

Schedule 1 – Proposed modifications to standard conditions of the electricity interconnector licence

[Note: Text shown in blue double underline are proposed additions and text shown in ~~red strikethrough~~ are proposed deletions]

Condition 1. Definitions and interpretation

1. In these licence conditions unless the context otherwise requires:

“Access Rules”	means methodologies used to establish terms and conditions for access to (including use of) the licensee’s interconnector but not including those related to charges
the “Act”	means the Electricity Act 1989
the “Agency”	means the Agency for the Cooperation of Energy Regulators established by Regulation 2009/713/EC 2019/942/EU of the European Parliament and of the Council of 13 July 2009 5 June 2019
“ancillary service”	means a service necessary for the operation of the licensee’s interconnector or an interconnected system
the “Authority”	means the Gas and Electricity Markets Authority established under section 1 of the Utilities Act 2000
“BSC”	means the balancing and settlement code provided for in paragraph 1 of standard condition C3 (Balancing and Settlement Code (BSC)) of the transmission licence, as from time to time modified in accordance with that condition

“CUSC”	means the Connection and Use of System Code provided for in paragraph 2 of standard condition C10 (Connection and Use of System Code (CUSC)) of the transmission licence, as from time to time modified in accordance with that condition
the “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
“GB system operator”	means the holder for the time being of a transmission licence in relation to which licence the Authority or the Secretary of State, where appropriate, has issued a Section C (system operator standard conditions) Direction and where Section C remains in effect (whether or not subject to any terms included in a Section C (system operator standard conditions) Direction or to any subsequent variation of its terms to which the transmission licensee may be subject)
“Grid Code”	means the grid code required to be drawn up by the GB system operator pursuant to standard condition C14 (Grid Code) of the transmission licence, as from time to time revised with the approval of the Authority
“information”	includes (without limitation) any documents, accounts, estimates, returns, records or

reports and data (whether in written, verbal or electronic form) and/or information in any form or medium whatsoever (whether or not prepared specifically at the request of the Authority) of any description specified by the Authority

“integrated transmission system”

means a system which includes both transmission and interconnection and which the regulatory authority, for the purpose of setting and/or approving system tariffs and/or a tariff or charging methodology, does not draw a distinction between usage of the transmission and the interconnection forming part of that system

“interconnected system”

means a system of a relevant system operator with which the licensee’s interconnector is connected or with which the licensee interfaces

“interconnector capacity”

means all interconnector capacity, including new interconnector capacity, which is available over the licensee’s interconnector

“licensee’s interconnector”

means the electricity interconnector specified in Schedule 1 to this licence which the licensee is authorised to participate in the operation of by virtue of this licence

“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
the "Regulation"	means Regulation 2009/714/EC 2019/943/EU of the European Parliament and of the Council of 13 July 2009 5 June 2019 on conditions for access to the network for cross-border exchanges in electricity- the internal market for electricity-and repealing Regulation 2003/1228/EC and repealing Regulation 2009/714/EC
"regulatory authority"	means any body (other than the Authority) designated by a Member State whose responsibilities include the oversight or regulation of any of the activities or matters covered by this licence
"related undertaking"	has the meaning given to it in Article 2 of the Directive
"relevant system operator"	means a transmission system operator or distribution system operator where such phrases shall have the meaning given to them in Article 2 of the Directive
"Scottish grid code"	means any grid code which any transmission licensee other than the GB system operator is obliged to maintain pursuant to its licence
"transmission licence"	means a licence granted or treated as granted under section 6(1)(b) of the Act
"transmission licensee"	means a person who holds a transmission licence

2. Any words or expressions used in Part I of the Act, the Utilities Act 2000 or the Energy Act 2004 shall, unless the contrary intention appears, have the same meaning when used in these conditions.
3. Except where the context otherwise requires, any reference to a numbered condition (with or without a letter) or Schedule is a reference to the condition or Schedule (with or without a letter) bearing that number in this licence, and any reference to a numbered paragraph (with or without a letter) is a reference to the paragraph bearing that number in the condition or Schedule in which the reference occurs, and reference to a Section is a reference to that Section in these conditions.
4. These conditions shall have effect as if, in relation to a licensee who is a natural person, for the words “it”, “its” and “which” there were substituted the words “he”, “him”, “his”, and “whom”, and similar expressions shall be construed accordingly.
5. Except where the context otherwise requires, a reference in a condition to a paragraph is a reference to a paragraph of that condition and a reference in a paragraph to a sub-paragraph is a reference to a sub-paragraph of that paragraph.
6. Any reference in these conditions to:
 - (a) a provision thereof;
 - (b) a provision of the standard conditions of electricity supply licences;
 - (c) a provision of the standard conditions of electricity distribution licences;
 - (d) a provision of the standard conditions of electricity transmission licences;or
 - (e) a provision of the standard conditions of electricity generation licences, shall, if these conditions or the standard conditions in question come to be modified, be construed, so far as the context permits, as a reference to the corresponding provision of these conditions or the other standard conditions in question as modified.
7. In construing these conditions, the heading or title of any condition or paragraph shall be disregarded.

8. Any reference in a condition to the purposes of that condition generally is a reference to the purposes of that condition as incorporated in this licence and as incorporated in each other licence under section 6(1)(e) of the Act (whenever granted) which incorporates it.
9. Where any obligation placed on the licensee under this licence is required to be performed by a specified date or time, or within a specified period, and where the licensee has failed so to perform by such date or time, or within such period, such obligation shall continue to be binding and enforceable after the specified date or time, or after the expiry of the specified period (but without prejudice to all rights and remedies available against the licensee by reason of the licensee's failure to perform by that date or time, or within that period).
10. Anything required by or under these conditions to be done in writing may be done by facsimile transmission of the instrument in question or by other electronic means and, in such case:
 - (a) the original instrument or other confirmation in writing shall be delivered or sent by pre-paid post as soon as is reasonably practicable, and
 - (b) where the means of transmission had been agreed in advance between the parties concerned, in the absence of and pending such confirmation, there shall be a rebuttable presumption that what was received duly represented the original instrument.
11. The definitions referred to in this condition may include some definitions which are not used or not used exclusively in Sections A, B, C, D, E, F, or G (which sections are incorporated in all electricity interconnector licences). Where:
 - (a) any definition is not used in Sections A, B, C, D, E, F, or G that definition shall, for the purposes of this licence, be treated:
 - (i) as part of the condition or conditions (and the Section) in which it is used; and
 - (ii) as not having effect in the licence until such time as the condition in which the definition is used has effect within the licence in pursuance of that condition;

(b) any definition which is used in Sections A, B, C, D, E, F, or G and is also used in one or more other Sections:

- (i) that definition shall only be modifiable in accordance with the modification process applicable to each of the conditions in which it is used; and
- (ii) if any such condition is modified so as to omit that definition, then the reference to that definition in the condition shall automatically cease to have effect.

Condition 1B. Application of Section H

1. The standard conditions in Section H (in whole or in part) shall not have effect in this licence; and the licensee shall not be obliged to comply with the requirements of Section H (in whole or in part) of this licence until the Authority has issued to the licensee a direction in accordance with paragraph 2 of this condition.
2. The Authority may issue a direction (a "Section H (Payments Between the Licensee and the GB System Operator) Direction") to the licensee specifying that the standard conditions in Section H (in whole or in part) shall have effect within this licence from the date and to the extent specified in the direction.
3. The Authority may issue a direction to the licensee to vary the terms (as set out in the Section H (Payments Between the Licensee and the GB System Operator) Direction) under which Section G has (or its parts have) effect in this licence or to provide for Section H (or its parts-) to cease to have effect in this licence.
4. The variation or cessation provided for in paragraph 3 of this condition shall take effect from the date specified in the variation or cessation direction issued to the licensee by the Authority.
5. With effect from the cessation referred to in paragraph 4 of this condition, paragraphs 2 to 4 of this condition shall be suspended and shall cease to have effect in this licence, in respect of Section H, to the extent specified in the cessation direction, but the Authority may at any time thereafter give to the licensee a notice ending the suspension and providing for those paragraphs again to have effect in the licence with effect from the date specified in the notice.

6. Before issuing a direction under paragraphs 2 and 3 of this condition, the Authority will:
- (a) give notice to the licensee that it proposes to issue a direction specifying:
 - (i) the date on which it proposes the direction to take effect;
 - (ii) the text of the direction and the Authority's reasons for proposing to issue the direction; and
 - (iii) the time (which will not be less than a period of 28 days from the date of the notice) within which representations in response to the Authority's proposal may be made; and
 - (b) consider any representations in response to the notice that are duly made and not withdrawn.

Condition 9: Use of revenues

Part A: Purpose

1. The purpose of this licence condition is to ensure appropriate use of revenues and to secure collection of specific accounting information to an appropriate degree of accuracy by the licensee to enable the Authority to review and approve the use of revenue resulting from the allocation of interconnector capacity.

Part B: Use of Revenues

2. The licensee shall use any revenues which it receives from the allocation of interconnector capacity in accordance with ~~Article 16(6)~~ [Article 19\(2\)](#) of the Regulation.

Part C: Use of Revenues Statement

3. The licensee shall prepare and submit to the Authority a use of revenues statement, in such form as the Authority may from time to time direct.
 - (a) guaranteeing the actual availability of the allocated capacity [including firmness compensation](#), either on a physical or contractual basis;
 - (b) network investment in maintaining or increasing interconnection capacities at an efficient level;
 - (c) an income to be taken into account by regulatory authorities when approving the methodology for calculating network tariffs, and/or in assessing whether tariffs should be modified.
4. The ~~first~~ use of revenues statement ~~submitted~~ [prepared by the licensee](#) under this licence condition shall be submitted [to the Authority annually by](#) no later than ~~15 July 2011 and thereafter annually by 15 July~~ [31 January](#).
5. The use of revenues statement must set out, in respect of the year ending on ~~30 June~~ [31 December of the previous year](#):
 - (a) the total amount of revenues the licensee has received from the allocation of interconnector capacity during that period;
 - (b) the use made of those revenues during that period [pursuant to Article 19\(2\) of the Regulation](#);

- (c) a statement verifying that, in the licensee's view, the actual use of revenues is in accordance with ~~Article 16(6)~~ [Article 19\(2\) and \(3\)](#) of the Regulation, [including the methodology developed pursuant to Article 19 \(3\) and \(4\)](#), and giving reasons for that view; and
- (d) any changes in approach or categorisation since the last submitted use of revenues statement.

Part D: Approval of Use of Revenues Statement

6. The use of revenues statement shall not be approved for the purposes of paragraph 1 unless and until the Authority has issued a direction approving the use of revenues statement, such direction to be issued without undue delay and in any event within 3 months of receipt of the use of revenues statement from the licensee, unless, prior to the expiry of that period, the Authority directs that the use of revenues statement is not approved. In the absence of any direction within 3 months of receipt of the use of revenues statement from the licensee, the use of revenues shall be deemed to be approved.

Condition 12. Application of licence conditions 9, 10 and 11: Exemption orders

1. In accordance with this licence condition, licence conditions 9, 10 and 11 ('the relevant conditions') may:
 - (a) not have effect in this licence;
 - (b) be suspended from operation in this licence;
 - (c) be brought into, (where the licence condition did not have effect) or back into operation (where the licence condition was suspended from operation), in this licence.
2. On the application of the licensee in accordance with paragraph 3, the Authority must (either before, at the same time, or after this licence has been granted to the licensee) issue an exemption order providing that any or all of the relevant conditions may not have effect or are suspended from operation, or (where the licence has not yet been granted) will not be in effect or will be suspended from operation, where the Authority is satisfied that it has complied with the requirements placed on the Authority by ~~Article 17~~ [Article 63](#) of the Regulation and in the issuing of the exemption order is otherwise compliant with that Article.
3. A licensee may make a request in writing to the Authority for the Authority to issue an exemption order such that any or all of the relevant conditions do not have effect or are suspended from operation. The request shall specify the relevant conditions to which the request relates and must set out all relevant information that would allow the Authority to determine whether such an exemption order should be issued given the matters of which the Authority must be satisfied before issuing an exemption order, as set out in paragraph 1 of ~~Article 17~~ [Article 63](#) of the Regulation. The request shall include the Access Rules for approval by the Authority in accordance with paragraph 9 below, which Access Rules shall comply with paragraphs 3 and 4 of licence condition 11A, and prior to submitting the Access Rules for approval, the licensee shall comply with paragraph 5 of licence condition 11A.
4. An exemption order shall be in writing and may be expressed:
 - (a) so as to have effect or for a period specified in, or determined under the exemption;

- (b) subject to such conditions as the Authority considers appropriate including any conditions regarding non-discriminatory access to the interconnector to which the exemption relates;
 - (c) so as to have effect in relation to the whole or any part of, as the case may be:
 - (i) the capacity of the new interconnector;
 - (ii) the significant increase in the capacity of the licensee's interconnector.
- 5. An exemption order issued under paragraph 2 may be revoked in accordance with its provisions, and must be revoked if the approval of the European Commission to the exemption expires in accordance with ~~paragraph 8 of Article 17~~ [paragraph 8 of Article 63](#) of the Regulation.
- 6. An application made under paragraph 3 may relate to a new interconnector or to a part of an interconnector in so far as that part represents a significant increase of capacity to that interconnector.
- 7. An exemption order will not be made until the Authority has approved the Access Rules.
- 8. The licensee shall comply with any direction from the Authority to amend the Access Rules submitted pursuant to paragraph 3 above, for the purposes of meeting the relevant access rules objectives and the requirements of paragraph 10 below, such direction to be issued without undue delay and in any even within three months of receipt of the Access Rules submitted by the licensee. Where the Authority directs changes to the Access Rules, the licensee shall re-submit (by such date as may be determined by the Authority and notified to the licensee) its Access Rules to the Authority for approval and the provisions of paragraph 9 shall apply.
- 9. The Access Rules shall not be approved for the purposes of paragraph 7 unless and until the Authority has issued a direction approving the Access Rules on the basis that they meet the relevant access rules objectives and the requirements of paragraph 10 below, such direction to be issued without undue delay and in any event within three months of receipt of the Access Rules from the licensee unless,

prior to the expiry of that period, the Authority directs that the Access Rules are not approved. In the absence of any direction within three months of receipt of the Access Rules from the licensee, the Access Rules shall be deemed to be approved.

10. The requirements of this paragraph are that the Authority considers that the Access Rules:

- (a) will require that any unused capacity in the exempt infrastructure is made available to other users or potential users;
- (b) will not restrict reselling of rights to have electricity transmitted through the exempt infrastructure.

11. In this licence condition:

“new interconnector” means an interconnector not completed by 4 August 2003

Condition 23. 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 pursuant to Article 6 of the Directive and ~~Article 12~~ [Article 34](#) of the Regulation.
2. A compliance officer of the licensee shall monitor compliance with a compliance programme which must be established and implemented by the joint undertaking to ensure that discrimination and anti-competitive conduct is excluded.
3. In this condition:

“vertically integrated undertaking” shall have the meaning given in Article 2 of the Directive.

PART II - SECTION H: PAYMENTS BETWEEN THE LICENSEE AND THE GB SYSTEM OPERATOR

Condition 27: Determination of the Interconnector Payments term with respect to costs related to the Capacity Allocation and Congestion Management

Regulation

1. The purpose of this condition is to establish the process for determining the value of the Interconnector Payments (ICP) term as applicable to costs related to the Capacity Allocation and Congestion Management Regulation.
2. The ICP term denotes the total costs determined by the Authority as being:
 - (a) the efficient, reasonable and proportionate costs related to establishing, amending and operating Single Day-Ahead Coupling and Single Intraday Coupling; and
 - (b) eligible for recovery by the licensee (including costs eligible for recovery by the licensee on behalf of a relevant Nominated Electricity Market Operator (NEMO)), in accordance with the Authority's Relevant Decision on the approach to cost sharing and cost recovery under the CACM Regulation.
3. The licensee shall submit a request to the Authority setting out the proposed value for the ICP term for Reporting Period n.
4. The licensee shall ensure that a request submitted pursuant to paragraph 3 of this condition includes:
 - (a) the licensee's proposed value for the ICP term for Reporting Period n (ICP_n);
 - (b) details of the of the Reporting Period to which the proposed value for the ICP_n term relates;
 - (c) where relevant, a statement setting out how the proposed value of the ICP_n term is to be shared between the licensee and any relevant Nominated Electricity Market Operator(s); and

- (d) any other relevant information as may be specified by the Authority to facilitate its determination of the licensee's proposed value for the ICP_n term.
5. The value of the ICP term shall be determined by the Authority following the completion of a cost assessment exercise as outlined in the CACM Regulation (Title III, Chapter 3 and in particular Article 75, which sets out the guiding provisions on cost recovery).
6. Following the cost assessment process, the Authority shall determine whether the licensee's proposed values for the ICP_n term is acceptable and, if not, specify the value of the ICP_n term.
7. As soon as reasonably practicable after completing its determination under paragraph 6 of this condition, the Authority shall direct in writing the value of the ICP_n term.
8. Prior to completing its determination under paragraph 6 of this condition and before issuing the direction pursuant to paragraph 7, the Authority shall consult on this determination with the licensee and any other relevant parties for a period of at least 28 days and consider any representations duly received within that period.
9. The licensee shall ensure that any amounts:
- (a) included in the ICP_n term determined and directed by the Authority; and
 - (b) corresponding to the amounts which the licensee has submitted on behalf of a NEMO,
- are passed to that NEMO as soon as reasonably practicable after being received by the licensee.
10. For the purposes of this condition:

CACM Regulation (Capacity Allocation and Congestion Management Regulation)

means Regulation (EU) 2015/1222 of 24 July 2015 establishing a Guideline on

Capacity Allocation and Congestion Management

ICP_n

means the value of the ICP term in Reporting Period n

Interconnector Payments (ICP) term

Unless defined otherwise in the special conditions of the licensee's interconnector licence, means the total amount:

- (e) determined by the Authority, in accordance with paragraph 6 of this condition; and
- (f) that is due to the licensee (including, where relevant, any amount eligible for recovery by the licensee on behalf of a relevant NEMO) from the GB System Operator

NEMO (Nominated Electricity Market Operator)

means an entity designated by the Authority pursuant to the CACM Regulation to perform tasks related to Single Day-Ahead Coupling or Single Intraday Coupling

Relevant Decision

means the Authority's decision on approach to cost sharing and cost recovery under the CACM Regulation, dated 20 August 2019

Reporting Period

means the time period to which the proposed value of ICP payment term

relates, such time period ending no later than 30 August 2019

Reporting Period_n

means the Reporting Period for the purposes of which any calculations fall to be made

Single Day-Ahead Coupling

has the meaning given to this term in the CACM Regulation

Single Intraday Coupling

has the meaning given to this term in the CACM Regulation.

Condition 28: Provision of payments information to the GB System Operator

1. The purpose of this condition is to set out when the licensee shall provide estimates of the value of the Interconnector Payments (ICP) term in Relevant Year t (ICP_t) to the GB System Operator and the Authority.
2. In any Relevant Year, the licensee shall, on or before the date specified in the CUSC:
 - (a) notify the GB System Operator of its best estimate for the value of ICP_n in respect of that Relevant Year; and
 - (b) where relevant, notify the GB System Operator of its best estimate for the value of ICP_{n+1} .
3. In each subsequent Relevant Year the licensee shall on or before the date specified in the CUSC (or such later date as the Authority may direct), provide a statement to the Authority specifying the value of ICP_n and ICP_{n+1} notified to the GB System Operator in the Relevant Year $n-1$ in accordance with paragraph 2 of this condition.
4. For the purposes of this condition:

Interconnector Payments (ICP) term has the meaning given to that term in standard condition 27 of this licence

ICP_t means the value of the ICP term in Relevant Year t and shall have the value of the ICP_n term

ICP_{t-1} means the value of the ICP term in Relevant Year $t-1$ and shall have the value of the ICP_{t-1} term

<u>ICP_n</u>	<u>has the meaning given to that term in standard condition 27 of this licence.</u>
<u>ICP_{n-1}</u>	<u>means the value of the ICP term in the Reporting Period immediately preceding Reporting Period_n</u>
<u>Relevant Year</u>	<u>for the purposes of this condition means a year beginning on 1 April of each calendar year and ending on 31 March of the following calendar year</u>
<u>Relevant Year t</u>	<u>for the purposes of this condition means that Relevant Year for the purposes of which any calculation falls to be settled</u>
<u>Relevant Year t-1</u>	<u>for the purposes of this condition means the Relevant Year immediately preceding Relevant Year_{t-1} and similar expressions shall be construed accordingly</u>
<u>Reporting Period</u>	<u>has the meaning given to that term in standard condition 27 of this licence.</u>