

## **Annex B NGET standard licence conditions (SLC) proposed modifications**

We have included the sections of the SLCs we have proposed to remove or amend below. Deletions are shown in strike through and new text is double underlined. All of the proposed modifications below are reflected in proposed modifications to Special Condition 1C.

### **A1. Definitions and interpretation**

1. In the standard conditions unless the context otherwise requires:

~~"EMR functions"~~ **has the same meaning as in Chapter 5 of Part 2 of the Energy Act 2013**

"permitted purpose" means the purpose of any or all of the following:

- (a) the transmission business, or any business or activity within the limits of paragraph 4 of standard condition B6 or E7 (Restriction on activity and financial ringfencing);
- (b) any business or activity to which the Authority has given its consent in writing in accordance with paragraph 3(d) of standard condition B6 or E7 (Restriction on activity and financial ringfencing);
- (c) without prejudice to the generality of subparagraphs (a) and (b), any payment or transaction lawfully made or undertaken by the licensee for a purpose within subparagraphs (i) to (vii) of standard condition B9 or E10, 1(b) (Indebtedness) and

~~(d) the EMR functions~~

"transmission business" means the authorised business of the licensee or any affiliate or related undertaking in the planning or development or construction or operation or maintenance ~~or commercial management~~ of the licensee's transmission system or the national

electricity transmission system or the provision of transmission services (whether or not pursuant to directions of the Secretary of State made under section 34 or 35 of the Act) or the co-ordination and direction of the flow of electricity onto and over the national electricity transmission system including ~~the transmission owner activity,~~ the balancing services activity, and any business in providing connections to the national electricity transmission system, but shall not include:

- (i) any business of the licensee or any affiliate or related undertaking in the provision of settlement services in connection with the BSC or the Pooling and Settlement Agreement; or
- (ii) any other business of the licensee or any affiliate or related undertaking in the provision of services to or on behalf of any one or more persons.

### **B1. Regulatory Accounts**

2. For the purposes of this condition, but without prejudice to the requirements of Part C below, the licensee must prepare regulatory accounts for each financial year, for each of the following businesses of the licensee, where applicable:

- (a) the consolidated transmission business ~~(which, for the purposes of this condition and Standard Conditions B5 and B6 only, includes the EMR functions);~~
- (b) any de minimis business within the meaning of paragraph 4 of Standard Condition B6 (Restriction of activity and financial ring-fencing);
- (c) other activities to which this licence relates and to which the Authority has given its consent in accordance with paragraph 3(d) of Standard Condition B6 (Restriction on activity and financial ring-fencing); and
- (d) the whole business to which this licence relates, as represented by the consolidation of the businesses and activities referred to within sub-paragraphs (a) to (c), where applicable.

### **B5. Prohibition of cross-subsidies**

1. The licensee shall procure that the transmission business ~~(which, for the purposes of this condition and Standard Conditions B1 and B6 only, includes the EMR functions)~~ shall not give any cross subsidy to, or receive any cross-subsidy from, any other business of the licensee or of an affiliate or related undertaking of the licensee.

### **Condition B6. Restriction on Activity and Financial Ring Fencing**

1. Save as provided by paragraphs 3 and 4, the licensee shall not conduct any business or carry on any activity other than the transmission business ~~(which, for the purposes of this condition and Standard Conditions B1 and B5 only, includes the EMR functions).~~

### **Conditions B7. Availability of Resources**

1. The licensee shall at all times act in a manner calculated to secure that it has available to it such resources, including (without limitation) management and financial resources, personnel, fixed and moveable assets, rights, licences, consents and facilities, on such terms and with all such rights, as shall ensure that it is at all times able:

(a) to properly and efficiently carry on the transmission business; and

(b) to comply in all respects with its obligations under this licence and such obligations under the Act as apply to the transmission business including, without limitation, its duty to develop and maintain an efficient, co-ordinated and economical system of electricity transmission; and

~~(c) to properly and efficiently carry on the EMR functions and to comply in all respects with its obligations under EMR legislation.~~

### **Certificates for the Authority in relation to financial resources**

2. The licensee must by 31 July each year give the Authority a certificate that has been approved by a resolution of the licensee's board of directors and signed by a director of the licensee pursuant to that resolution and is in one of the following forms:

(a) **Certificate 1F**

"After making enquiries and having taken into account in particular (but without limitation) any dividend or other distribution that might reasonably be expected to be declared or paid by the licensee, the licensee's directors have a reasonable expectation that the licensee will have sufficient financial resources and financial facilities available to itself to enable the licensee to carry on the transmission business **and EMR functions** for a period of 12 months from the date of this certificate."

or

(b) **Certificate 2F**

"After making enquiries, and subject to what is explained below, having taken into account in particular (but without limitation) any dividend or other distribution which might reasonably be expected to be declared or paid by the licensee, the licensee's directors have a reasonable expectation, subject to what is explained below, that the licensee will have sufficient financial resources and financial facilities available to itself to enable the licensee to carry on the transmission business **and EMR functions** for a period of 12 months from the date of this certificate. However, the directors of the licensee would like to draw attention to the following factors, which may cast doubt on the licensee's ability to carry on the transmission business **and EMR functions** [followed by a description of the factors concerned]."

or

(c) **Certificate 3F**

"In the opinion of the licensee's directors, the licensee will not have sufficient financial resources and financial facilities available to itself to enable the licensee to carry on the transmission business ~~and EMR functions~~ for a period of 12 months from the date of this certificate."

**Statement of factors and report by auditors in relation to financial resources certificate**

3. The licensee must ensure that the certificate given to the Authority under paragraph 2 is accompanied by:

(a) a statement of the main factors that the licensee's directors have taken into account in giving that certificate including reference to:

- (i) the main financial resources and financial facilities available to the licensee;
- (ii) the most recent cash flow statement prepared for the licensee;

and

(b) a report prepared by its auditors and addressed to the Authority which states whether or not the auditors are aware of any inconsistencies between, on the one hand, that certificate and the statement submitted with it under subparagraph (a) and, on the other hand, any information that they obtained during their audit work under standard condition B1 (Regulatory Accounts) on the licensee's regulatory accounts.

**Certificates for the Authority in relation to operational resources**

4. With effect from 1 August 2013, the licensee must by 31 July each year give the Authority a certificate that has been approved by a resolution of the licensee's board of directors and signed by a director of the licensee pursuant to that resolution and is in one of the following forms:

(a) **Certificate 1R**

"After making enquiries the licensee's directors have a reasonable expectation that the licensee will have sufficient operational resources including management, personnel, fixed and moveable assets, rights, licences, consents, and facilities available to itself to enable the licensee to carry on the transmission business ~~and EMR functions~~ for a period of 12 months from the date of this certificate."

or

(b) **Certificate 2R**

"After making enquiries, and subject to what is explained below, the licensee's directors have a reasonable expectation, subject to what is explained below, that the licensee will have sufficient operational resources including management, personnel, fixed and moveable assets, rights, licences, consents, and facilities available to itself to enable the

licensee to carry on the transmission business ~~and EMR functions~~ for a period of 12 months from the date of this certificate.

However, the directors of the licensee would like to draw attention to the following factors, which may cast doubt on the licensee's ability to carry on the transmission business ~~and EMR functions~~ [followed by a description of the factors concerned]."

or

(c) **Certificate 3R**

"In the opinion of the licensee's directors, the licensee will not have sufficient operational resources including management, personnel, fixed and moveable assets, rights, licences, consents, and facilities available to itself to enable the licensee to carry on the transmission business ~~and EMR functions~~ for a period of 12 months from the date of this certificate."

**Condition B8. Undertaking from ultimate controller**

1. The licensee shall procure from each company or other person which the licensee knows or reasonably should know is at any time an ultimate controller of the licensee a legally enforceable undertaking in favour of the licensee in the form specified by the Authority that that ultimate controller ("the covenantor") will refrain from any action, and will procure that any person (including, without limitation, a corporate body) which is subsidiary of, or is controlled, by, the covenantor (other than the licensee and its subsidiaries) will refrain from any action which would then be likely to cause the licensee to breach any of its obligations under ~~EMR legislation~~, the Act or this licence. Such undertaking shall be obtained within 7 days of the company or other person in question becoming an ultimate controller and shall remain in force for as long as the licensee remains the holder of this licence and the covenantor remains an ultimate controller of the licensee.

~~4. The licensee shall not be in breach of paragraph 1 if within 7 days of this paragraph coming into force, or as otherwise directed by the Authority, the licensee procures an updated version of the undertaking required by paragraph 1, that includes reference to its obligations under or by virtue of EMR legislation.~~

**C1. Interpretation of Section C**

~~"transmission owner activity"~~

means

~~the activity of the licensee or any affiliate or related undertaking relating to the medium and to long term planning, development, construction, maintenance and commercial management of the licensee's transmission system or the national electricity transmission system~~

~~which is remunerated under special  
condition 3A (Restriction of Transmission  
Network Revenue), and excluded services.~~

#### **Condition C2. Prohibited activities**

~~4. For the avoidance of doubt, paragraph 2 shall not prohibit or restrict the  
ability of the licensee to carry out its EMR functions.~~