

Annex A. EU Exit – Notice of proposed licence modifications to the National Grid Electricity System Operator Limited Electricity Transmission Licence

To: National Grid Electricity System Operator Limited

Electricity Act 1989

Section 11A(2)

Notice of statutory consultation on a proposal to modify the standard and special conditions of the National Grid Electricity System Operator Limited Electricity Transmission Licence.

1. The Gas and Electricity Markets Authority (the Authority)¹ proposes to modify the particular standard conditions of the National Grid Electricity System Operator Limited (NGESO) Electricity Transmission Licence granted or treated as granted under section 6(1)(b) of the Electricity Act 1989 by amending standard licence conditions under section 11A(1)(b) as follows:
 - SLC A1 (Definitions and interpretation)
 - SLC B3 (Disposal of relevant assets and restrictions on charges over receivables)
 - SLC B20 (Regional Cooperation)
 - SLC B21 (Notification of changes that may affect eligibility for certification)
 - SLC C11 (Production of information about the national electricity transmission system)
 - SLC C27 (The Network Options Assessment process and reporting requirements)

2. We also propose to modify the special conditions of the NGESO Electricity Transmission Licence granted or treated as granted under section 6(1)(b) of the Electricity Act 1989 by amending special conditions under section 11A(1)(a):
 - 1A (Definitions and interpretation)

3. The modifications we propose to make are to reflect the changes in the legislative framework that will be implemented in the event that the United Kingdom (UK) leaves the European Union (EU) without a deal.

4. The effect of these proposed modifications is to ensure that the references in the licence to EU law (e.g. Directives, Regulations and Commission decisions) shall be read as references to such EU law as it had effect immediately before exit day subject to any further amendments as may be contained in statutory instruments made under the European Union (Withdrawal) Act 2018. As far as possible, the modifications do not seek to change the current obligations and duties of licensee, nor do they seek to change the current policy positions as reflected in the licence conditions.

¹ The terms “the Authority”, “we” and “us” are used interchangeably in this document.

5. The proposed modifications and the reasons why they are proposed are stated in Appendix 1 and 2 to this Notice. The effect of the proposed changes is set out in paragraph 4 of this Notice. Further information concerning the proposed modifications is contained in the letter entitled 'EU Exit: statutory consultation on consequential changes to the National Grid Electricity System Operator Limited electricity transmission licence' which can be found at www.ofgem.gov.uk.
6. Any representations with respect to the proposed licence modifications must be made on or before **02 August** to: **Anna Fenton, Ofgem European Coordination Systems & Networks 10 South Colonnade London E14 4PU**, or by email to EUExit@ofgem.gov.uk.
7. We normally publish all responses on our website. However, if you do not wish your response to be made public then please clearly mark it as not for publication. We prefer to receive responses in an electronic form so they can be placed easily on our website.
8. If we decide to make the proposed modifications, they will take effect no less than 56 days after the decision is published.

Cathryn Scott
Director, Wholesale Markets & Commercial

Duly authorised on behalf of the
Gas and Electricity Markets Authority

04 July 2019

Appendix 1.a. NGESO Electricity Transmission Standard Licence Conditions Modification Table

Standard Licence condition	Current wording	Proposed change	Reasons for change
A1	“the Electricity Directive” means Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC.	“the Electricity Directive” means Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity <u>as it has effect immediately before Exit Day as read with the modifications set out in the Act.</u>	The licence refers to the Directive in a number of conditions. This proposal will ensure that the references to the Directive are to be interpreted on the basis of the Directive as it has effect immediately before Exit Day as read with the modifications inserted into section 3A(5B) of the Electricity Act 1989 by regulation 39 of the Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019 ² (the “Regulations”).
A1	New definition	<u>“Exit Day” has the same meaning as that given in section 20(1) of the European Union (Withdrawal) Act 2018.</u>	This new definition is required to give effect to the revised definition of “Directive”.
A1	New definition	<u>“legally binding decision of the European Commission and/or the Agency” and “legally binding decisions of the European Commission and/or the Agency” means any relevant legally binding decision or decisions of the European Commission and/or the Agency, but a binding decision does not include a decision that is not, or so</u>	The licence contains references to both of these phrases. Post EU exit, future decisions of the Commission and the Agency will no longer have any legal effect in the UK. However, decisions made prior to Exit Day are to continue to have effect. The introduction of these new definitions will achieve this.

²The [Electricity and Gas etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 No. 530](#) was made on the 15 March 2019. The modifications that are proposed to the licence are based on the content of this regulation.

Standard Licence condition	Current wording	Proposed change	Reasons for change
		<u>much of a decision as is not, Retained EU Law.</u>	The terminology is consistent with the amendment made by draft regulation 41 to section 3E of the Electricity Act.
A1	New definition	<u>“Retained EU Law” has the same meaning as that given by section 6(7) of the European Union (Withdrawal) Act 2018.</u>	This definition is required to give effect to the new definitions that include reference to “Retained EU Law”.
A1	“vertically integrated undertaking” means an electricity undertaking or a group of electricity undertakings where the same person or the same persons are entitled, directly or indirectly, to exercise control, and where the undertaking or group of undertakings perform in the European Economic Area at least one of the functions of transmission or distribution and at least one of the functions of generation or supply of electricity. The terms within this definition shall have the meaning given to them by the Electricity Directive.	“vertically integrated undertaking” means an electricity undertaking or a group of electricity undertakings where the same person or the same persons are entitled, directly or indirectly, to exercise control, and where the undertaking or group of undertakings perform in the European Economic Area at least one of the functions of transmission or distribution and at least one of the functions of generation or supply of electricity. The terms within this definition shall have the meaning given to them by the Electricity Directive. <u>has the meaning given by section 10A of the Act.</u>	Definition amended to remove reference to EEA and to ensure ongoing alignment with the statutory definition
B3.8	...where the transaction in question is required by or under any enactment, any provision of subordinate legislation within the meaning of the Interpretation Act 1978, or a regulation or directive of	... where the transaction in question is required by or under any enactment, any provision of subordinate legislation within the meaning of the Interpretation Act 1978, or a regulation or directive of the Council or Commission of the European	This preserves the position so that the licensee is only required to comply where the transaction “is required by or under.....” retained EU regulations.

Standard Licence condition	Current wording	Proposed change	Reasons for change
	the Council or Commission of the European Union.	Union that has effect in EU law immediately before Exit Day.	
B20	<p>1. If the licensee is a vertically integrated undertaking it may participate in a joint undertaking established for the purposes of facilitating regional co-operation pursuant to Article 6 of the Electricity Directive and Article 12 of the Electricity Regulation.</p> <p>2. Where the licensee participates in a joint undertaking pursuant to paragraph 1 above, the licensee shall appoint a compliance officer to monitor compliance with any compliance programme established by the joint undertaking, and approved by the Agency pursuant to Article 6 of the Electricity Directive, for the purpose of ensuring that discrimination and anti-competitive conduct is excluded.</p>	<p>1. If the licensee is a vertically integrated undertaking it may participate in a joint undertaking established for the purposes of facilitating regional co-operation <u>with member States pursuant to Article 6 of the Electricity Directive and Article 12 of the Electricity Regulation.</u></p> <p>2. Where the licensee participates in a joint undertaking pursuant to paragraph 1 above, the licensee shall appoint a compliance officer to monitor compliance with any compliance programme established by the joint undertaking, and approved by the Agency pursuant to Article 6 of the Electricity Directive, for the purpose of ensuring that discrimination and anti-competitive conduct is excluded.</p>	<p>Proposed deletion of reference to Article 6 of the Directive as in our view, the reference to Article 6 will not operate effectively post EU Exit.</p> <p>Regulation 150 of the Regulations amends the Electricity Regulation by omitting Article 12. This amendment reflects that omission.</p>
B21.1	its final certification decision under section 10D(7) of the Act	its final certification decision under section 10D(7) <u>10D(4)</u> of the Act	Amendments in line with regulation 46 of the Regulations which amends section 10D of the Electricity Act.
B21.3	If at any time from 3 March 2013 the licensee...	If at any time from 3 March 2013 the licensee...	Proposed deletion of "from 3 March 2013" to reflect the amendment to

Standard Licence condition	Current wording	Proposed change	Reasons for change
	<p>...person from a third country, or that a person from a third country...</p>	<p>...person from a third country <u>outside the United Kingdom</u>, or that a person from a third country <u>outside of the United Kingdom...</u></p>	<p>section 10B of the Electricity Act made by regulation 43 of the Regulations.</p> <p>Updated reference to "third country" to "country outside the United Kingdom" to reflect the amendments to section 10O of the Electricity Act made by regulation 54 of the Regulations. This is to reflect the fact that post EU Exit, the EU will become a "third country".</p>
B21.5(b)	<p>...person from a third country, or that a person from a third country has taken control of the licence, in the previous 12 month period or such part of that 12 month period since the licensee was certified, providing that the licensee is only required to provide a written declaration under this paragraph (b) in relation to a period that occurs after 3 March 2013; and</p>	<p>...person from a third country <u>outside the United Kingdom</u>, or that a person from a third country <u>outside of the United Kingdom</u> has taken control of the licence, in the previous 12 month period or such part of that 12 month period since the licensee was certified, providing that the licensee is only required to provide a written declaration under this paragraph (b) in relation to a period that occurs after 3 <u>March 2013; and</u></p>	<p>Updated reference to "third country" to "country outside the United Kingdom" to reflect the amendments to section 10O of the Electricity Act made by regulation 54 of the Regulations. This is to reflect the fact that post EU Exit, the EU will become a "third country".</p> <p>Proposed deletion of 3 March 2013 component to reflect the amendment to section 10B of the Electricity Act made by regulation 43 of the Regulations.</p>
B21.6	<p>person from a third country</p>	<p>person from a third country <u>outside the United Kingdom</u></p>	<p>Updated reference to "third country" to "country outside the United Kingdom" to reflect the amendments</p>

Standard Licence condition	Current wording	Proposed change	Reasons for change
			to section 100 of the Electricity Act made by regulation 54 of the Regulations. This is to reflect the fact that post EU Exit, the EU will become a “third country”.
C11.1(e)	(e) an explanation of any differences between the datasets used for the electricity ten year statement and the datasets used for the ten year network development plan; and	(e) an explanation of any differences between the datasets used for the electricity ten year statement and the datasets used for the ten year network development plan; <u>[Not Used]</u> ; and	Regulation 150 of the Regulations amends the Electricity Regulation by omitting Article 8. This amendment reflects that omission. Accordingly, this definition and references to it in condition C11 are removed.
C11.19	“Ten year development network plan” refers to the non-binding European Community-wide ten year network plan published every two years in accordance with Article 8 of EC Regulation No 714/2009, and which includes a European generation adequacy outlook built on national generation adequacy outlooks prepared by each individual transmission system operator.	“Ten year development network plan” refers to the non-binding European Community-wide ten year network plan published every two years in accordance with Article 8 of EC Regulation No 714/2009, and which includes a European generation adequacy outlook built on national generation adequacy outlooks prepared by each individual transmission system operator.	Regulation 150 of the Regulations amends the Electricity Regulation by omitting Article 8. This amendment reflects that omission. Accordingly, this definition and references to it in condition C11 are removed.
C27.15(b)	(b) be consistent with the ETYS and where possible align with the Ten Year Network Development Plan as defined in standard condition C11 (Production of information about the national electricity transmission system), in the event of any material differences between the	“(b) be consistent with the ETYS and where possible, align with the Ten Year Network Development Plan as defined in standard condition C11 (Production of information about the national electricity transmission system) and, in the event of any material	Words removed to reflect the fact that the definition no longer appears in standard condition C11.

Standard Licence condition	Current wording	Proposed change	Reasons for change
	<p>Ten Year Network Development plan and the NOA report an explanation of the difference and any associated implications must be provided; and</p>	<p>differences between the Ten Year Network Development plan and the NOA report an explanation of the difference and any associated implications must be provided; and...” (Production of information about the national electricity transmission system) and, in the event of any material differences between the Ten Year Network Development plan and the NOA report an explanation of the difference and any associated implications must be provided; and</p>	
C27.21	New definition	<p>21. <u>In this condition the “Ten Year Network Development Plan” refers to the non-binding European Community-wide ten year network plan published every two years in accordance with Article 8 of EC Regulation No 714/2009, and which includes a European generation adequacy outlook built on national generation adequacy outlooks prepared by each individual transmission system operator.</u></p>	<p>Definition is required because it has been removed from standard condition C11 where it was no longer required.</p>

Appendix 1.b. NGESO Electricity Transmission Change Marked Licence Text

We have included the sections of the licence conditions we propose to remove or amend below. Deletions are shown in strike through and new text is double underlined.

Condition A1: Definitions and interpretation

In the standard conditions unless the context otherwise requires:

<p>“the Electricity Directive”</p>	<p>means Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC <u>as it has effect immediately before Exit Day as read with the modifications set out in the Act.</u></p>
<p><u>“Exit Day”</u></p>	<p><u>has the same meaning as that given in section 20(1) of the European Union (Withdrawal) Act 2018.</u></p>
<p><u>“legally binding decision of the European Commission and/or the Agency”</u> and <u>“legally binding decisions of the European Commission and/or the Agency”</u></p>	<p><u>means any relevant legally binding decision or decisions of the European Commission and/or the Agency, but a binding decision does not include a decision that is not, or so much of a decision as is not, Retained EU Law.</u></p>
<p><u>“Retained EU Law”</u></p>	<p><u>has the same meaning as that given by section 6(7) of the European Union (Withdrawal) Act 2018.</u></p>
<p>“vertically integrated undertaking”</p>	<p>means an electricity undertaking or a group of electricity undertakings where the same person or the same persons are entitled, directly or indirectly, to exercise control, and where the undertaking or group of undertakings perform in the European Economic Area at least one of the functions of transmission or distribution and at least one of the</p>

~~functions of generation or supply of electricity. The terms within this definition shall have the meaning given to them by the Electricity Directive.~~ has the meaning given by section 10A of the Act.

Condition B3: Disposal of relevant assets and restrictions on charges over receivables

1. The licensee must not dispose of or relinquish operational control over any relevant asset except in accordance with the provisions of this condition.
2. Subject to paragraph 3, the licensee must not, after 1 April 2013, grant any mortgage, charge, or other form of security over any receivable except in accordance with the provisions of this condition.
3. The licensee may permit any mortgage, charge, or other form of security over any receivable in effect at the date mentioned in paragraph 2 to remain in effect and may vary its terms so long as the variation does not have the effect of materially extending the scope of the mortgage, charge, or other form of security insofar as it applies to the licensee's receivables.
4. Save as provided in paragraphs 3 or, as applicable, 6, or 8 the licensee shall give to the Authority not less than two months' prior written notice of:
 - (a) its intention to dispose of or relinquish operational control over any relevant asset, together with such further information as the Authority may request relating to such asset or the circumstances of such intended disposal or relinquishment of control or to the intentions in regard thereto of the person proposing to acquire such asset or operational control over such asset; or
 - (b) its intention to grant any mortgage, charge, or other form of security over any receivable or class or classes of receivables together with such further information as the Authority may request relating to such receivable, class or classes of receivables or the circumstances of the intended grant of the mortgage, charge or other form of security.
5. Notwithstanding paragraphs 1 and 4(a), the licensee may dispose of or relinquish operational control over any relevant asset where:-
 - (a) the Authority has issued directions for the purposes of this condition containing a general consent (whether or not subject to conditions) to:
 - (i) transactions of a specified description; or
 - (ii) the disposal of or relinquishment of operational control over relevant assets of a specified description; and

the transaction or the relevant assets are of a description to which such directions apply and the disposal or relinquishment is in accordance with any conditions to which the consent is subject;

or

- (b) the disposal or relinquishment of operational control in question is to another transmission licensee and is required by or under standard condition B12 (System Operator – Transmission Owner Code).

6. Notwithstanding paragraphs 2 and 4(b), the licensee may grant a mortgage, charge, or other form of security over a receivable or class or classes of receivables where:

- (a) the indebtedness of the licensee which is to be secured represents the novation or rollover of existing indebtedness; and
- (b) the proceeds of the indebtedness of the licensee which is to be secured are used to repay the existing indebtedness referred to in sub-paragraph (a).

7. For the purposes of paragraph 6, what is meant in any particular case by:

- (a) “existing indebtedness”; and
- (b) “proceeds of the indebtedness”

is to be treated as a question of fact.

8. Notwithstanding paragraphs 1, 2 and 4, the licensee may dispose of or relinquish operational control over any relevant asset or grant a mortgage, charge, or other form of security over a receivable or class or classes of receivable where the transaction in question is required by or under any enactment, any provision of subordinate legislation within the meaning of the Interpretation Act 1978, or a regulation or ~~directive~~ of the Council or Commission of the European Union that has effect in EU law immediately before Exit Day.

9. Notwithstanding paragraphs 1 and 2, the licensee may dispose of or relinquish operational control over any relevant asset or grant a mortgage, charge, or other form of security over a receivable or class or classes of receivable as is specified in any notice given under paragraph 4 where:

- (a) the Authority confirms in writing that it consents to such disposal or relinquishment or grant (which consent may be made subject to acceptance by the licensee or any third party to the transaction in question, of such conditions as the Authority may specify); or
- (b) the Authority does not inform the licensee in writing of any objection to such disposal, relinquishment or grant within the notice period referred to in paragraph 4.

10. In this condition:

"disposal" includes

- (a) in relation to disposal of a relevant asset situated in England and Wales any sale, gift, exchange, assignment, lease, licence, loan, mortgage, charge or grant of any other encumbrance or the permitting of any encumbrance to subsist or any other disposition;
- (b) in relation to disposal of a relevant asset situated in Scotland, the grant of any disposition, conveyance, contract of excambion, any lease, assignation, licence, the grant of any right of possession, loan, standard security, floating charge to a third party or the grant of any servitude right, wayleave or any other transaction or event which is capable under any enactment or rule of law of affecting the title to a registered interest in land;

and "dispose" and cognate expressions shall be construed accordingly.

"receivable" means a contractual right to receive any sum or sums or any other financial asset from another person.

"relevant asset" means any asset for the time being forming part of the national electricity transmission system, any control centre for use in conjunction therewith and any legal or beneficial interest in (or right, title or interest in) land upon which either of the foregoing is situate (which for the purposes of property located in Scotland means any estate, interest, servitude or other heritable or leasehold right in or over land including any leasehold interests or other rights to occupy or use and any contractual or personal rights in favour of the licensee relating to the occupation, use or acquisition of such property).

"relinquishment of operational control" includes, without limitation, entering into any agreement or arrangement whereby operational control of a relevant asset or relevant assets is not or ceases to be under the sole management of the licensee.

Condition B20: Regional Cooperation

1. If the licensee is a vertically integrated undertaking it may participate in a joint undertaking established for the purposes of facilitating regional co-operation with member States ~~pursuant to Article 6 of the Electricity Directive and Article 12 of the Electricity Regulation.~~
2. Where the licensee participates in a joint undertaking pursuant to paragraph 1 above, the licensee shall appoint a compliance officer to monitor compliance with any compliance programme established by the joint undertaking, ~~and approved by the Agency pursuant to Article 6 of the Electricity Directive,~~ for the purpose of ensuring that discrimination and anti-competitive conduct is excluded.

Condition B21: Notification of changes that may affect eligibility for certification

1. Where the licensee has made or makes an application for certification under section 10B of the Act, if at any time prior to the Authority notifying the licensee of its ~~final~~ certification decision under section ~~10D(7)~~10D(4) of the Act the licensee knows or reasonably should know of any event or circumstance that has occurred or is likely to occur that may affect its eligibility for certification, the licensee shall as soon as reasonably practicable notify the Authority in writing of the event or circumstance and the reasons it considers that the event or circumstance may affect its eligibility for certification.
2. Where the licensee has been certified, if at any time the licensee knows or reasonably should know of any event or circumstance that has occurred or is likely to occur that may affect its eligibility for certification, the licensee shall as soon as reasonably practicable notify the Authority in writing of the event or circumstance and the reasons it considers that the event or circumstance may affect its eligibility for certification.
3. If at any time ~~from 3 March 2013~~ the licensee knows or reasonably should know that any event or circumstance has occurred, or is likely to occur, that may cause the Authority to think that the licensee is or may become a person from a ~~third~~ country outside the United Kingdom, or that a person from a ~~third~~ country outside the United Kingdom has or may take control of the licensee, the licensee shall as soon as reasonably practicable notify the Authority in writing.
4. If at any time from the relevant date the licensee exercises or is likely to exercise any shareholder right or right of appointment in the circumstances described in section 10M of the Act, the licensee shall as soon as is reasonably practicable notify the Authority in writing of the right that has been or is likely to be exercised and the effect of exercising that right.
5. Where the licensee has been certified, by 31 July of each year following certification the licensee shall provide the Authority with a written declaration, approved by a resolution of the board of directors of the licensee and signed by a director of the licensee pursuant to that resolution, setting out:

- (a) whether any event or circumstance has occurred in the previous 12 month period since the licensee was certified, that may affect the licensee's eligibility for certification, and if so, the reasons it considers that the event or circumstance may affect its eligibility for certification;
- (b) whether any event or circumstance has occurred, or is likely to occur, that may cause the Authority to think that the licensee has become a person from a ~~third~~ country outside the United Kingdom, or that a person from a ~~third~~ country outside the United Kingdom has taken control of the licensee, in the previous 12 month period or such part of that 12 month period since the licensee was certified, ~~providing that the licensee is only required to provide a written declaration under this paragraph (b) in relation to a period that occurs after 3 March 2013;~~ and
- (c) whether the licensee has exercised any shareholder right or right of appointment in the circumstances described in section 10M of the Act in the previous 12 month period or such of that part of that 12 month period since the licensee was certified and if so the effect of exercising that right, providing that the licensee is only required to provide a written declaration under this paragraph (c) where it has been certified on the certification ground in section 10E(3) of the Act and in relation to a period that occurs after the relevant date.

6. In this condition:

“certified” has the same meaning as in section 10O of the Act;

“control” has the same meaning as in section 10O of the Act;

“person from a ~~third~~ country outside the United Kingdom” has the same meaning as in section 10O of the Act;

“relevant date” has the same meaning as in section 10M of the Act;

“shareholder right” has the same meaning as in section 10O of the Act.

Condition C11: Production of information about the national electricity transmission system

- 1. The licensee shall by 30 November 2014 (or such later date as the Authority may direct) for the financial year commencing 1 April 2014 and by 30 November (or such later date as the Authority may direct) in each financial year thereafter, use reasonable endeavours to prepare and publish a statement of network development information (“the electricity ten year statement”) in a form approved by the Authority pursuant to paragraph 8. The electricity ten year statement shall set out in respect of the current financial year and each of the nine succeeding financial years: circuit capacity, forecast power flows and loading on each part of the national electricity transmission system and fault levels for each transmission node, together with:
 - (a) such further information as shall be reasonably necessary to enable any person seeking use of the national electricity transmission system to identify and evaluate the opportunities available when connecting to and making use of such system;

- (b) a commentary prepared by the licensee indicating those parts of the national electricity transmission system most suited to new connections and transport of further quantities of electricity;
 - (bb) a commentary prepared by the licensee indicating where Major National Electricity Transmission System Reinforcements are likely to be required;
 - (c) such further information as may be necessary for: authorised electricity operators, interconnected system operators, or any other transmission system operator or distribution system operator (as defined in the Electricity Directive) with whose system the licensee’s transmission system is connected or with whom the licensee interfaces, to ensure the secure and efficient operation, coordination development and interoperability of the interconnected system;
 - (d) a reasonable number of future scenarios prepared pursuant to paragraph 12;
 - (e) ~~an explanation of any differences between the datasets used for the electricity ten year statement and the datasets used for the ten year network development plan;~~ [Not Used]; and
 - (f) such other matters as shall be specified in directions issued by the Authority from time to time for the purposes of this condition.
2. The licensee shall prepare the electricity ten year statement in such a form and manner as is necessary to facilitate the development of an efficient, co-ordinated and economical system of electricity transmission (“the co-ordinated development objective”) and in accordance with the further development information objectives as set out in paragraph 3.
 3. In preparing the electricity ten year statement, the licensee shall use the future scenarios developed pursuant to paragraph 12, in such a form that provides:
 - (a) the licensee’s best view of the design and technical characteristics of the development of the national electricity transmission system, considering:
 - (i) the likely development of the national electricity transmission system;
 - (ii) the likely capacity, location and timing of the development of onshore and offshore generating stations and interconnector(s);
 - (iii) the likely location of feasible connection points for new offshore transmission systems to the national electricity transmission system;
 - (iv) to the extent that information is available to the licensee, possible routing options for new transmission circuits that might be used to connect generating stations and interconnector(s) in offshore waters to the national electricity transmission system;
 - (b) the licensee’s best view of the potential reinforcements to the national electricity transmission system that may be required to connect onshore and offshore generating stations and interconnector(s);

- (c) the licensee's best estimates of the costs associated with connecting onshore and offshore generating stations and interconnector(s);
 - (d) the licensee's best view of other economic and technical factors, to help planning of onshore and offshore generating stations and interconnector(s); and
 - (e) the licensee's best view of the capacity, location and timing of the connection of new interconnectors that would facilitate an efficient economical and coordinated system of electricity. This should take into account the impact on GB wholesale prices, the provision of ancillary services, constraint management and other operational considerations; collectively, "the development information objectives".
4. The licensee shall include in every statement prepared pursuant to paragraph 1 above the information required by that paragraph except that the licensee may, with the prior consent of the Authority, omit from such statement any details as to circuit capacity, power flows, loading or other information, disclosure of which would, in the view of the Authority, seriously and prejudicially affect the commercial interests of the licensee or any other transmission licensee or any third party.
 5. The licensee shall not less than once in each financial year (and at such other times as the Authority may direct), in consultation with interested parties, review the most recent electricity ten year statement prepared and published pursuant to paragraph 1. The consultation shall be of such a form and duration to reasonably allow all interested parties to contribute to the preparation of the electricity ten year statement. The licensee shall provide to the Authority, no later than 14 days after it has completed its consultation, copies of all of the responses that it has received to any consultation undertaken pursuant to this paragraph.
 6. Following a review of the electricity ten year statement pursuant to paragraph 5, the licensee shall propose to the Authority any suggested revisions to the ten year electricity statement that it considers would better facilitate the co-ordinated development objective and the development information objectives. Any such revisions shall, as appropriate, be included in the licensee's submissions to the Authority pursuant to paragraphs 8 and 15.
 7. The licensee shall periodically revise (at least once every 6 months) the information set out in the statement prepared pursuant to paragraph 1 to ensure that the information set out in the statement remains accurate in all material respects.
 8. The licensee shall submit to the Authority for approval the proposed form of the electricity ten year statement to be published in the financial year commencing 1 April 2014 by no later than 1 June 2014 and submit to the Authority for approval any proposed revisions to the form of the electricity ten year statement by no later than by 1 June in each subsequent financial year thereafter or at such other date as directed by the Authority.
 9. The Authority may:

- (a) within 28 days of receipt of the licensee's proposals pursuant to paragraph 8, give a direction to the licensee that the proposed form of the electricity ten year statement or the proposed revisions to the form of the electricity ten year statement requires further development; and
 - (b) subsequently, following consultation with the licensee and other interested parties, direct the areas in which the licensee shall be required to make revisions to the proposed form of the electricity ten year statement and the date by which the licensee shall be required to submit a revised form of the electricity ten year statement to the Authority for approval.
- 10. If, within 28 days of receipt of the licensee's proposals pursuant to paragraph 8, the Authority has not given a direction to the licensee pursuant to paragraph 9, the form of the electricity ten year statement proposed by the licensee will be deemed to have been approved by the Authority.
- 11. The licensee shall publish the electricity ten year statement on its website in such readily accessible form and manner that it considers will facilitate the achievement of the co-ordinated development objective and the development information objectives, and must give a copy of the statement on request and free of charge to any person who asks for one.
- 12. The licensee shall, in consultation with interested parties, prepare a reasonable number of future scenarios that it proposes to include within the electricity ten year statement. The consultation shall be of such a form and duration as to reasonably allow all interested parties to contribute to the preparation of the future scenarios. The future scenarios shall be reasonable, reflect uncertainties and shall, as far as practicable, be consistent with scenarios that the licensee uses in other relevant areas of work.
- 13. Each future scenario prepared pursuant to paragraph 12 shall include a description of the key assumptions made by the licensee in developing that future scenario, including, but not limited to:
 - (a) the capacity, location and timing of the connection of generating stations, having regard to information generally available in the public domain as well as such information, if any, made available to the licensee for use in the electricity ten year statement by interested parties with respect to generating stations planned to be developed;
 - (aa) the capacity, location and timing of the connection of new interconnectors, having regard to the overall level of interconnector capacity between the national electricity transmission system and transmission systems in other jurisdictions that the licensee reasonably considers likely;
 - (b) the wider development of the national electricity transmission system, having regard to the licensee's investment plans and investment plan information provided by other authorised electricity operators; and

- (c) the plant and equipment that the licensee considers would reasonably be available to transmission owners and interconnectors;

together with a description of the data used by the licensee to model each of the future scenarios.

14. The licensee shall finalise the future scenarios that it proposes to use in the preparation of the electricity ten year statement it prepares pursuant to paragraph 1, taking account of the views expressed by interested parties in response to the consultation undertaken by the licensee pursuant to paragraph 12.
15. The licensee shall submit the following information to the Authority by no later than 31 January 2015 and by no later than 31 January in each subsequent financial year (or such other date as the Authority may direct):
 - (a) the future scenarios, or any revisions to the future scenarios, that it proposes to include in the electricity ten year statement;
 - (b) a detailed explanation of the consultation process undertaken in the development of the future scenarios; and
 - (c) a summary of views from interested parties on the future scenarios and an explanation of how these responses were taken into account in the design of the future scenarios.
16. If the Authority is not satisfied that the future scenarios proposed by the licensee would facilitate the achievement of the coordinated development objective and the development information objectives, the Authority may, within 28 days of receipt of the future scenarios pursuant to paragraph 15, issue a direction to the licensee that the future scenarios proposed by the licensee require further development.
17. The Authority may subsequently, following consultation with the licensee and other interested parties, direct the areas in which the licensee shall be required to make revisions to the future scenarios and any further consultation with interested parties that the licensee shall be required to undertake together with the date by which the licensee shall be required to submit those further revisions to the future scenarios to the Authority.
18. The licensee shall also include in the electricity ten year statement an explanation of how responses from interested parties on the future scenarios were taken into account in further revisions of the future scenarios.
19. In this condition:

“interested parties” includes authorised electricity operators, potential offshore transmission owners, the Crown Estate, Government bodies and institutions with an interest in the development of the national electricity transmission system.

~~“ten year network development plan” refers to the non-binding European Community wide ten year network plan published every two years in accordance with Article 8 of EC Regulation No 714/2009, and which includes a European generation adequacy outlook built on national generation adequacy outlooks prepared by each individual transmission system operator.~~

“interconnected system operator” means any authorised electricity operator, or any other transmission system operator or distribution system operator (having the meaning given by the Electricity Directive) with whose system the licensee’s transmission system is connected or with whom the licensee interfaces.

Standard Condition C27: The Network Options Assessment process and reporting requirements

1. This condition sets out the licensee’s role in assessing options for the development of the national electricity transmission system (including Offshore Wider Works) and interconnector capacity. The network options assessment (NOA) process is designed to facilitate the development of an efficient, co-ordinated and economical system of electricity transmission and the development of efficient interconnector capacity.
2. The methodology underpinning the NOA process, along with how this will be approved, is set out in Part A of this condition. The requirements for the publication of the annual NOA report are outlined in Part B. The licensee’s obligations regarding the provision of information underpinning the NOA process are described in Part C. Part D sets out the role the licensee will play in the early development of options and the circumstances in which the licensee will be required to do so. Together, all of these activities make up the NOA process.
3. The licensee must take such steps as are within its power, and it considers may be necessary to enable the NOA process. In carrying out the NOA process, the licensee must act in a manner that best ensures transparency and independence.

Part A: The NOA methodology and form of the NOA report

4. The licensee must, not less than once in each financial year (and at such other times as the Authority may direct), develop proposals for the NOA methodology and the form of the NOA report in consultation with interested parties. The consultation shall be of such a form and duration as practicable to reasonably allow all interested parties to contribute.
5. Following any consultation pursuant to paragraph 4, the licensee must:
 - (a) by 1 October 2015, or at such other date as directed by the Authority, submit to the Authority a proposed NOA methodology and proposed form of the initial NOA report (“the

initial NOA report”). The licensee must make reasonable endeavours to ensure the NOA methodology includes the information set out in paragraph 8. Where this has not been possible, the licensee must explain the reasons and how it proposes to progress outstanding issues; and

- (b) by 1 August of each subsequent financial year, or at such other date as directed by the Authority submit to the Authority for approval the proposed NOA methodology and form of the NOA report.

6. Submissions made under paragraph 5 must include:

- (a) a detailed explanation of the consultation process undertaken in the development of the NOA methodology and the form of the NOA report;
- (b) a summary of views from interested parties and an explanation of how these were taken into account in the development of the NOA methodology and the form of the NOA report; and
- (c) copies of any formal responses submitted to the licensee as part of its consultation process.

7. The Authority will on receipt of a submission under paragraph 5:

- (a) approve the proposed NOA methodology and/or form of the NOA report; or
- (b) give a direction to the licensee that the NOA methodology and/or form of the NOA report requires further development, and the date by which the licensee is required to submit a revised NOA methodology and/or the form of the NOA report to the Authority for approval.

8. The NOA methodology must be designed to facilitate the development of an efficient, co-ordinated and economical system of electricity transmission, and must include (but need not be limited to):

- (a) the approach used for determining what constitutes Major National Electricity Transmission System Reinforcements;
- (b) the approach used for identifying the range of options to meet system needs in accordance with the development of an efficient, co-ordinated and economical system of electricity transmission to be set out in the NOA report in accordance with 15(a)(i) and (ii);
- (c) how the options identified in (b) will be assessed, including but not limited to:
 - (i) the approach used to assess the technical, economic and environmental impacts and risks; and

- (ii) the approach used for modelling boundary capacity, offshore transmission capacity and interconnector capacity along with assumptions and assessment criteria used;
- (d) the basis for the cost estimate provided for each option;
- (e) how the licensee will engage with interested parties to share relevant information and how that information will be used to review and revise the NOA methodology; and
- (f) details of the licensee's proposed timetable for updating and consulting on the methodology for the NOA reports.

Part B: The NOA report

9. The licensee must publish an initial NOA report by 31 March 2016 or such other date as directed by the Authority. The initial NOA report must be based on the NOA methodology and be in a form approved by the Authority in accordance with paragraph 7. In producing the initial NOA report, the licensee must make reasonable endeavours to ensure it includes the information set out in paragraph 15. Where this has not been possible, the licensee must explain the reasons and how it proposes to progress any outstanding issues.
10. If, following a submission of the NOA methodology and form of the initial NOA report in accordance with paragraph 5(a), the Authority has not approved or directed further development of the NOA methodology and/or form of the NOA report in accordance with paragraph 7 by 1 December 2015, the publication date set out in paragraph 9 will be treated as being amended accordingly. The amendment will equal the number of days between 1 December 2015 and receipt of the Authority's approval or direction.
11. Following publication of the initial NOA report the licensee must:
 - (a) review at least once in each financial year the NOA report prepared and published in the previous financial year and consider any improvements to better facilitate the development of an efficient, co-ordinated and economical system of electricity transmission; and
 - (b) publish an updated NOA report by 31 January or such other date as directed by the Authority in a form approved by the Authority. This must be based on and include the latest NOA methodology approved by the Authority pursuant to paragraph 7.
12. If, following a submission of the methodology and the form of the NOA report by the date set out in paragraph 5(b), the Authority has not approved or directed further development of the NOA methodology and/or form of the report in accordance with paragraph 7 by 1 October the publication date set out in paragraph 11(b) will be treated as amended accordingly. The amendment will equal the number of days between 1 October and receipt of the Authority's

approval or direction.

13. The licensee must publish the NOA report on its website in such readily accessible form and manner that it considers will facilitate the development of an efficient, co-ordinated and economical system of electricity transmission, and provide a copy of the NOA report on request, and free of charge, to any person who asks for one.
14. In complying with the requirements of paragraph 13, the licensee must have due regard to the need for excluding from the NOA report any information that would or might seriously and prejudicially affect the commercial interests of the owner of that information if published or might be expected to be incompatible with any legislation, rule of law or licence condition. The licensee must provide to the Authority its reasons for any omission of information from the NOA report.
15. Each NOA report (including the initial NOA report) must, in respect of the current financial year and each of the nine succeeding financial years:
 - (a) set out:
 - (i) the licensee's best view of the options for Major National Electricity Transmission System Reinforcements (including any Non Developer-Associated Offshore Wider Works that the licensee is undertaking early development work for under Part D), and additional interconnector capacity that could meet the needs identified in the electricity ten year statement (ETYS) and facilitate the development of an efficient, co-ordinated and economical system of electricity transmission;
 - (ii) the licensee's best view of alternative options, where these exist, for meeting the identified system need. This should include options that do not involve, or involve minimal, construction of new transmission capacity; options based on commercial arrangements with users to provide transmission services and balancing services; and, where appropriate, liaison with distribution licensees on possible distribution system solutions;
 - (iii) the licensee's best view of the relative suitability of each option, or combination of options, identified in accordance with paragraph 15(a)(i) or (ii), for facilitating the development of an efficient, co-ordinated and economical system of electricity transmission. This must be based on the latest available data, and must include, but need not be limited to, the licensee's assessment of the impact of different options on the national electricity transmission system and the licensee's ability to co-ordinate and direct the flow of electricity onto and over the national electricity transmission system in an efficient, economic and co-ordinated manner; and

- (iv) the licensee's recommendations on which option(s) should be developed further to facilitate the development of an efficient, co-ordinated and economical system of electricity transmission;
- (b) be consistent with the ETYS and where possible, but only if requested by Ofgem, align with the Ten Year Network Development Plan ~~as defined in standard condition C11 (Production of information about the national electricity transmission system)~~ and, in the event of any material differences between the Ten Year Network Development plan and the NOA report an explanation of the difference and any associated implications must be provided; and
- (c) have regard to interactions with existing agreements with parties in respect of developing the national electricity transmission system and changes in system requirements.

Part C: Provision of information

16. Based on the NOA methodology set out in Part A, the licensee must provide electricity transmission licensees and interconnector developers if requested to do so:
- (a) with information and analysis to support them in their decision-making and development of options to meet system needs as identified in the ETYS. This must include information on the potential for coordination between parties where the licensee's analysis suggests coordination could facilitate the development of an efficient, co-ordinated and economical system of electricity transmission. The licensee must provide this information and analysis in such form and within such timescales as transmission licensees and interconnector developers may reasonably request and which is necessary to support these parties' decision making and development of options;
 - (b) with its assessment of the options that a party is considering for Major National Electricity Transmission System Reinforcements and interconnectors, as well as its assessment of any alternative options being considered by other parties. The licensee must provide the assessment in such form and within such timescales as transmission licensees and interconnector developers may reasonably request and which is necessary to support these parties' decision making;
 - (c) with updated information and analysis to support submissions to the Authority in such form and within such timescales as transmission licensees and interconnector developers may reasonably request and which is necessary to support these parties' submissions to the Authority;
 - (d) In complying with the requirements of this paragraph, the licensee must have due regard to the need to exclude from disclosure any information which would or might seriously and

prejudicially affect the commercial interests of the owner of that information if disclosed or might be expected to be incompatible with any legislation, rule of law or licence condition. The licensee must provide to the Authority its reasons for any non-disclosure of information.

17. Based on the NOA methodology set out in Part A, the licensee must if requested submit to the Authority the information it has provided to parties under paragraph 16 on the assessment of options to meet a particular system requirement. This includes but is not limited to information to support a needs case for a Strategic Wider Works Output, a Needs Case for Developer-Associated Offshore Wider Works and any interconnector developers submission to the Authority. The licensee must also submit any additional information requested by the Authority. The licensee's submissions must be made in timescales consistent with related submissions from other parties to the Authority, and as directed by the Authority.
18. In relation to interconnectors, based on the NOA methodology set out in Part A, the licensee must submit to the Authority, within the timescales directed by the Authority, information on:
 - (a) the efficiency of the connection choices made by an interconnector developer, based on the licensee's involvement in assessing different options, including the costs of any necessary reinforcements required to connect interconnectors to the national electricity transmission system;
 - (b) the licensee's assessment of the impact of new interconnectors on system operation. This should include costs and benefits relating to provision of security of supply including ancillary services, constraint management and other operational factors, which may accrue to the licensee and to consumers; and
 - (c) the licensee's assessment of changes in wholesale prices as a result of interconnector flows and the impact of these changes on GB consumers, generators and interconnectors.
19. The Authority may direct the licensee to submit additional information on the assessment of options specified in paragraphs 16, 17 and 18, within such timeframe as the Authority may require in order to carry out any of its functions in relation to the assessment of submissions.

Part D: Early development of options

20. The licensee must undertake early development of options for Non Developer-Associated Offshore Wider Works where these have been identified as options for the development of the national electricity transmission system in accordance with the NOA methodology. The development of these options should be consistent with the NOA methodology and undertaken in a transparent manner which will enable the options to be compared with alternative options (including those being developed by other parties) in accordance with the requirements in paragraph 15(a)(i) and (ii).

21. In this condition the “**Ten Year Network Development Plan**” refers to the non-binding European Community-wide ten year network plan published every two years in accordance with Article 8 of EC Regulation No 714/2009, and which includes a European generation adequacy outlook built on national generation adequacy outlooks prepared by each individual transmission system operator.

Appendix 2.a. NGENO Electricity Transmission Licence Special Conditions Modification Table

Licence Condition	Current wording	Proposed change	Reasons for change
1A	The Competent Authority means the Secretary of State, the Authority, the Compliance Officer, the Stock Exchange, the Panel on Take-overs and Mergers, or any local or national agency, regulatory body, authority, department, inspectorate, minister (including Scottish Ministers), ministry, official or public or statutory person (whether autonomous or not) of, or of the government of Scotland, the United Kingdom, the United States of America or the European Community.	The Competent Authority means the Secretary of State, the Authority, the Compliance Officer, the Stock Exchange, the Panel on Take-overs and Mergers, or any local or national agency, regulatory body, authority, department, inspectorate, minister (including Scottish Ministers), ministry, official or public or statutory person (whether autonomous or not) of, or of the government of Scotland, the United Kingdom, the United States of America or the European <u>Union</u> Community	The EU will remain a competent authority. European Commission reference updated to European Union.

Appendix 2.b. NGENO Electricity Transmission Special Conditions Change Marked Licence Text

We have included the sections of the licence conditions we propose to remove or amend below. Deletions are shown in strike through and new text is double underlined.

Definitions in alphabetical order

1A. In the Special Conditions, unless the context otherwise requires:

Competent Authority	means the Secretary of State, the Authority, the Compliance Officer, the Stock Exchange, the Panel on Take-overs and Mergers, or any local or national agency, regulatory body, authority, department, inspectorate, minister (including Scottish Ministers), ministry, official or public or statutory person (whether autonomous or not) of, or of the government of, the United Kingdom, the United States of America or the European Community <u>Union</u> .
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