

**Erratum notice - Modification of the amended standard conditions of the offshore electricity transmission licence held by TC Lincs OFTO Limited**

The Authority<sup>1</sup> issued a notice<sup>2</sup> under section 11A of the Electricity Act 1989 on 17 November 2020 (the **Notice**) modifying amended standard conditions of the offshore electricity transmission licence held by TC Lincs OFTO Limited (the **Licence**).

We have identified two errors in the Schedule to the Notice. The Notice outlined a modification to the Licence by way of inserting amended standard condition (**ASC**) E12-D2: Equity Transaction Reporting Requirement, however that condition was unintentionally omitted from the Schedule and, in error, replaced with drafting to modify ASC E12-J11 in the Licence. Those modifications to ASC E12-J11 were already introduced in the Licence through a modification in 2017.<sup>3</sup> Therefore, we have amended the Schedule, attached, to illustrate inclusion of ASC E12-D2 in red font, as directed in the Notice. ASC E12-J11, as it already exists in the licence, is unaffected.

Second, the Notice outlined a modification to ASC E12-J3: Restriction of Transmission Revenue: Allowed Pass-through Items, but whilst the drafting of the modification itself was accurately set out in the Schedule, the Schedule did not reflect the bespoke drafting already existent in ASC E12-J3 of the Licence. For the avoidance of doubt, that bespoke drafting remains in the Licence and we have reflected this in the Schedule attached.

The remainder of the Schedule and Notice remain as published on 17 November 2020.

If you have any questions regarding this letter, please contact Stephen Taylor on 0203 263 9936.

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**Jourdan Edwards**  
**Head of the OFTO Regime, Networks**

**Duly authorised on behalf of the**  
**Gas and Electricity Markets Authority**

**10 December 2020**

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<sup>1</sup> The terms 'The Authority', "we" and "us" are used interchangeably in this letter. The Authority is the Gas and Electricity Markets Authority.

<sup>2</sup> <https://www.ofgem.gov.uk/publications-and-updates/decision-modifications-offshore-transmission-licences>.

<sup>3</sup> <https://epr.ofgem.gov.uk/Content/Documents/Modification%20of%20Amended%20Standard%20Conditions%20E12-J11%20and%20E12-A1%20of%20electricity%20transmission%20licensees%20-%202013.01.2017.PDF>.

## **Schedule 1: Licence Modification**

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

### **Amended Standard Condition E12-D2: Equity Transaction Reporting Requirement**

#### **Part A: Introduction**

1. The purpose of this condition is to require the licensee to provide an annual submission to the Authority providing details of any relevant equity transactions.

#### **Part B: Licensee's Obligations**

2. Following the date of licence grant, the licensee shall prepare and submit to the Authority by 31 July of each year following, details of any relevant equity transaction(s) that took place in the most recent relevant year except that the licensee may with the prior consent of the Authority not provide certain details of the relevant equity transaction where the Authority is satisfied that the licensee cannot provide such details.
3. Subject to paragraph 5, details to be prepared and submitted to the Authority for the purpose of paragraph 2 shall include:
  - (a) the date of the transaction(s);
  - (b) the value of the transaction(s);
  - (c) where applicable, the number of shares in the licensee transferred, issued or bought back and the percentage of the total shares of the licensee this represents; and
  - (d) where applicable, the percentage of the licensee now owned by the new ultimate controller(s).
4. The licensee's initial submission to the Authority under paragraph 2 should also include details of the quantity and value of equity invested in the licensee at the point of asset transfer.
5. Where a relevant equity transaction occurs as part of a transaction involving the issue, sale (or otherwise transfer) or buy back of shares in a company of which the licensee or a holding company of the licensee is a subsidiary, details of the value of the transaction provided to the Authority under paragraph 3 shall relate only to the value placed on the licensee for the purpose of that transaction.
6. Where licence grant falls between 1 January and 31 March of any year the reporting requirements specified in paragraph 2 will not be required on the first 31 July following licence grant. In such circumstances the information reporting requirements specified in paragraph 2 shall be prepared and submitted on the second 31 July following licence grant and must cover the period from licence grant to the end of the following relevant year (t=2).

7. For the purposes of this condition:

"relevant equity transaction"

means any transaction which:

- (a) involves the issue, sale (or otherwise transfer) or buy back of shares in the licensee; and/or
- (b) results in a change in an ultimate controller of the licensee.

**Amended Standard Condition E12–J3: Restriction of Transmission Revenue: Allowed Pass-through Items**

1. The purpose of this condition is to provide for revenue adjustments to reflect certain costs that can be passed through to consumers as part of allowed transmission owner revenue.
2. For the purposes of paragraph 4 of amended standard condition E12–J2 (Restriction of Transmission Revenue: Revenue from Transmission Owner Services)  $PT_t$  is derived from the following formula:

$$PT_t = LF_t + RB_t + CEL_t + DC_t + IAT_t + TPD_t + TCA_t + MCA_t + CEA_t \quad (9)$$

where:

- $LF_t$  means the licence fee cost adjustment term, whether of a positive or of a negative value, and shall be determined in accordance with paragraph 3.
- $RB_t$  means the network rates cost adjustment term, whether of a positive or of a negative value, and shall be determined in accordance with paragraphs 4 and 5.
- $CEL_t$  means the Crown Estate Lease cost adjustment term, whether of a positive or negative value, and shall be determined in accordance with paragraph 6.
- $DC_t$  means the decommissioning cost adjustment term and shall be determined in accordance with paragraphs 7 to 13.
- $IAT_t$  means the income adjusting event revenue adjustment term, whether of a positive or of a negative value, and shall be determined in accordance with paragraphs 14 to 24.
- $TPD_t$  means the temporary physical disconnection payment term and shall be determined in accordance with paragraph 25.
- $TCA_t$  means the tender fee cost adjustment term and shall be determined in accordance with paragraph 26.
- $MCA_t$  means the Marine and Coastal Access Act 2009 cost adjustment term and shall be determined in accordance with paragraphs 27 to 33.
- $CEA_t$  means the contingent event revenue adjustment term and shall be determined in accordance with paragraphs 34 to 46.

**Formula for the Licence Fee Cost Adjustment ( $LF_t$ )**

3. For the purposes of paragraph 2,  $LF_t$  is an amount in respect of licence fee payments and means the amount equal to the payments made by the licensee, in the relevant year  $t$ , in accordance with its obligations set out in standard condition A4 (Payments to the Authority).

**Formula for the Network Rates Cost Adjustment ( $RB_t$ )**

4. For the purposes of paragraph 2,  $RB_t$  is an amount in respect of networks rates payments and means, subject to paragraph 5 of this condition, the amount equal to the rates payments made by the licensee in the relevant year  $t$ .
5. The licensee shall at the time of network rates revaluation use reasonable endeavours to minimise the costs that it will incur in respect of network rates.

**Formula for the Crown Estate Lease Cost Adjustment ( $CEL_t$ )**

6. For the purposes of paragraph 2,  $CEL_t$  is an amount equal to the payments made by the licensee to the Crown Estate, in the relevant year  $t$ , in accordance with its obligations set out in its Crown Estate Lease in respect of the:
- (a) annual rent of the seabed; and
  - (b) legal expenses of the Crown Estate for the preparation, negotiation and completion of the Crown Estate Lease.

**Formula for the Decommissioning Cost Adjustment ( $DC_t$ )**

7. Where the licensee considers, and can provide supporting evidence, that there will be additional costs and/or expenses in relation to the licensee's obligations with respect to decommissioning of the transmission system that has arisen due to a change in legislative requirements, then the licensee shall give written notice of this change to the Authority.
8. A notice provided to the Authority under paragraph 7 shall give particulars of:
- (a) the change in legislative requirements to which the notice relates and the reason(s) why the licensee considers that it will face additional costs or expenses in complying with those obligations, and demonstrate that such costs and expenses are not included within the allowed transmission owner income;
  - (b) the expected amount of any change in costs and/or expenses that can be demonstrated by the licensee to be caused by the change in decommissioning requirements and how the amount of these costs and/or expenses has been calculated;
  - (c) the proposed amount of any allowed revenue adjustment proposed as a consequence of the change in decommissioning requirements and how this allowed revenue adjustment has been calculated; and
  - (d) any other analysis or information, which the licensee considers sufficient to enable the Authority to fully assess the change in legislative requirements to which the notice relates.
9. If the Authority considers that the analysis or information provided in sub-paragraphs 8(a) to 8(d) above is insufficient to enable the Authority to assess whether a change in decommissioning requirements has occurred and/or the amount of any allowed income adjustment that might be approved, the Authority can request that the supporting evidence be supplemented with additional information that it considers appropriate. If the Authority requests that the supporting evidence be supplemented with additional information, the licensee shall provide such information to the Authority within not more than one month of the Authority requesting such information.
10. A notice referred to in paragraph 7 shall be given as soon as is reasonably practicable after the occurrence of the change in requirements, and, in any event, not later than three months after the end of the relevant year in which it occurs.
11. The Authority shall determine:
- (a) whether any or all of the costs and/or expenses given in a notice pursuant to paragraph 7 were caused by the change in legislative requirements;
  - (b) if so, whether the amount of the proposed income adjustment ensures that the financial position and performance of the licensee are, insofar as is reasonably practicable, the same as if that change in legislative decommissioning requirements had not taken place, and if not, what allowed income adjustment would secure that

effect; and

- (c) the periods, if any, over which the amounts should apply.
12. In relation to the relevant year  $t$ , the decommissioning cost adjustment term ( $DC_t$ ) shall be:
- (a) the value determined by the Authority under paragraph 11 above; or
  - (b) if the Authority has not requested additional information under paragraph 9 and the Authority has not made a determination under paragraph 11 above within three months of the date on which notice given by the licensee was provided to the Authority, the amount of the allowed income adjustment proposed by the licensee in that notice given to the Authority; or
  - (c) if the Authority requests additional information under paragraph 9 and the Authority has not made a determination under paragraph 11 above within three months after receiving the additional information requested, the amount of the allowed income adjustment proposed by the licensee in the notice given to the Authority; or
  - (d) in all other cases the value zero, including situations where the Authority has not made a determination under paragraph 11 above within three months of the date on which notice given by the licensee provided to the Authority, or within three months of the date on which the Authority received additional information if requested under paragraph 9, and the Authority has, before the end of the appropriate three month period, informed the licensee that the Authority considers that the analysis or information provided in accordance with paragraphs 8 and/or 9 is insufficient to enable the Authority to assess whether additional costs or expenses have occurred and/or the amount of any allowed income adjustment.
13. The Authority's decision in relation to any notice given under paragraph 7 shall be in writing, shall be copied to the licensee and shall be in the public domain.

**Formula for the Income Adjusting Event Revenue Adjustment ( $IAT_t$ )**

14. Where the licensee considers, and can provide supporting evidence that, in respect of relevant year  $t$ , there have been costs and/or expenses that have been incurred or saved by an income adjusting event, then the licensee shall give written notice of this event to the Authority.
15. An income adjusting event in relevant year  $t$  may arise from any of the following:
- (a) an event or circumstance constituting Force Majeure ~~under the STC~~;
  - (b) an event or circumstance resulting from an amendment to the STC not allowed for when allowed transmission owner revenues of the licensee were determined for the relevant year  $t$ ; and
  - (c) an event or circumstance other than listed above which, in the opinion of the Authority, is an income adjusting event and is approved by it as such in accordance with paragraph 21 of this licence condition,
- where the event or circumstance has, for relevant year  $t$ , increased or decreased costs and/or expenses by more than £1,000,000 (the "~~STC~~ threshold amount").
16. A notice provided to the Authority under paragraph 14 shall give particulars of:
- (a) the event or circumstance to which the notice relates and the reason(s) why the licensee considers this event or circumstance to be an income adjusting event;
  - (b) the amount of any change in costs and/or expenses that can be demonstrated by the

- licensee to have been caused or saved by the event or circumstance and how the amount of these costs and/or expenses has been calculated, including the extent to which the licensee has claimed or intends to claim under other routes of recourse for any costs and/or expenses arising out of or relating to the event or circumstance;
- (c) the amount of any allowed income adjustment proposed as a consequence of that event or circumstance and how this allowed income adjustment has been calculated; and
  - (d) any other analysis or information, which the licensee considers sufficient to enable the Authority and the relevant parties to fully assess the event or circumstance to which the notice relates.
17. If the Authority considers that the analysis or information provided in sub-paragraphs 16(a) to 16 (d) (inclusive) above is insufficient to enable both the Authority and the relevant parties to assess whether an income adjusting event has occurred and/or the amount of any allowed income adjustment that should be approved, the Authority can make a request or requests that the supporting evidence be supplemented with additional information that it considers appropriate. If the Authority requests that the supporting evidence be supplemented with additional information, the licensee shall provide such information to the Authority within not more than one month of the Authority requesting such information or within such extended time as permitted by the Authority.
18. A notice of an income adjusting event shall be given as soon as is reasonably practicable after the occurrence of the income adjusting event, and, in any event, not later than three months after the end of the relevant year in which it occurs.
19. The Authority will make public, excluding any confidential information, any notice of an income adjusting event as soon as is reasonably practicable following its receipt.
20. Any notice submitted to the Authority under paragraph 14 above should clearly identify whether any of the information contained in the notice is of a confidential nature. The Authority shall make the final determination as to confidentiality having regard to:
- (a) the need to exclude from disclosure, so far as is reasonably practicable, information whose disclosure the Authority considers would or might seriously prejudicially affect the interests of a person to which it relates; and
  - (b) the extent to which the disclosure of the information mentioned in sub-paragraph 20(a) is necessary for the purposes of enabling the relevant parties to fully assess the event to which the notice relates.
21. The Authority shall determine (after consultation with the licensee and such other persons as it considers desirable):
- (a) whether any or all of the costs and/or expenses given in a notice pursuant to paragraph 14 were caused or saved by an income adjusting event;
  - (b) whether the event or circumstance has increased or decreased the costs and/or expenses given in the notice pursuant to paragraph 14 by more than the ~~STC~~ threshold amount;
  - (c) if so:-
    - i. subject to sub-paragraph (iii), whether the amount of the proposed income adjustment ensures that the financial position and performance of the licensee are, insofar as is reasonably practicable, the same as if that income adjusting event had not taken place, and if not, what allowed income adjustment would

secure that effect; ~~and~~. Such adjustment shall be:

- a. where the income adjusting event relates to an Uninsurable event or circumstance, reduced by:
  - i. if the licence was granted on or before 28 November 2018, the amount of the insurance deductible set out in the invitation to tender questionnaire submitted in respect of this licence pursuant to the tender regulations; or
  - ii. if the licence was granted after 28 November 2018, either £5 million or the insurance deductible set out in the invitation to tender questionnaire submitted in respect of this licence pursuant to the tender regulations, whichever is greater; and
- b. for the avoidance of doubt, reduced by costs and/or expenses caused by the income adjusting event that are recovered by other routes of recourse available to the licensee, including, but not limited to, commercial arrangements;

unless, and to the extent that, the Authority has already applied such reductions to a previous revenue adjustment related to the same event or circumstance as that set out in the notice pursuant to paragraph 14;

- ii. (d) subject to sub-paragraph (iii), the periods, if any, over which the amounts should apply; and
  - iii. where it is not yet possible to make a final determination under sub-paragraphs (c)(i) and (c)(ii) above, the Authority may direct a partial amount of revenue adjustment, if any, pending the final determination of amount, such final determination to be made as soon as is reasonably practicable.
22. In relation to the relevant year t, the allowed income adjustment (IAT<sub>t</sub>) shall be:
- (a) the value, or relevant proportion of the value, determined by the Authority under paragraph 21 above; or
  - (b) if the Authority has not requested additional information under paragraph 17 and the Authority has not made a determination under paragraph 21 above within three months (excluding the duration of any consultation under paragraph 21) of the date on which notice of an income adjusting event was provided to the Authority, the amount of the allowed income adjustment proposed as a consequence of the event in the notice given to the Authority under paragraph 14; or
  - (c) if the Authority requests additional information under paragraph 17 and the Authority has not made a determination under paragraph 21 above within three months (excluding the duration of any consultation under paragraph 21) after receiving the additional information requested, the amount of the allowed income adjustment proposed by the licensee in the notice given to the Authority; or
  - (d) in all other cases the value zero, including situations where the Authority has not made a determination under paragraph 21 above within three months (excluding the duration of any consultation under paragraph 21) of the date on which notice of an income adjusting event, provided under paragraph 14, was provided to the Authority, or within three months (excluding the duration of any consultation under paragraph

21) of the date on which the Authority received additional information if requested under paragraph 17, and the Authority has, before the end of ~~the appropriate three month~~ that relevant period, informed the licensee that the Authority considers that the analysis or information provided in accordance with paragraphs 16 and/or 17 is insufficient to enable the Authority to assess whether an income adjusting event has occurred and/or the amount of any allowed income adjustment.

23. The Authority's decision in relation to any notice given under paragraph 14 shall be in writing, shall be copied to the licensee and shall be in the public domain.
24. The Authority may amend or revoke an approval of an income adjusting event and allowed income adjustment with the consent of the licensee, following consultation with the licensee and relevant parties, and any such amendment or revocation of any income adjusting event and allowed income adjustment shall be in writing, shall be copied to the licensee and shall be in the public domain.

**Formula for the Temporary Physical Disconnection Payment (TPD<sub>t</sub>)**

25. For the purposes of paragraph 2, TPD<sub>t</sub> shall be an amount equal to the interruption payments made by the System Operator in the licensee's transmission system area and charged by the System Operator to the transmission licensee in accordance with the STC within each respective relevant year. Such costs shall include any financing or other costs such as to ensure that the financial position and performance of the licensee is, insofar as is reasonably practicable, the same as if those costs had not been incurred.

**Formula for the Tender Fee Cost Adjustment (TCA<sub>t</sub>)**

26. For the purposes of paragraph 2, TCA<sub>t</sub> shall be an amount representing the payments made to the Authority in accordance with The Electricity (Competitive Tender for Offshore Transmission Licences) Regulations 2010 with respect to the to the recovery of the Authority's tender costs. Where the payments have been made in relation to an application for the grant of more than one licence, the licensee shall attribute an appropriate proportion of the relevant payment made to the Authority.

**Formula for the Marine and Coastal Act 2009 Cost Adjustment (MCA<sub>t</sub>)**

27. Where the licensee considers, and can provide supporting evidence, that there will be additional costs and/or expenses in relation to additional obligations imposed on the licensee with respect to the introduction of the Marine and Coastal Access Act 2009 requirements then the licensee may give written notice of these changes to the Authority.
28. A notice provided to the Authority under paragraph 27 shall give particulars of:
  - (a) the additional obligations to which the notice relates and the reason(s) why the licensee considers that it will face additional costs or expenses in complying with those additional obligations, and demonstrate that such costs or expenses are not included within allowed transmission owner income;
  - (b) the expected amount of any change in costs and/or expenses that can be demonstrated by the licensee to be caused by the introduction of those new obligations under the Marine and Coastal Access Act 2009 and how the amount of these costs and/or expenses has been calculated;
  - (c) the proposed amount of any allowed revenue adjustment proposed as a consequence of the licensee incurring additional obligations in relation to the Marine and Coastal Access Act 2009 requirements and how this allowed revenue adjustment has been calculated; and

- (d) any other analysis or information, which the licensee considers sufficient to enable the Authority to fully assess the additional obligations to which the notice relates.
29. If the Authority considers that the analysis or information provided in sub-paragraphs 28(a) to (d) above is insufficient to enable the Authority to assess the amount of any allowed income adjustment that might be approved, the Authority can request that the supporting evidence be supplemented with any additional information that it considers appropriate. If the Authority requests that the supporting evidence be supplemented with additional information, the licensee shall provide such information to the Authority within not more than one month of the Authority requesting such information.
30. A notice referred to in paragraph 27 shall be given as soon as is reasonably practicable after the new obligations imposed by the Marine and Coastal Access Act 2009 take effect, and, in any event, not later than three months after the end of the relevant year in which they occur.
31. The Authority shall determine:
- (a) whether any or all of the costs and/or expenses given in a notice pursuant to paragraph 27 were caused by the introduction of new obligations as a consequence of the Marine and Coastal Access Act 2009 requirements and not already incorporated within allowed transmission owner revenue;
  - (b) if so, whether the amount of the proposed income adjustment ensures that the financial position and performance of the licensee are, insofar as is reasonably practicable, the same as if that the additional obligations had not been implemented, and if not, what allowed income adjustment would secure that effect; and
  - (c) the periods, if any, over which the amounts should apply.
32. In relation to the relevant year  $t$ , the Marine and Coastal Act 2009 cost adjustment ( $MCA_t$ ) shall be:
- (a) the value determined by the Authority under paragraph 31 above; or
  - (b) if the Authority has not requested additional information under paragraph 29 and the Authority has not made a determination under paragraph 31 above within three months of the date on which notice given by the licensee was provided to the Authority, the amount of the allowed income adjustment proposed by the licensee in that notice given to the Authority; or
  - (c) if the Authority requests additional information under paragraph 29 and the Authority has not made a determination under paragraph 31 above within three months after receiving the additional information requested, the amount of the allowed income adjustment proposed by the licensee in the notice given to the Authority; or
  - (d) in all other cases the value zero, including situations where the Authority has not made a determination under paragraph 31 above within three months of the date on which notice given by the licensee provided to the Authority, or within three months of the date on which the Authority received additional information if requested under paragraph 29, and the Authority has, before the end of the appropriate three month period, informed the licensee that the Authority considers that the analysis or information provided in accordance with paragraphs 28 and/or 29 is insufficient to enable the Authority to assess whether additional costs or expenses has occurred and/or the amount of any allowed income adjustment.
33. The Authority's decision in relation to any notice given under paragraph 27 shall be in

writing, shall be copied to the licensee and shall be in the public domain.

**Formula for a revenue adjustment in respect of a Contingent Event Adjustment Term (CEA<sub>t</sub>)**

34. Where the licensee considers, and can provide supporting evidence, that there have been costs and/or expenses that have been or will be incurred by the licensee as a direct result of any contingent event (provided that the first relevant year in which costs and/or expenses are incurred shall not be earlier than relevant year 10), then the licensee shall give written notice of the contingent event to the Authority, in respect of which, the licensee shall not also be entitled to serve a notice in respect of such costs and/or expenses under paragraph 14 of this amended standard condition.
35. Where, in any relevant year, the Authority has notified the licensee in writing of its intention to terminate or revoke this licence and the licensee considers, and can provide supporting evidence that, a contingent event will occur following termination or revocation of this licence and the licensee will incur costs and/or expenses as a direct result of any contingent event, then the licensee shall give written notice of the contingent event to the Authority, in respect of which, the licensee shall not also be entitled to serve a notice in respect of such costs and/or expenses under paragraph 14 of this amended standard condition. The licensee will use all reasonable endeavours to ensure that the supporting evidence provided by the licensee includes a response from the Department of Energy and Climate Change setting out the licensee's decommissioning obligations following the termination or revocation of this licence and the extent to which the Department of Energy and Climate Change has agreed to release the licensee from its decommissioning obligations.
36. A notice provided to the Authority under paragraphs 34 or 35 shall give particulars of:
  - (a) the relevant contingent event to which the notice relates;
  - (b) the extent to which, if at all, the licensee has claimed or intends to claim for any costs and/or expenses arising out of or relating to the relevant contingent event under other routes of recourse;
  - (c) the amount of any costs and/or expenses, in excess of any costs and/or expenses included within the allowed transmission owner income, that can be demonstrated by the licensee to have been or that will be incurred or suffered in connection with the relevant contingent event and how the amount of these costs and/or expenses has been calculated;
  - (d) the amount of any allowed revenue adjustment proposed as a consequence of the relevant contingent event, whether this allowed revenue adjustment is required for a one-off cost or for ongoing costs and how this allowed revenue adjustment has been calculated; and
  - (e) any other analysis or information, which the licensee considers sufficient to enable the Authority and the relevant parties to fully assess the relevant contingent event to which the notice relates.
37. If the Authority considers that the analysis or information provided in sub-paragraphs 36(a) to 36(e) (inclusive) above is insufficient to enable both the Authority and the relevant parties to assess the occurrence of the relevant contingent event and/or the amount of any allowed revenue adjustment that should be approved, the Authority can request that the supporting evidence be supplemented with additional information that it considers appropriate. If the Authority requests that the supporting evidence be

supplemented with additional information, the licensee shall provide such information to the Authority within not more than one month of the Authority requesting the information, or within the period otherwise directed by the Authority.

38. A notice of a contingent event shall be given as soon as is reasonably practicable after the occurrence of the relevant contingent event, and, in any event, not later than three months after the end of the relevant year in which the costs and/or expenses resulting from the contingent event were incurred.
39. The Authority will make public, excluding any confidential information, any notice of a contingent event following its receipt.
40. Any notice provided to the Authority under paragraphs 34 or 35 should clearly identify whether any of the information contained in the notice is of a confidential nature. The Authority shall make the final determination as to confidentiality having regard to:
  - (a) the need to exclude from disclosure, so far as is reasonably practicable, information whose disclosure the Authority considers would or might seriously prejudicially affect the interests of a person to which it relates; and
  - (b) the extent to which the disclosure of the information mentioned in sub-paragraph 40(a) is necessary for the purposes of enabling the relevant parties to fully assess the event or circumstance to which the notice relates.
41. The allowed revenue adjustment ( $\text{CEA}_t$ ) for each relevant year  $t$  shall be:
  - (a) the value determined by the Authority where the Authority determines that a contingent event has occurred (after consultation with the licensee and such other persons as it considers desirable) in accordance with the following provisions:
    - (i) the total amount of allowed revenue adjustment(s) over each relevant year  $t$  will allow the licensee to recover any or all of the costs and/or expenses provided in a notice pursuant to paragraph 34 or 35 that:
      - aa) were caused by the relevant contingent event;
      - bb) are in excess of the costs and/or expenses included within the allowed transmission owner income;
      - cc) are net of all costs and/or expenses the licensee has claimed, or intends to claim, under other routes of recourse available to it, including, but not limited to commercial arrangements available to it;
    - (ii) the distribution of the total amount of allowed revenue adjustment(s) over relevant years shall take due account of the impact of any such distribution on the licensee (including consideration of the licensee's financial position as a result of any such distribution) and other relevant parties, and shall ensure that the licensee's financial position is, insofar as is reasonably practicable, the same as if all allowed costs and/or expenses were recovered within the year(s) when the costs were incurred or are expected to be incurred; or
  - (b) the value zero where the Authority determines that a contingent event has not occurred (after consultation with the licensee and such other persons as it considers desirable); or
  - (c) the value proposed by the licensee in the notice provided to the Authority under paragraph 34 or 35 where the Authority has not requested additional information under paragraph 37 and the Authority has not made a determination under sub-paragraphs 41(a) or (b) within three months from the date on which notice of a

contingent event was provided to the Authority; or

- (d) the value proposed by the licensee in the notice provided to the Authority under paragraph 34 or 35 where the Authority requests additional information under paragraph 37 and the Authority has not made a determination under sub-paragraphs 41(a) or (b) within three months after receiving the additional information requested; or
  - (e) the value zero in all other cases, including situations where the Authority has not made a determination under sub-paragraphs 41(a) or (b) within three months of the date on which the notice under paragraph 34 or 35 was provided to the Authority, or within three months of the date on which the Authority received the additional information if requested under paragraph 37, and the Authority has, before the end of the relevant three month period, informed the licensee that the Authority considers that the analysis or information provided in accordance with paragraphs 36 and/or 37 is insufficient to enable the Authority to assess the relevant contingent event and/or the amount of any allowed revenue adjustment.
42. The allowed revenue adjustment in relation to any notice provided under paragraph 34 or 35, set in accordance with paragraph 41, shall be in writing, shall be copied to the licensee and shall be in the public domain.
43. If, in any relevant year following a revenue adjustment made under sub-paragraphs 41(a), (c) or (d), the circumstances or basis upon which the revenue adjustment made under sub-paragraphs 41(a),(c) or (d) change, such that the revenue adjustment received by the licensee is greater than the amount required to ensure that the licensee complies with its decommissioning obligations pursuant to sub-paragraphs 46(a), (b), (c) (d) or (e), the licensee shall give written notice of the change in circumstances to the Authority no later than three months after the end of the relevant year in which the change in circumstances occurred.
44. If, following notice under paragraph 43, the Authority considers that the licensee has received or will receive a revenue adjustment in excess of the amount required to ensure that the licensee complies with its decommissioning obligations pursuant to sub-paragraphs 46(a), (b), (c), (d) or (e), the Authority may, after consultation with the licensee, issue a determination to adjust the licensee's revenue to recover any revenue adjustments no longer required and/or to adjust the level of any future revenue adjustments made under sub-paragraphs 41(a), (c) or (d).
45. The Authority may revoke an approval of a contingent event and allowed revenue adjustment with the consent of the licensee, following consultation with the licensee and relevant parties, and any such revocation of any contingent event and allowed revenue adjustment shall be in writing, shall be copied to the licensee and shall be in the public domain.
46. In this condition:

“contingent event”

means the licensee being required to undertake, or reserve against the costs of undertaking, decommissioning works which arise out of or in connection with any change required to be made to the licensee's decommissioning plan submitted to

the Department of Energy and Climate Change due to obligations pursuant to:

- (a) Part C of Schedule 8 of the agreement for transfer of the transmission assets between the licensee and Lincs Wind Farm Limited dated on or around the effective date of this licence; or
- (b) the Lincs Offshore Wind Farm Cable Zone Agreement between Lincs Wind Farm Limited and King's Lynn Conservancy Board, novated to the licensee on or around the effective date of this licence; or
- (c) the Lincs Offshore Wind Farm Cable Zone Agreement between Lincs Wind Farm Limited and Fenland District Council, novated to the licensee on or around the effective date of this licence; or
- (d) the Lincs Offshore Wind Farm Cable Zone Agreement between Lincs Wind Farm Limited and Port of Boston Limited, novated to the licensee on or around the effective date of this licence; or
- (e) any law or regulation applicable to the licensee in relation to the geographical areas covered by the agreements set out under sub-paragraphs (b) to (d) above.