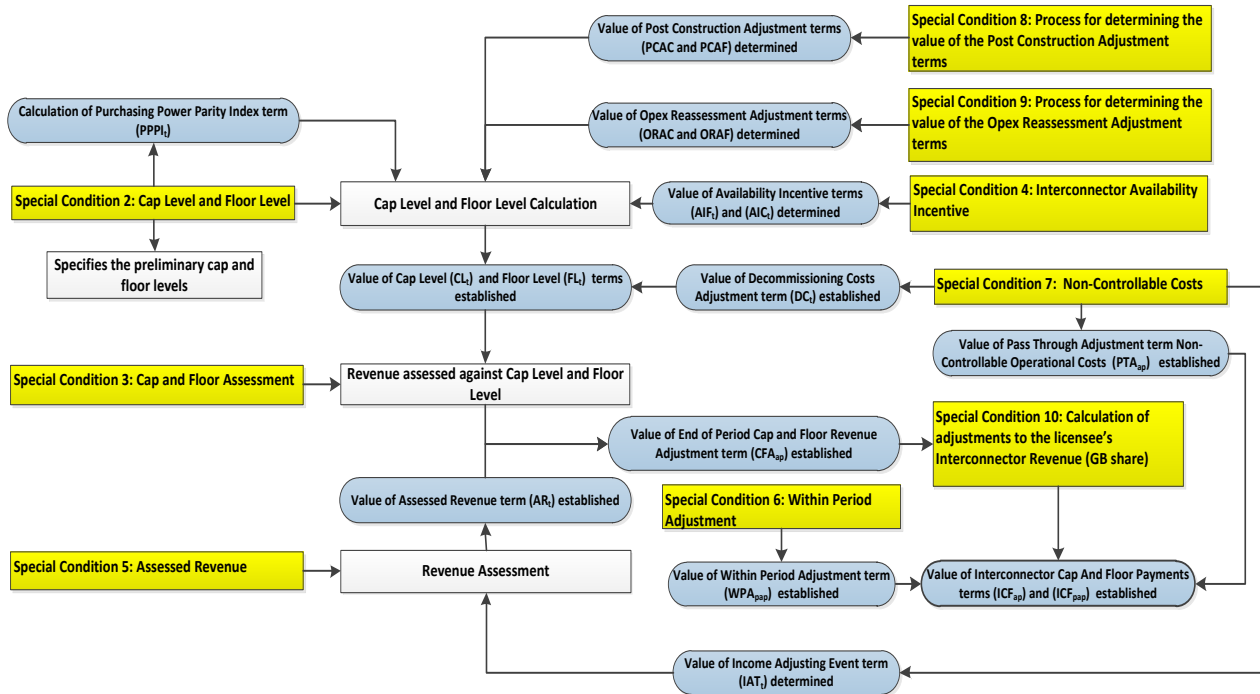
3.2. There are three time horizons relevant to Nemo Link’s cap and floor regime:

- Relevant year t - which means any of the individual years of the regime;
- Relevant assessment period ap - which means any of the discrete 5 year blocks of the regime; and
- Relevant partial assessment period pap – which means the relevant part of a discrete 5 year block.

Overview of key special condition interactions

3.3. The diagram below illustrates how the key special conditions interact to calculate Nemo Link’s cap and floor levels and determine the value of any. That is, any payment due to the GB and Belgian SOs where Nemo Link’s assessed revenue is above the cap or, conversely, any payment due to Nemo Link from the GB and Belgian SOs where Nemo Link’s assessed revenue is below the floor. The licence only governs transactions between Nemo Link and the GB SO.

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3.4. Further details about the process and calculation through which the terms shown in the above diagram are derived are provided under the relevant special conditions below.

Special condition 1: Definitions and Interpretation

3.5. This condition sets out particular defined words and expressions that are used in the special conditions and gives their meaning.

Special condition 2: Cap Level and Floor Level

3.6. This condition sets out the formulae for calculating the cap level and floor level terms against which Nemo Link’s interconnector revenue is assessed at the end of each relevant assessment period of the regime duration.

3.7. This condition also sets out how various components that may adjust the cap level and floor levels are calculated. The condition is structured as follows:

Part A: Calculation and entry into force of the cap and floor levels

3.8. The cap and floor level terms (CL_t and FL_t) against which Nemo Link’s interconnector revenue is assessed at the end of each relevant assessment period is calculated in accordance with the following formulae:

$$(a) CL_t = PYC_t \times (PCL + PCAC + ORAC) \times AIC_t \times PPPI_t$$

$$(b) FL_t = PYF_t \times (PFL + PCAF + ORAF) \times AIF_t \times PPPI_t$$

3.9. In the above formulae, any terms containing a subscript t are calculated annually. Any terms without a subscript t are determined once only (and set in 2013/14 sterling)

3.10. In these formulae:

AIC_t	reflects Nemo Link’s incentive to perform above its Availability Target of 97.05% availability with an up to 2% increase (or decrease) to the cap on allowed revenue. This term adjusts the cap level depending on performance and has a value in the range of 0.98 and 1.02
AIF_t	reflects requirement on Nemo Link to achieve a Minimum Availability Target (MAT) threshold of 80% for any floor payments to be considered. Should availability fall below this threshold then Nemo Link may lose eligibility for floor payments ¹² . This term adjusts the floor level depending on performance and has a value either zero or 1.00
CL_t	means Nemo Link’s cap level for Relevant Year t
FL_t	means Nemo Link’s floor level in Relevant Year t
PCAC and PCAF	means the Post Construction Adjustment At Cap and Post Construction Adjustment At Floor terms which account for the

¹² Unless the Authority determines that the cause of the outage resulting in availability falling below the MAT was an Exceptional Event and that when that outage is discounted the interconnector has in fact met the MAT.

	<p>difference between the Authority’s:</p> <ul style="list-style-type: none"> (a) estimate, assumed in the preliminary cap and floor levels, of the costs associated with developing, constructing, operating, maintaining and decommissioning Nemo Link’s interconnector; and (b) assessment, at the Post Construction Review stage, of the economic and efficient costs associated with developing, constructing, operating, maintaining and decommissioning Nemo Link’s interconnector
PCL and PFL	means the preliminary cap and floor levels set by the Authority. These are derived from the Cap and Floor Financial Model (CFFM), based on our Nemo decision document ¹³ and updated with relevant market indices at the time of Nemo Link’s final investment decision (FID)
PPPI _t	Adjusts the cap and floor levels by the Purchasing Power Parity Index which takes into account GB and Belgian inflation rates (GB RPI Index /Belgian CPI Index) and GB and Belgian exchange rates (GBP/EUR)
PYC _t and PYF _t	adjusts the cap and floor levels to account for any partial years at the beginning and end of Nemo Link’s cap and floor regime (i.e. where the regime start date is part way through Nemo Link’s reporting year, which runs from 1 January to 31 December)
ORAC and ORAF	<p>means the Opex Reassessment Adjustment At Cap (ORAF) and the Opex Reassessment Adjustment At Floor (ORAF) terms and account for the difference between the Authority’s:</p> <ul style="list-style-type: none"> (a) assessment at the Post Construction Review stage of the economic costs associated with operating and maintaining Nemo Link’s interconnector; and (b) reassessment, at the Opex Reassessment stage, of the economic and efficient costs associated with operating and maintaining Nemo Link’s interconnector.

¹³ Page 10 of [Decision on the cap and floor regime for the GB-Belgium interconnector project Nemo](#)

When the cap and floor levels come into force

3.11. The derived cap and floor levels come into force as follows:

- (a) The cap level shall come into force on the date the regime starts¹⁴; and
- (b) The floor level shall come into force on the floor start date which shall be the date the interconnector is fully commissioned or such earlier date as may be specified in writing by the Authority.

3.12. In establishing the start date for application of floor payments, and to ensure consumers do not take on liability until assets are proven, the licence includes a full commissioning test.¹⁵

3.13. The licence intent is to have a 60 day proving period whereby Nemo Link demonstrates that its interconnector is able to operate at capacity. Where 60 days of continuous operation is successfully completed the full commissioning date is **backdated to the start** of the 60 day period continuous operation period.

3.14. Any interruption in the proving period will result in the 60 day clock restarting. The only exception to this are where the interruption was caused by an event or circumstance permitted under the licence. In which case the clock is paused and resumes when operation recommences after the period of interruption.

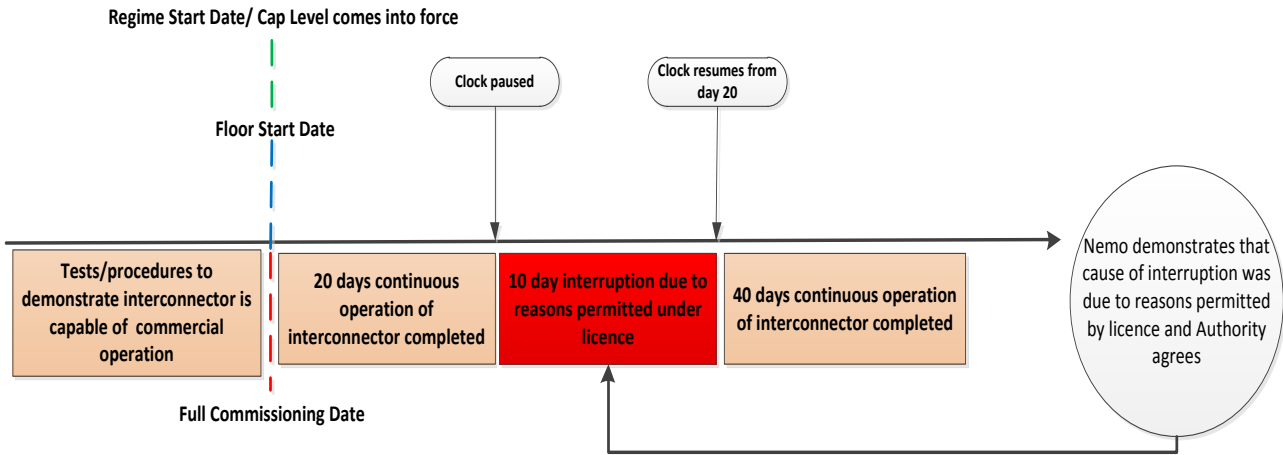
3.15. The following diagrams illustrate the effect on the full commissioning date of an interruption caused by circumstances permitted by the licence versus an interruption not permitted by licence.

¹⁴ The regime starts on the date the floor level comes in force or a date up to 12 months after Nemo Link's target completion date of 31 January 2019, whichever occurs earlier.

¹⁵ This test is built into the definition of 'Full Commissioning' in the licence.

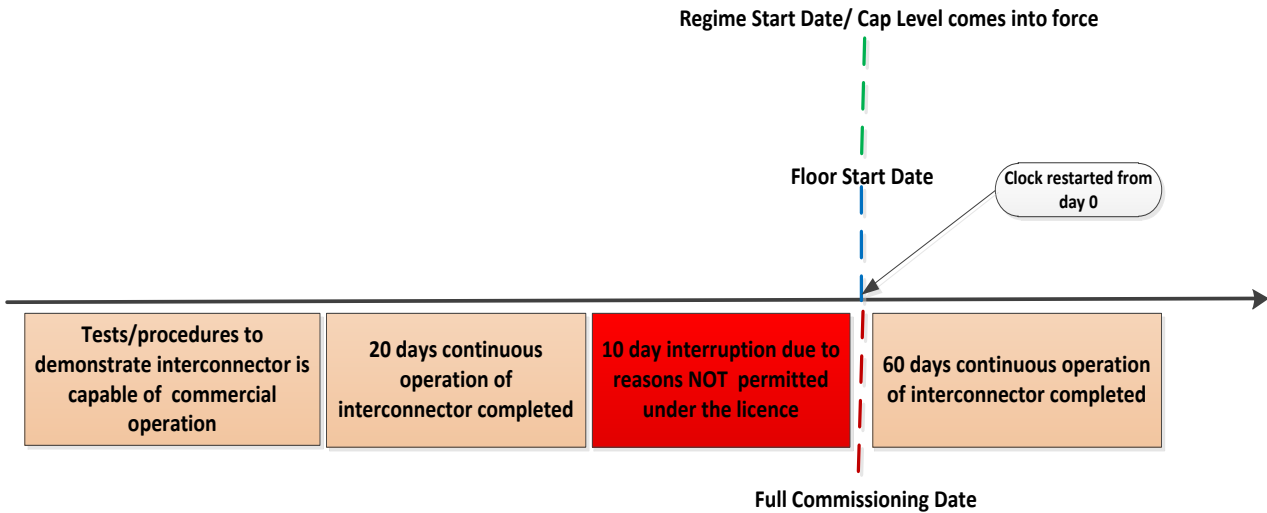


Scenario 1: Interruption to 60 days continuous operation due to reasons permitted by licence (before or up to 12 months after the target completion date)



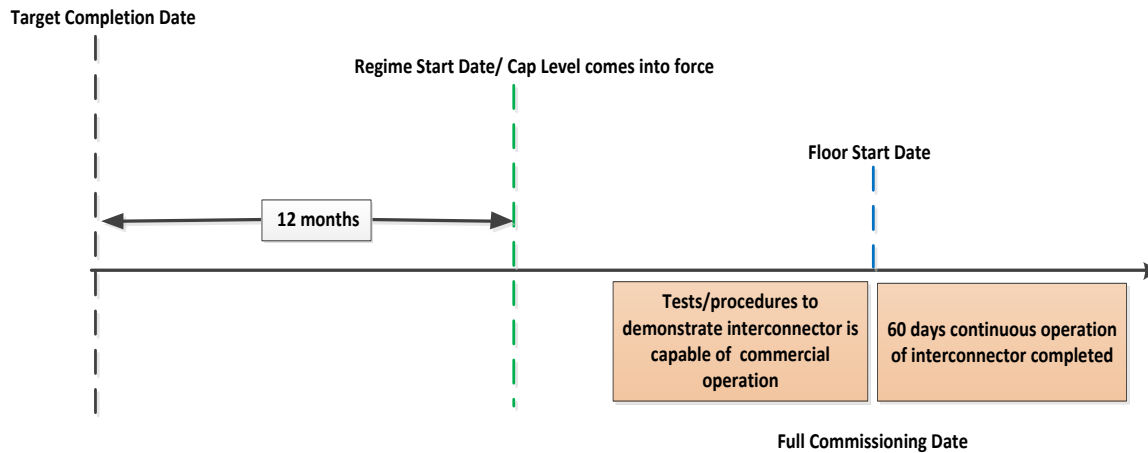
3.16. Under this scenario a 10 day interruption occurs after 20 days of continuous operation as a result of an event or circumstance that is permitted by the licence. The 60 day clock is paused at day 20 and resumes after the period of interruption. The remaining 40 days of continuous operation is then completed successfully.

Scenario 2: Interruption to continuous operation due to reasons not permitted by licence (before or up to 12 months after the target completion date)



3.17. Under this scenario, a 10 day interruption occurs after 20 days of continuous operation as a result of an event or circumstance that is not permitted by the licence. The 60 day clock is stopped at day 20 and restarted from zero after the period of interruption. The 60 days of continuous operation is then achieved.

Scenario 3: Full commissioning occurs more than 12 months after the target completion date.



3.18. Under this scenario, full commissioning occurs more than 12 months after the target completion date which means the regime has started and the cap level has come into force.¹⁶ The floor level comes into force once the asset is proven, and therefore, later than the cap level.

3.19. This is because it is the regime intent that consumers should not take construction risk and liability for defective assets.

3.20. For the avoidance of doubt, the regime starts from the cap level start date. This ensures that any risks and costs associated with construction delays sits with Nemo Link (and not consumers).

Parts B to F: Calculation of other adjustment components terms

3.21. The remaining parts of this condition set out the calculations for other adjustment components that are used in the calculation of the cap and floor levels. This includes the Post Construction Adjustment terms (PCAC and PCAF) and the Opex Reassessment Adjustment terms (ORAC and ORAF). These adjustments are discussed further under special condition 8 and 9 respectively.

¹⁶ The licence specifies that the regime start date is the floor start date or a date up to 12 months after the target completion Date (31 January 2019) and that the cap level comes into force on the regime start date.



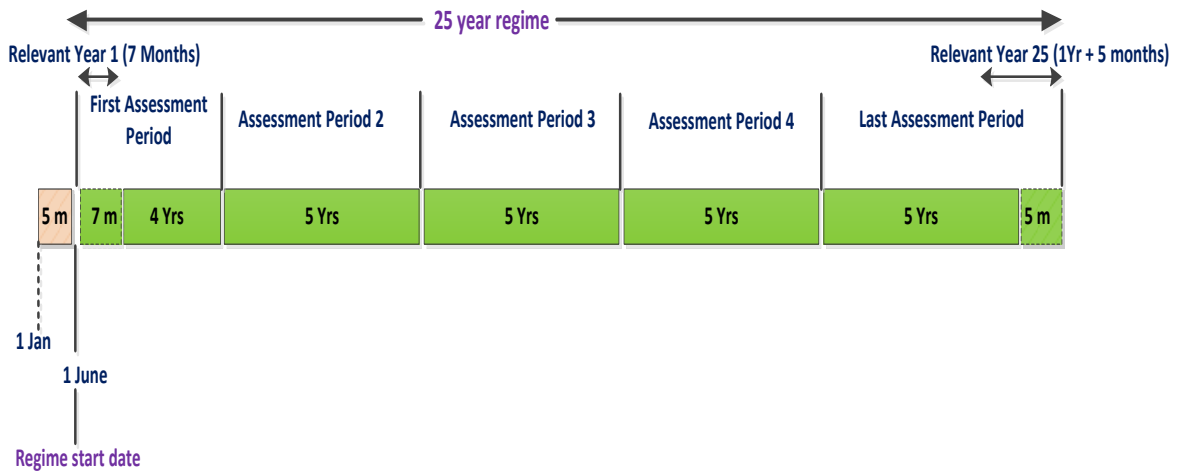
Part G: Calculation of Partial Years

3.22. This part provides for adjustments where the cap and floor start date(s) commence part way through Nemo Link’s reporting year. In the event that Nemo Link’s cap and floor regime starts after its reporting year start date of 1 January:

- the length of the first year of the regime is reduced by the number of months (or part thereof) that the regime start date is after 1 January; and
- the last year of the regime is extended by the number of months (or part thereof) that the first year of the regime was reduced by.

3.23. However, it should be noted that the overall length of Nemo Link’s regime remains 25 years in length regardless.

3.24. The following diagram illustrates the length of each relevant assessment period where the regime starts part way through Nemo Link’s reporting year and assumes a regime start date of 1 June in the first year.



Special Condition 3: Cap and Floor Assessment

3.25. This condition calculates the value of any end of period cap and floor revenue adjustments for each of the 5 years of a relevant assessment period. This is done by comparing Nemo Link’s Assessed Revenue (AR_t) for each year of a relevant assessment period against the cap and floor levels, discounted at the operational discount rate¹⁷ set at FID, on a NPV neutral basis.

Part A: Calculation of the End of Period Cap And Floor Revenue Adjustment term (CFA_{ap})

3.26. This part calculates the End of Period Cap And Floor Revenue Adjustment term for relevant assessment period ap (CFA_{ap}) by taking into account the final end of period position (REC_{ap} and RSF_{ap}) and netting off the impact of any Within Period Adjustments (WPAN). This is because any Within Period Adjustment must be trued-up at the end of a relevant assessment period.

3.27. In all cases, a downward adjustment results in a negative value and an upwards adjustment results in a positive value (ie, negative values represent a payment due from Nemo Link to consumers and positive values represent a payment due to Nemo Link from consumers).

Parts B and C: Calculation of the Notional End of Period Payment terms (REC_{ap} and RSF_{ap})

3.28. Part B and C of this condition calculate components that input into the calculation of the CFA_{ap} term by comparing the Assessed Revenue Net Present Value term for relevant assessment period ap (ARN_{ap}) against the Cap Level Net Present Value term for relevant assessment period ap (CLN_{ap}) and the Floor Level Net Present Value term for relevant assessment period ap (FLN_{ap}).

3.29. Parts D to G provide inputs to the calculations in Parts A, B and C.

3.30. In relevant years where Nemo Link has missed its MAT and thus not qualified for floor payments (ie floor level is zero), Part H provides for only revenue in excess of what the floor level would have been had it met the MAT to be taken forward in to the calculation of the assessed revenue NPV.

¹⁷ The Operation Discount Rate for Nemo Link is equal to 3.88%.

Special Condition 4: Interconnector Availability Incentive

3.31. This licence condition provides for adjustments to the cap and floor levels depending on performance. The condition also places obligations on Nemo Link in the event of an interconnector outage.

3.32. The availability incentive is a combination of obligations and incentive. The obligations require Nemo Link to maintain and repair its interconnector; the incentive encourages Nemo Link to maintain the availability of its interconnector.

Part A: Obligations

3.33. Part A of this condition sets out the obligations on Nemo Link to make 'new interconnector capacity'¹⁸ available in accordance with the relevant standard conditions of its licence and to take reasonable steps consistent with Good Industry Practice to minimise the effect and duration of any interconnector outage.

3.34. To complement this obligation, the licence places a number of reporting requirements on Nemo Link. It must report to the Authority any interconnector outage expected to last more than 21 days, including details of:

- the impacts on its users and whether, in its opinion, the interconnector outage has been caused (in whole or in part) by an Exceptional Event;
- any interim work or other actions taken by Nemo Link to minimise the effect of the interconnector outage; and
- the expected timescale for repair of the interconnector outage.

Part B: Availability incentive adjustment at the cap

3.35. Part B of this condition specifies the financial incentive on Nemo Link to maintain availability of its interconnector. The incentive is based on Nemo Link's performance against its Availability Target. Nemo Link's Availability Target is to achieve 8,507,403 MWh of interconnector availability in any relevant year.¹⁹

3.36. The number 8,507,403 is calculated in accordance with the following formula:

$$8\,507\,403 = 8766 \times RC \times 97.05\%$$

¹⁸ New interconnector capacity means physical capacity, or new capacity product, which is made available over the licensee's interconnector on or after 3 March 2011.

¹⁹ Which equates to 97.05% availability.

3.37. In this calculation:

8766	means the number of hours in each Relevant Year and is calculated in accordance with the following formula: $8766 = 365.25 \times 24$
97.05%	means 97.05 per cent
RC	means the Rated Capacity of Nemo Link’s interconnector and has a value of 1,000MW

3.38. Each year, the actual availability of Nemo Link’s interconnector (as determined by information supplied by Nemo Link as part of its Annual Cap and Floor RIGs submission) will be compared to the Availability Target. The incentive rewards Nemo Link with an up to 2% increase in the level of revenue at the cap level if it exceeds the Availability Target and penalises Nemo Link by an up to 2% decrease in the level of revenue at the cap where availability falls below the Availability Target.²⁰

3.39. This means that the cap (as calculated in accordance with Part A of special condition 2) is adjusted by a factor of between 0.98 and 1.02 depending on the value of the Availability Performance At Cap (APC_t) term.

Part C: Availability incentive adjustment at the floor

3.40. Part C of this condition sets out the minimum level of Actual Availability that Nemo Link’s interconnector must achieve to receive end of period payments at the floor. The applicable Minimum Availability Target (MAT) is 7,012,800 MWh in any relevant year.²¹

3.41. The number 7,012,800 is calculated in accordance with the following formula:

$$7\,012\,800 = 8766 \times RC \times 80\%$$

3.42. In this calculation:

8766	means the number of hours in each Relevant Year and is calculated in accordance with the following $8766 = 365.25 \times 24$
80%	means 80 per cent
RC	means the Rated Capacity of Nemo Link’s Interconnector and has a value of 1,000MW

²⁰ one-for-one percentage point increase/decrease in the cap level.

²¹ Which equates to an 80% availability threshold.

3.43. The AIF_t term has a value of either 1.00 or zero depending on Nemo Link's performance against the MAT. In the event that Nemo Link:

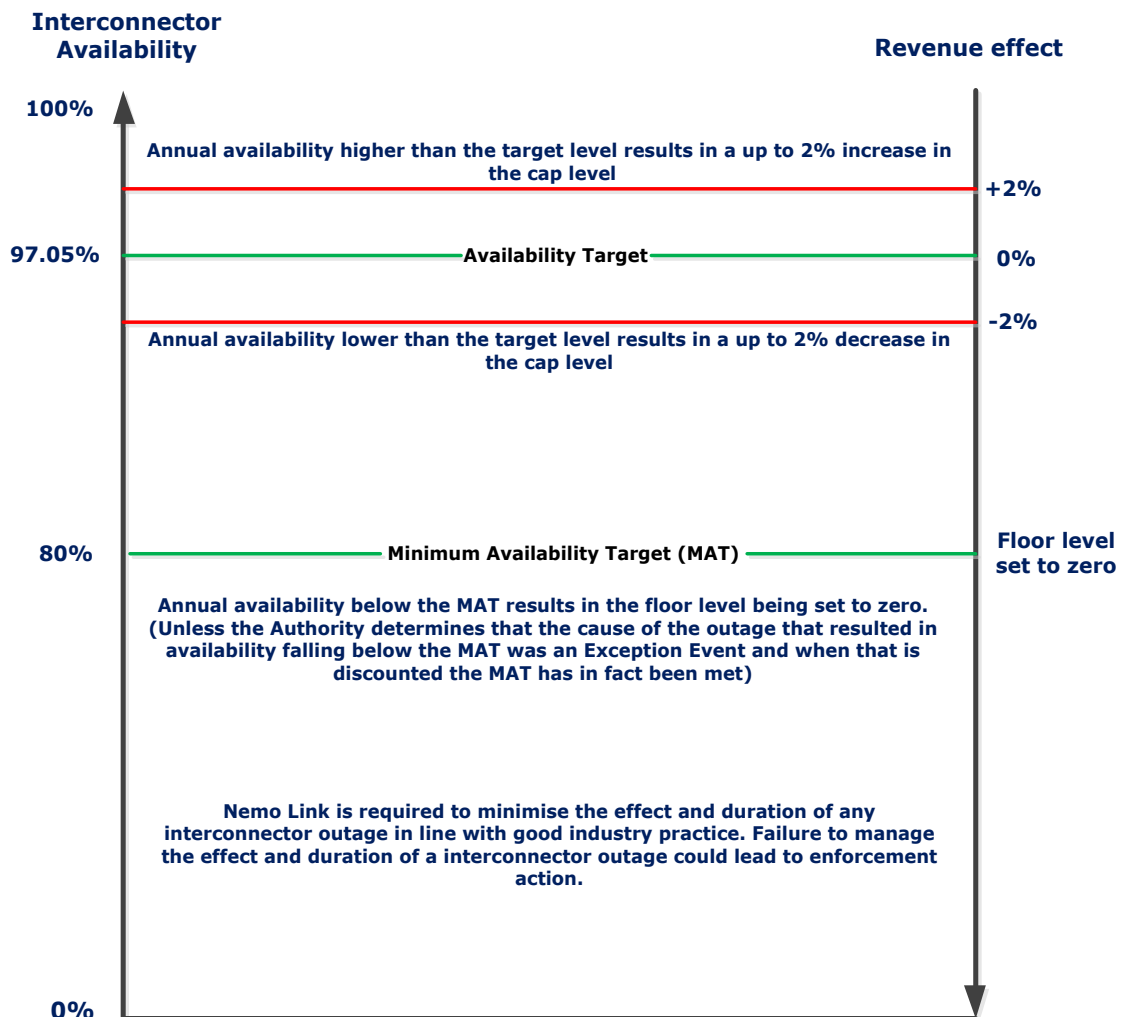
- meets or exceeds the MAT (ie the value of APF_t term is greater than or equal to 1.00) in any Relevant Year then value of the AIF_t term is 1.00; or
- fails to meet the MAT (ie the value of the APF_t term is less than 1.00) then the value of the AIF_t is zero. This means that the floor level falls to zero and consequently Nemo Link is not eligible for floor payments with respect to that Relevant Year.

3.44. If an Exceptional Event has occurred in the Relevant Year then Part E of this condition provides for an adjustment to the calculation of the AIF_t term to discount the MWh value (Availability Reduction Value) of the interconnector outage caused by that Exceptional Event.

3.45. Specifically, this means that where Nemo Link has not met the MAT due an interconnector outage caused by an Exceptional Event its interconnector is deemed to have been available for the proportion of the outage caused by that Exceptional Event. This may result in Nemo Link's eligibility for floor payments being reinstated if, after discounting the Availability Reduction Value, from the calculation of Nemo Link's Actual Availability, Nemo Link meets or exceeds the MAT.

3.46. The Authority can specify certain events of curtailment by the SO that can be automatically discounted as "Allowed Outages".

3.47. The diagram below illustrates how interconnector availability affects Nemo Link’s revenue.



Part D: Calculation of Actual Availability

3.48. Part D of this condition sets out the formula for calculating the Actual Availability of Nemo Link’s interconnector.

Part E: Process to be followed where the MAT is not met

3.49. Part E provides for Nemo Link’s eligibility to receive an end of period floor payment in any relevant year where it does not meet the MAT to be reinstated by the Authority where:

- Nemo Link has given notice to the Authority under this condition that the cause of the interconnector outage, that resulted in its actual availability falling below the Minimum Availability Target, was an Exceptional Event; and
- such notice is accompanied by:
 - a proposed value for the reduction in availability (in MWh) caused by the Exceptional Event (the Availability Reduction Value);
 - information necessary to demonstrate that the Availability Reduction Value was caused by an Exceptional Event; and
 - such information as may be necessary to demonstrate that when the Availability Reduction Value is excluded from the calculation of the actual availability of its interconnector, then it has in fact met the Minimum Availability Target; and
- the Authority directs that the Exceptional Event has been appropriately mitigated and managed by Nemo Link and the Authority either accepts the Availability Reduction Value proposed by Nemo Link or specifies an alternative Value.

3.50. In the event that the Authority determines that an Exceptional Event has not occurred then Nemo Link's eligibility to receive an end of period floor payment will not be reinstated for that relevant year.

Special Condition 5: Assessed Revenue

3.51. This condition calculates the value of the Assessed Revenue (AR_t) term for the purposes of assessing the amount of revenue Nemo Link has earned in a relevant assessment period compared against the cap and floor levels calculated in accordance with its licence.

3.52. This condition also sets out the calculation for the Gross Congestion Revenue (GCR_t) and Market Related Costs (MRC_t) components that are used in the calculation of the AR_t term.

Part A: Calculation of the Assessed Revenue term (AR_t)

3.53. Assessed revenue is all sources of revenue earned (or received) from;

- the allocation of interconnector capacity;
- participation in the GB capacity market,
- the provision of ancillary services in GB and Belgium;
- constraint payments received from the GB or Belgium SOs; and
- insurance receipts (such as business interruption insurance).

3.54. The Authority may, after consultation with CREG, specify in writing other sources of revenue that are to be considered an additional revenue source.

3.55. Nemo Link must notify the Authority if it considers it may have an additional revenue source.

3.56. Market related costs are netted off the calculation of gross congestion revenue. Market related costs are:

- error accounting costs;
- firmness costs; and
- trip contact costs.

Special Condition 6: Within Period Adjustment

3.57. The condition sets out the grounds on which Nemo Link may submit a request for a revenue adjustment **within** a relevant assessment period.

3.58. The condition also sets out the process that Nemo Link must follow, and the information it must provide, when making such requests. It also sets out the process for determining the value of any such within period adjustment (WPA).

3.59. Nemo Link may only request a WPA where it has:

- a cumulative NPV shortfall of assessed revenue against the floor level; or
- a cumulative NPV excess of assessed revenue against the cap level; and
- considers a WPA to be required on the grounds of:

(a) financeability; or

(b) pre-empting a material cap and floor adjustment at the end of a relevant assessment period.

3.60. A WPA request may be for a:

- **upward adjustment**²² of interconnector revenue (where Nemo Link has a cumulative NPV shortfall against the floor); or
- **downward adjustment**²³ to interconnector revenue (where Nemo Link has a cumulative NPV excess against the cap).

3.61. The Authority, in consultation with CREG, shall determine and specify in writing to Nemo Link the value of any within period adjustment.

²² Not exceeding the size of the NPV shortfall against the floor.

²³ Not exceeding the size of the NPV excess against the cap.

Special Condition 7: Non-Controllable Costs

3.62. This condition provides for adjustments (whether upwards or downwards) to:

- Nemo Link's Interconnector Revenue as a result of changes in Nemo Link's Non-Controllable Operational Costs (the Pass Through Adjustment (PTA_{ap}));
- The calculation of Nemo Link's assessed revenue as a result of an Income Adjusting Event (Determination of the Income Adjusting Event costs term (IAT_t)); and
- the cap and the floor levels as a result of changes in legislative requirements for decommissioning Nemo Link's interconnector (Determination of the Decommissioning Cost Adjustment term (DC_t)).

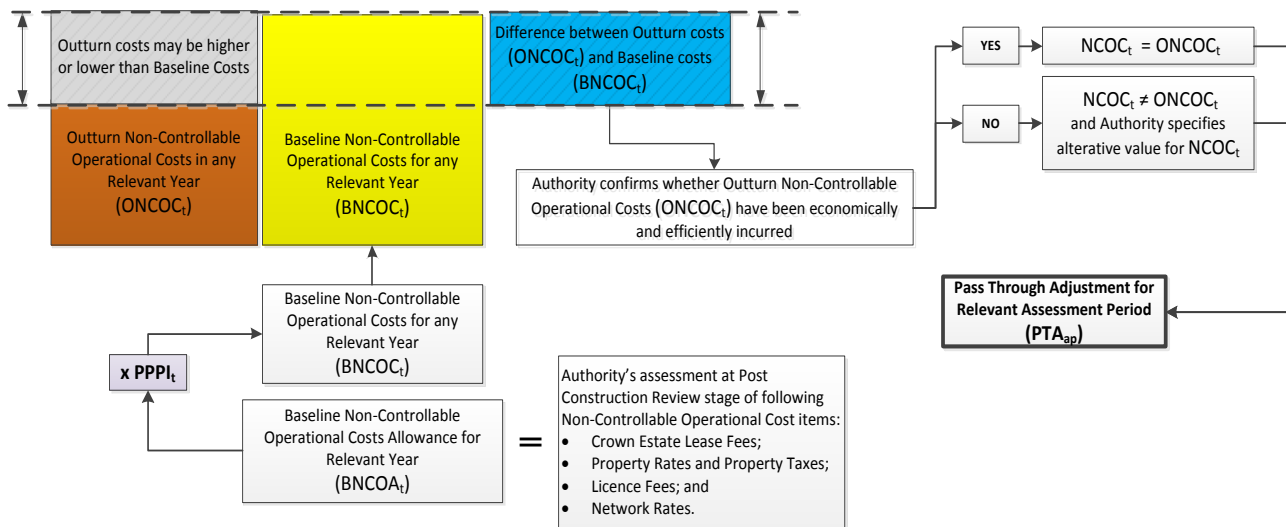
Part A: Calculation of the Pass Through Adjustment term (PTA_{ap})

3.63. This licence condition adjusts Nemo Link's revenue for certain operational costs that may arise but are not controllable by the licensee. The difference (whether positive or negative) between the baseline allowance²⁴ of these 'non-controllable operational costs' and the outturn is passed through to consumers and represents the value of the PTA_{ap} term. The non-controllable operational costs are defined as the following:

- (a) Crown Estate Lease Fees;
- (b) Property Rates and Property Taxes;
- (c) Licence Fees; and
- (d) Network Rates.

²⁴ The baseline allowance is the costs assumed in the cap and floor levels

3.64. The following diagram illustrates how PTA_{ap} term is calculated.



3.65. Pass through adjustments are made at the end of an assessment period on an NPV neutral basis.

Part B: Determination of the Income Adjusting Event term (IAT_t)

3.66. Nemo Link's licence provides for some risk share with consumers for force majeure events. This mechanism is the IAT_t term.

3.67. The events or circumstances which are defined as force majeure are specified in Nemo Link's licence. This definition has been based on the definition from the System Operator Transmission Owner Code (STC),²⁵ with the following exceptions:

- Legislative change is not included in the definition of force majeure. This is because the cap and floor regime has other mechanisms to protect from legislative change, specifically:
 - the floor itself provides protection to Nemo Link from potential negative impacts on its revenue arising from legislative change – including the European Network Codes and further development of interconnection;

²⁵ For further information please see National Grid's website: <http://www2.nationalgrid.com/UK/Industry-information/Electricity-codes/System-Operator-Transmission-Owner-Code/>

- the decommissioning costs adjustment term (discussed below) provides protection to Nemo Link from changes in legislative requirements relating to the decommissioning.

The regime intent is not to provide further protections from legislative change for Nemo Link.

3.68. The licence also imposes a materiality threshold (> 5% of the floor level).

3.69. Where Nemo Link considers an income adjusting event to have occurred then it may give written notice to the Authority and proposed a value for the IAT_t term.

3.70. The Authority, in consultation with CREG, will take the final decision on whether the trigger event/circumstance was a force majeure and whether Nemo Link's proposed IAT_t term represents the economic and efficient costs in responding to the event/circumstance.

3.71. Once the Authority has specified the value of the IAT_t term, the calculation of the licensee's assessed revenue for that year shall be adjusted to net off the impact of the IAT_t term (ie, to net off the economic and efficient costs associated with the event).

3.72. Further details on the relevant definitions and processes for determining the IAT_t term are set out in Nemo Link's licence.

Part C: Determination of the Decommissioning Cost Adjustment term (DC_t)

3.73. Nemo Link is liable for its decommissioning obligations. The value of the cap and floor levels is based on the Authority's assessment, at the Post Construction Review stage, of the legislative requirements relating to the decommissioning of the Nemo Link's interconnector and the economic and efficient costs associated with such requirements. However, legislative requirements could change before the end of Nemo Link's cap and floor regime and could lead to additional or reduced decommissioning costs which Nemo Link would not have foreseen.

3.74. The licence provides for adjustments to the cap and floor levels (whether upwards or downwards) in the event that a change in legislative requirements results in additional or reduced decommissioning costs agreed by the Authority.

3.75. Where Nemo Link considers, and can provide supporting evidence, that costs and/or expenses being incurred or saved as result of change in legislative requirements²⁶, Nemo Link may give written notice to the Authority of such occurrence and must include with that notice, its proposed value for the Decommissioning Cost adjustment term (DC_t). The licence sets out further details of what the notice must contain and the process to be followed.

3.76. The Authority shall then direct and notify Nemo Link in writing whether:

- (a) there has been a relevant change in legislative requirements and whether any or all of the costs and/or expenses specified in Nemo Link's notice were caused by the change in legislative requirements; and
- (b) if so, the periods, if any, over which the adjustment term DC_t determined by the Authority should apply.

3.77. Where the Authority issues a direction specifying that there has been a relevant change in legislative requirements and costs and/or expenses were incurred or saved by Nemo Link as a result, the formula for calculating Nemo Link's cap and floor specified in special condition 2 is replaced by the following alternative formulae:

$$CL_t = (PYC_t \times (PCL + PCAC + ORA) + DC_t) \times AIC_t \times PPPI_t$$

$$FL_t = (PYF_t \times (PCL + PCAF + ORA) + DC_t) \times AIF_t \times PPPI_t$$

3.78. The above formulae add the DC_t term to the calculation of the cap and floor levels.

3.79. Should there be any further changes in legislative requirements concerning decommissioning after the Authority's direction, Nemo Link may give further notice to the Authority in accordance with the process described in the licence.

²⁶ For example, updates to Department for Energy and Climate Change (DECC) guidance on decommissioning.

Special Condition 8: Process for determining the value of the Post Construction Adjustment (PCA) terms

3.80. This condition establishes the process for determining the value of the Post Construction Adjustment terms (PCAC and PCAF). The values of these terms are determined by the Authority in accordance with the process set out in the licence and represents the difference between the Authority’s:

- (a) estimate, assumed in the preliminary cap and floor levels, of the costs associated with developing, constructing, operating, maintaining and decommissioning Nemo Link’s interconnector; and
- (b) assessment, at the Post Construction Review stage, of the economic and efficient costs associated with developing, constructing, operating, maintaining and decommissioning Nemo Link’s interconnector

3.81. The PCAC and PCAF terms make adjustments (whether upwards or downwards) to Nemo Link’s cap and floor levels to account for the difference between the:

- preliminary cap and floor levels (PCL and PFL terms) set by the Authority; and
- actual cap and floor levels (CL_t and FL_t terms), following the Post Construction Review stage.

3.82. The licence provides for the value of PCAC and PCAF terms to be submitted by Nemo Link once construction of the interconnector is substantively complete and prior to commencement of the operation phase.²⁷

3.83. Nemo Link may submit a request to the Authority²⁸ setting out its proposed value for the PCAC and PCAF terms together with any necessary supporting information and in accordance with the Cap and Floor Financial Model Protocol.²⁹

3.84. Any such request must include the following information:

- (a) Nemo Link’s proposed values for the PCAC and PCAF terms;

²⁷ This is specified in the licence as the date on which between 85 per cent and 95 per cent of development and capital expenditure, excluding interest during construction (and any snagging retention) has been committed to the development and construction of its interconnector.

²⁸ Nemo Link is required to give the Authority no less than 6 months’ notice that it intends to submit a proposed value for the PCA terms for determination by the Authority under this condition.

²⁹ Nemo Link is required by special condition 11 to establish and maintain the Cap and Floor Financial Model Protocol.

- (b) details of how the proposed values have been calculated; and
- (c) any other relevant information as may be specified by the Authority to facilitate its determination of Nemo Link's proposed values for the PCAC and PCAF terms.

3.85. The Authority will confirm in writing if all required information has been received and if not specify, within three months of receipt, what information remains outstanding.³⁰

3.86. Following consultation with CREG, the Authority shall determine whether it considers the proposed values for the PCAC and PCAF terms:

- (a) to be acceptable; or
- (b) specify alternative values for the PCAC and PCAF terms

within a period of 12 months from the date that the Authority confirms it has received all the required information.

3.87. Once determined, the Authority will specify the values of the PCA terms in a direction. The determined PCA values take effect from the date stated in the direction, the effective date not being earlier than the date on which the direction is issued.

3.88. The values of the PCA terms then remain fixed, in real terms, for the duration of Nemo Link's cap and floor regime. In the absence of a determination by the Authority the values of the PCA terms are set to zero.

³⁰ The Authority may at any time following this confirmation, where it concludes that the information provided by Nemo Link is not sufficient for the purposes of making a determination, send a further notification setting out what additional information is required. In such circumstances the 12 month period for making a determination is paused and restarted on receipt of the required information.

Special Condition 9: Process for determining the value of the Opex Reassessment Adjustment terms

3.89. The Opex Reassessment Adjustment terms (ORAC and ORAF) make an adjustment (whether upwards or downwards) to the cap and floor levels.

3.90. The values of these terms are proposed by Nemo Link and determined by the Authority in accordance with the process set out in the licence, and account for the difference between the Authority’s:

- (a) assessment at the Post Construction Review stage of the economic costs associated with operating and maintaining Nemo Link’s interconnector; and
- (b) reassessment, at the Opex Reassessment stage, of the economic and efficient costs associated with operating and maintaining Nemo Link’s interconnector.

3.91. A determination by the Authority of the value of the ORAC and ORAF terms may be conducted:

- (a) **at Nemo Link’s request** - in which case Nemo Link must submit a request to the Authority setting out the proposed value for the ORAC and ORAF terms together with all relevant and up to date cost information that the Authority may require to complete its reassessment; or
- (b) **where the Authority considers it appropriate** - in which case the Authority will specify the information Nemo Link is required to provide³¹ to allow the Authority to complete its assessment.

3.92. In any case, a determination may only be conducted once and cannot occur until at least 10 years after the start of Nemo Link’s cap and floor regime.

3.93. The Authority shall review the information submitted by Nemo Link and send a written notification within three months confirming whether it has:

- (a) received all the information required to allow it to make its determination³²; or
- (b) not received all the information required and specify what further information is required.

³¹ This information must be provided by Nemo Link within three months of the Authority’s request.

³² The Authority may at any time following this confirmation, where it concludes that the information provided by Nemo Link is not sufficient for the purposes of making a determination, send a further notification setting out what additional information is required. In such circumstances the 12 month period for making a determination is paused and restarted on receipt of the required information.

3.94. Following consultation with CREG, the Authority shall determine the value of the ORAC and ORAF terms within a period of 12 months from the date that the Authority confirms that it has received all the required information.

3.95. Once determined, the Authority will specify the values of the ORAC and ORAF terms in a direction. The determined ORAC and ORAF values take effect from the date stated in the direction, the effective date not being earlier than the date on which the direction is issued.

3.96. The value of the ORAC and ORAF terms then remains fixed for the remainder of Nemo Link's cap and floor regime. In the absence of a determination by the Authority the values of the ORAC and ORAF terms is set to zero.

Special Condition 10: Calculation of adjustments to the licensee's Interconnector Revenue (GB share)

3.97. This condition pulls together the various revenue adjustment components calculated in other special conditions of the licence (ie the CFA_{ap} , WPA_{pap} and PTA_{ap} terms) and applies the following:

- the 50/50 sharing factor between GB and Belgium;
- the true up term (which provides an opportunity to true-up forecasting or reporting errors from previous years); and
- the ICF_t methodology; which takes into account:
 - (a) the time lag in the GB charging cycle (so applies the operational discount rate for an additional period); and
 - (b) any differences in reporting years³³

3.98. This determines the final sum to be paid between Nemo Link and the GB SO in any given relevant year. Further information is provided below.

Part A: Calculation of the Interconnector Cap and Floor Revenue Adjustment terms for each Relevant Assessment Period and each Relevant Partial Assessment Period (ICF_{ap} and ICF_{pap})

3.99. The calculation of the Interconnector Cap And Floor Revenue Adjustment term for each Relevant Assessment Period (ICF_{ap}) sums up the Cap and Floor Adjustment term (CFA_{ap}) and Pass Through Adjustment term (PTA_{ap}) for a relevant assessment period. The 50/50 sharing factor with Belgium is also applied.

3.100. The calculation of the Interconnector Cap And Floor Revenue Adjustment term for each Relevant Partial Assessment Period (ICF_{pap}) applies the 50/50 sharing factor to the value of the WPA_{pap} term. The 50/50 sharing factor with Belgium is also applied.

3.101. The calculation also allows for a true-up, if needed, to reconcile any reporting or forecasting errors from previous years.

Part B: Calculation of the True-up term (TRU_t)

3.102. In the event that forecasting or reporting errors occur in the calculation of the value of the ICF_t term for Relevant Year $t-1$, the licence provides for Nemo Link to

³³ Nemo Link's reporting year runs from 1 January to 31 December, whilst the reporting year for the TNUoS charging cycle runs from 1 April to 31 March.

submit, for approval by the Authority, a value for the True-up term (TRU_t) that is calculated so as to reconcile such errors for Relevant Year t .³⁴

3.103. Nemo Link's proposed value for the TRU_t must be submitted no later than 15 months after the end of Relevant Year $t-1$ and at the same time as Nemo Link's Annual Cap and Floor RIGs Submission for Relevant Year t .³⁵ (The licence does however set out that, where the licensee cannot make its submission within that timescale, it may request the Authority to grant a timescale extension).

3.104. The Authority may either approve Nemo Link's proposed value for the TRU_t term or specify an alternative value.

Part C: Calculation of the Interconnector Cap And Floor Revenue Adjustment term (ICF_t)

3.105. The value of the Interconnector Cap And Floor Revenue Adjustment term for relevant year t (ICF_t) equates to a revenue adjustment as follows:

- a downward adjustment of revenues³⁶ (where the ICF_t term is a **negative** value), or
- an upward adjustment of revenues (where the ICF_t term is a **positive** value)

3.106. Nemo Link is required to notify the value of this term to the GB System Operator under standard condition 26 (Provision of information to the GB System Operator) of its licence. Such notifications to the GB System Operator need to be in a reporting year that runs from 1 April to 31 March the following year. This does not correspond with Nemo Link's reporting year which runs from 1 January to 31 December and is reflected in the special conditions of its licence.

3.107. Accordingly, Nemo Link is required to establish and maintain an ICF_t Methodology³⁷ which converts the ICF_{ap} and ICF_{pap} values discussed above into values that take account of this difference in reporting years and applies the operational discount rate specified in condition 3 for a further additional period to reflect the payment timescales set out in the CUSC.

³⁴ Together, with how the value of the TRU_t term has been calculated, details of the errors identified and how the proposed TRU_t term reconciles these errors.

³⁵ Where Nemo Link cannot make its submission within this timescale, it may request the Authority to grant a timescale extension.

³⁶ Upward/downward revenue adjustments result in a corresponding increase/decrease in the TNUoS charges set by NGET which then flows through to consumers.

³⁷ In a form approved by the Authority and as soon as reasonably practicable (or by such date that may be specified by the Authority).

Special Condition 11: Cap and Floor Financial Model Protocol

3.108. This condition requires Nemo Link to establish and maintain³⁸ the Cap and Floor Financial Model Protocol (the CFFMP) in a form approved by the Authority.

3.109. The CFFMP shall set out, as a minimum:

- (a) the processes and/or timescales by which Nemo Link effects adjustments to the cap and floor levels in accordance with the special conditions of its licence;
- (b) the processes and/or timescales by which Nemo Link effects adjustments to the Nemo Link’s Interconnector Revenue in accordance with the special conditions of its licence; and
- (c) the governance arrangements for changes to the CFFMP.

³⁸ As soon as practicable and, in any case, no later than three months after the special conditions come in to force.