

Nemo Link Licence Consultation Response: Appendix: additional drafting suggestions

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Licence/ Document name	Condition/ Section number	Condition/ Section name	Page/ Paragraph Ref	Comments	Suggested alternative drafting (tracked changes represent suggested changes)
cap_and_floor_reporting_template			Tabs 2.7, 2.9 and 2.11	These tabs have total formulae in column Q which I believe should be in column R (e.g. tab 2.7 cell Q9, Q39 and Q101 should be in column R)	
cap_and_floor_reporting_template			Tabs 3.1 to 3.3	Tabs 3.1 to 3.3 (covering opex, repex and decommex) require nominal Euro input per the RIGs guidance (see page 19) for actual and forecast spend. However the Excel template shows all the rows as £m, I think this is a typo in the template that will need amending	
cap_and_floor_reporting_template			Tabs 5 and 6	A currency and unit value (e.g. €m) needs to be specified for most rows in the template tabs 5 and 6.	
cap_and_floor_reporting_template			Tab 5	I believe the IATt (tab 5 row 27) needs to be an input field.	
Cap and Floor Regulatory Instructions and Guidance (RIGs)			Section 7.	Need to specify in guidance that revenue, cost of sales and income adjusting event values are to be entered as positive values. If costs of sales and income adjusting event values are to be entered as negative then Notional Assessed revenue formula (row 29) needs to be amended to be a simple addition of the three cells in the formula.	

Cap and Floor Regulatory Instructions and Guidance (RIGs)			Page 22 Paragraph 7.4 Table 1 "Guidance on completing the worksheet"	<p>"cap_and_floor_reporting_template" Tabs 5 and 6 (revenue and non-controllable costs) requires nominal Euro input per RIGS guidance (see pages 22 and 24) for actual and forecast values. However the RIGs guidance says that any GBP income or expenditure is to be converted to EUR using the exchange rate calculated in accordance with the special conditions. This is not in line with using statutory account values which uses the appropriate exchange rate at the time and it would mean that a reconciliation would be required between the statutory accounts and the RIGs template which is contrary to the desire of both Ofgem and Nemo. I believe the RIGs guidance will need to be amended.</p> <p>There is no need for the deleted text as Nemo is a Euro entity so all revenue is recorded in the statutory accounts in Euros.</p>	Revenue components should be reported in nominal Euro million. <i>Where components of income or expenditure are denominated in Sterling, such components shall be converted to Euro using the GBPt/ EURt exchange rate. This shall be calculated in accordance with the special conditions of the relevant electricity interconnector licence.</i>
Cap and Floor Regulatory Instructions and Guidance (RIGs)			Page 22 Paragraph 8.4 Table 1 "Guidance on completing the worksheet"	The comment for paragraph 7.4 (see above) also applies to paragraph 8.4 Table 1 "Guidance on completing the worksheet"	Costs should be reported in nominal Euro million. <i>Where components of income or expenditure are denominated in Sterling, such components shall be converted to Euro using the GBPt/ EURt exchange rate. This shall be calculated in accordance with the special conditions of the relevant electricity interconnector licence.</i>
Cap and Floor Regulatory Instructions and Guidance (RIGs)			Page 31 Forex cost treatment	<p>Page 31 of the RIGs guidance covers Forex cost treatment and paragraph 21 notes the efficient and economic approach to major foreign exchange contracts is to hedge the payment (does Ofgem actually mean "currency "not "exchange").</p> <p>Page 31 appears to be written for the construction period only. We believe this should be expanded to include the operational period too.</p>	

				<p>Paragraphs 9.21 (last sentence) and 9.27 both state that Ofgem will not allow FX losses. We understand that it is Ofgem’s intent that both FX losses and FX gains are allowable if economically and efficiently incurred to the extent that they are incurred within the Nemo Link entity and will not be considered if incurred within parent entities.</p> <p>We also understand that realised FX gains and losses that arise during the operational phase of the regime are taken into account for cap and floor assessment purposes by adjusting Interconnector Revenue by the realised value of FX gains and losses as part of the Assessed Revenue calculation.</p> <p>Note that the RIGs template has no provision for reporting FX gains or losses for income purposes unless it is assumed that it should be input on the Additional Revenue (ADR) row.</p> <p>We further understand that Ofgem have directed that FX gains and losses on amounts due to and from consumers are not assessable. Nemo will ensure that such FX gains and losses are recorded separately.</p>	
Proposed new special conditions for Nemo Link Limited	SPC 2	Cap Level and Floor Level	Page 8 / 9	Nemo understands that Ofgem’s intent is to pause for the exact duration in hours and minutes. To ensure this is reflected in the special conditions need to insert “and time” as indicated.	For the purposes of paragraph 7(b)(i) of this condition, “shall be discounted” shall have the meaning: the 60 days continuous operation shall be paused on the date and time of the start of the event or circumstance and shall resume on the date and time that normal operation recommences.
Proposed new special conditions for Nemo Link Limited	SPC 2	Cap Level and Floor Level	Page 8 / 10 (b)	Propose to use defined term “Floor Start Date”.	if so, direct the date on which the Full Commissioning Date falls (such date being the date on which the Floor Level comes in to force Floor Start Date).

Proposed new special conditions for Nemo Link Limited	SPC 4	Interconnector Availability Incentive	Page 21 / 2 (f)	Typo – replace “this “ with “the”	Part F sets out the adjustments to the Availability Target and this-the Minimum Availability Target to account for partial years; and
Proposed new special conditions for Nemo Link Limited	SPC 4	Interconnector Availability Incentive	Page 21 / Part A	First paragraph numbering is shown as (a) when should be 3. This has an impact on all subsequent paragraph numbers.	
Proposed new special conditions for Nemo Link Limited	SPC 4	Interconnector Availability Incentive	Page 24 / 17	Typo – brackets around AIFt term are not required.	The licensee’s Assessed Revenue is assessed against the Floor Level as adjusted by the (AIFt) term for each Relevant Year over the Regime Duration in accordance with special condition 3 of this licence.
Proposed new special conditions for Nemo Link Limited	SPC 4	Interconnector Availability Incentive	Page 27 / 32 & 33	Typo – Sub-references in paragraphs 32 and 33 need to be amended – there are two sub-paragraphs (a) and a.	
Proposed new special conditions for Nemo Link Limited	SPC 5	Assessed Revenue	Page 31, 32 / 10	Insert full name for BSC i.e. Balancing Settlement Code in definition for EAC	(a) equal to costs, whether positive or negative, incurred by the licensee in settling any energy imbalance due to any difference in metered volume between the physical flow on the interconnector and the aggregate position of all interconnector users as notified, in accordance with the BSC Balancing Settlement Code , to the Balancing and Settlement Code Company by the interconnector administrator for Relevant Year t; and

Proposed new special conditions for Nemo Link Limited	SPC 5	Assessed Revenue	Page 31, 32 / 10	Nemo request that Error Accounting Costs definition is expanded to include the equivalent costs in Belgium i.e. Balancing Rules approved by CREG. Part (a) of the definition remains the same, a new part (b) is inserted and current part (b) becomes part (c).	(b) equal to costs, whether positive or negative, incurred by the licensee in settling any energy imbalance due to any difference in metered volume between the physical flow on the interconnector and the aggregate position of all interconnector users as notified, in accordance with the Balancing Code approved by CREG, by the interconnector administrator for Relevant Year t; and
Proposed new special conditions for Nemo Link Limited	SPC 7	Non-controllable costs	Page 38 / 1	Paragraph 1 sub paragraph numbering has gone astray and needs to be amended.	
Proposed new special conditions for Nemo Link Limited	SPC 7	Non-controllable costs	Page 43 / 28 (a)	Typo – insert “to”	the Authority’s assessment, at the Post Construction Review stage, of the legislative requirements relating to the decommissioning of the licensee’s Interconnector and the economic and efficient costs associated with such requirements; and
Proposed new special conditions for Nemo Link Limited	SPC10	Calculation of adjustments	Page 51 / 2 (d)	Possible Typo - all references to Payment Uplift Factor (PUF) have been removed except this. Propose that 2 (d) is deleted.	The Payment Uplift Factor applied to take account of the timescales of payment