

To: All holders of an electricity transmission licence

**Electricity Act 1989
Section 11A (1)(b)**

**MODIFICATION OF THE STANDARD CONDITIONS OF ELECTRICITY
TRANSMISSION LICENCES GRANTED UNDER SECTION 6(1)(b) OF THE
ELECTRICITY ACT 1989**

Whereas –

1. Each of the companies to whom this document is addressed (a "Licence Holder") has been granted a licence ("a Licence") under section 6(1)(b) of the Electricity Act 1989 ("the Act") to participate in the transmission of electricity subject to the conditions contained in its Licence.

2. In accordance with section 11A(2) of the Act the Gas and Electricity Markets Authority ("the Authority") gave notice on 21 January 2013 ("the Notice") that it proposed to make modifications to Standard Condition A4 (Payment by Licensee to the Authority) of the Licence and by requiring any representations to the modification to be made on or before 18 February 2013.

3. In accordance with section 11A(4)(b) of the Act, the Authority gave such notice of its intention to make the modifications to the Secretary of State and has not received a direction not to make the modification.

4. Prior to the close of the consultation period in respect of the Notice, the Authority received one response. This non-confidential response has been placed on the Ofgem website.

5. The Authority has carefully considered in relation to the proposed modification the representation received. Its response to that representation is attached at Schedule 2 to this modification notice.

6. The Authority will make the following additional modifications to those set out in the Notice:

- (i) in paragraph 3(f) the word "expenses" (which was added in error) will be removed and the words "estimated costs" will be retained;
- (ii) in paragraph 3(f) the words "Citizens Advice or Citizens Advice Scotland" will be tracked as this is a new modification;
- (iii) in paragraphs 3(h)(bb) and 6(iii) the following words in brackets: "(including Citizens Advice or Citizens Advice Scotland)" will be added after the words "Secretary of State": and
- (iv) in paragraph 6, after the words "'estimated costs" means costs estimated by the Authority as likely to be or have been", the colon and the subsequent letter "a" in brackets will be removed.

7. In accordance with section 49A of the Act the Authority gives the following reasons for making the licence modifications:

- i. to make clear to whom Standard Condition A4 applies;
- ii. to remove any obsolete references relating to the payment to the Authority of the costs incurred by the Competition Commission in connection with any reference made to it;

- iii. to reflect changes to the consumer advocacy services brought about by The Public Bodies (The Office of Fair Trading Transfer of Consumer Advice Scheme Function and Modification of Enforcement Functions) Order 2013; and
- iv. to clarify that the costs of the Citizens Advice or Citizens Advice Scotland are included in the calculation set out in paragraph 3(h)(bb) and in the definition of "estimated costs" in paragraph 6(iii) of Standard Condition A4.

8. The effect of the modifications will be to:

- (i) remove any references relating to the payment to the Authority of the costs incurred by the Competition Commission in connection with any reference made to it;
- (ii) replace references to the "Office of Fair Trading" with "Citizens Advice or Citizens Advice Scotland";
- (iii) replace any references to "Consumer Direct" with "any qualifying public consumer advice scheme"; and
- (iv) clarify that the costs of the Citizens Advice or Citizens Advice Scotland are included in the calculation set out in paragraph 3(h)(bb) and in the definition of "estimated costs" in paragraph 6(iii) of Standard Condition A4.

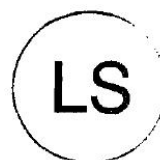
9. Where an application for permission to appeal the Authority's decision is made to the Competition Commission under section 11C of the Act, Rule 5.7 of the Competition Commission's Energy Licence Modification Appeals Rules requires that the appellant must send to any relevant licence holders who are not parties to the appeal a non-confidential notice setting out the matters required in Rule 5.2. The attached Schedule 1 provides a list of the relevant licence holders in relation to this modification direction. The meaning of 'relevant licence holder' is set out in section 11A(10) of the Act.

Now therefore

In accordance with the powers contained in section 11A (1)(b) of the Act, the Authority hereby modifies the standard licence conditions for all electricity distribution licences in the manner specified in the attached Schedule 3. This decision will take effect on and from 22 May 2013.

This document constitutes notice of the reasons for the decision to modify the electricity transmission licences as required by section 49A of the Act.

**The Official Seal of the Gas and Electricity Markets Authority
here affixed is authenticated by the signature of**



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**Paul Heseltine
Associate Director Finance and Risk Management**

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

27 March 2013

Schedule 1

Electricity transmission relevant licensee list:

| NAME | COMPANY No | REG ADDRESS |
|--|------------|--|
| Blue Transmission Walney 1 Limited | 7353265 | c/o Dundas & Wilson, Northwest Wing, Bush House, Aldwych, London, WC2B 4EZ, Great Britain |
| Blue Transmission Walney 2 Limited | 7753568 | The American Barns, Banbury Road, Lighthorne, Warwick, Warwickshire, CV35 0AE, Great Britain |
| National Grid Electricity Transmission Plc | 2366977 | 1-3 Strand, London, WC2N 5EH, Great Britain |
| Scottish Hydro Electric Transmission Plc | SC213461 | Inveralmond House, 200 Dunkeld Road, Perth, Perthshire, PH1 3AQ, Great Britain |
| SP Transmission Limited | SC189126 | 1 Atlantic Quay, Robertson Street, Glasgow, G2 8SP, Great Britain |
| TC Barrow OFTO Limited | 7384547 | Two London Bridge, London, SE1 9RA, United Kingdom |
| TC Gunfleet Sands OFTO Limited | 7384551 | Two London Bridge, London, SE1 9RA, United Kingdom |
| TC Ormonde OFTO Limited | 7456969 | Two London Bridge, London, SE1 9RA, United Kingdom |
| TC Robin Rigg OFTO Limited | 07384550 | Two London Bridge, London, SE1 9RA, United Kingdom |

Schedule 2 - Response to representation and reasons for any differences between the modifications and those set out in the Notice

| Standard Condition A4: Payments by Licensee to the Authority | | | | |
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| Comment from | Para ref | Comment | Ofgem Response and (where appropriate) the reasons for differences between the modifications and those set out in the statutory consultation | Change made to licence (Yes/No) |
| National Grid | Paragraph 3(f) | Reference is now made to " <i>expenses</i> " rather than estimated costs. We are unclear why this has changed. Will expenses be collected in advance or in arrears? If in advance, the word " <i>estimated</i> " must be inserted before " <i>expenses</i> ". If in arrears, then the text should read " <i>actual expenses ... in the previous year</i> " and make it clear whether the year in question is a financial year as defined in Condition 1, or the expenses as reported by Citizens Advice or Citizens Advice Scotland in their reports and accounts for the previous year. | The word "expenses" has been removed as this was inserted in error and the words "estimated costs" will be retained. Estimated costs are collected in advance. | Yes |
| National Grid | Paragraph 3(f) | The track changes do not accurately reflect what the proposed changes are from the current Condition A4. " <i>expenses</i> " should be tracked as new, as should " <i>Citizens</i> | The word "expenses" is not a new proposed modification. It was added in error and will be removed. The words "estimated costs" will be retained in its place. It will not be tracked as this is not a new modification. | Yes |

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| | | <p><i>Advice or Citizens Advice Scotland</i>". This brings into question the validity of the notice, per the general comment at 1 above.</p> | <p>The words "Citizens Advice or Citizens Advice Scotland" will be tracked as this is a new modification.</p> <p>This does not bring into question the validity of the Notice.</p> | |
| Ofgem | 3h(bb) and 6(iii). | <p>In paragraph 3h(bb) and 6iii.-the following words in brackets: "(including Citizens Advice or Citizens Advice Scotland)" will be added after the words "Secretary of State".</p> | <p>The amendments have been made to clarify that the costs of the Citizens Advice or Citizens Advice Scotland are included in the calculation set out in sub-paragraph 3(h)(bb) and in the definition of "estimated costs" in paragraph 6(iii).</p> | Yes |
| National Grid | Paragraph 3(h)(bb) | <p>This paragraph does not refer to the actual costs of the Citizens Advice or Citizens Advice Scotland. This comment follows our comment at 13 above requiring clarification as to why the reference is to "<i>expenses</i>" and not "<i>estimated costs</i>" and whether these expenses are to be collected in advance or in arrears. The omission here suggests that these expenses are to be collected in arrears, but greater clarity is needed.</p> | <p>See comments made above.</p> | Yes |
| National Grid | Paragraph 3(h)(bb) | <p>The track changes do not accurately reflect what the proposed changes are from the current Condition A4. "<i>the Secretary of State</i>" is new wording but is not</p> | <p>The words 'the Secretary of State' is not new wording. The reference to the Secretary of State was reintroduced into Standard Condition A4 by a modification made by the Secretary of State under section</p> | No |

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| | | shown as such. This brings into question the validity of the notice, per the general comment at 1 above. | 97(1) of the Energy Act 2008. This modification was made on 31 March 2009. | |
| National Grid | Paragraph 6, definition of "estimated costs" | <p>The definition of "estimated costs", unlike the gas transporter licence is not set out in full in the notice. We consider that the text should read: <i>"means costs estimated by the Authority as likely to be or have been the costs of –</i></p> <p><i>a) the Authority calculated in accordance with the principles determined by the Authority for the purpose of this condition generally (after consultation with the licensee and others likely to be affected by the application of such principles) and notified to the licensee; and</i></p> <p><i>b) the National Consumer Council; and</i></p> <p><i>c) the Secretary of State."</i></p> <p>The lack of this text and the want of clarity here, especially given that the drafting of the condition generally does not clarify whether the costs of the Citizens Advice or Citizens Advice Scotland are to be estimated brings the validity of this notice into</p> | A formatting change has been made | Yes |

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| | | question. | | |
| National Grid | Paragraph 6, definition of " <i>estimated costs</i> " | This definition does not refer to the costs of the Citizens Advice or Citizens Advice Scotland. This comment follows our comment at 14 above requiring clarification as to why the reference is to " <i>expenses</i> " and not " <i>estimated costs</i> " for the two organisations. If these expenses are to be collected in arrears, then the omission of this reference appears correct. However, clarity is needed. | In paragraph 6(iii) the following words in brackets: "(including Citizens Advice or Citizens Advice Scotland)" will be added after the words "Secretary of State" in order to clarify that the costs of the Citizens Advice or Citizens Advice Scotland are included in the definition of "estimated costs". The reference to estimated costs is addressed above. | Yes |
| Licence Fee Cost Recovery Principles (LFPD) | | | | |
| Comment From | Para ref in the LFPD | Comment | Ofgem Response and (where appropriate) the reasons for differences between the modifications and those set out in the LFPD | Change made to LFPD Yes/No) |
| National Grid | Paragraph 1.2, line 6 | After " <i>gas transportation</i> " insert instead of the proposed wording, " <i>paragraphs 3(a) to (g) of the electricity transmission SLCs and paragraphs 5.1(a) – 5.1(g) of the electricity distribution SLC</i> " as paragraphs 2(a) – 2(g) is not the right reference for the electricity transmission SLCs following the proposed amendments. | Relevant amendments made to clarify which paragraphs of which licence conditions are affected by the principles covered in the LFPD. | Yes |
| National Grid | Paragraph 1.2, line 8/9 | Before " <i>electricity transmission SLCs</i> " insert " <i>3(h) of the</i> ". | Minor change made to clarify which paragraph of the electricity transmission licence is affected. | Yes |

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| National Grid | Paragraph 2.4, first bullet, first paragraph, line 4 | Reference should be to " <i>paragraph 2.5</i> " rather than " <i>paragraph 2.6</i> ". | Amendment made to correct an error in paragraph numbering. | Yes |
| National Grid | Paragraph 2.7, line 3 | Reference should be to " <i>paragraph 2.3</i> " rather than " <i>paragraph 2.2</i> ". | Amendment made to correct an error in paragraph numbering. | Yes |
| National Grid | Paragraph 2.8, line 3 | Reference should be to " <i>paragraph 2.3</i> " rather than " <i>paragraph 2.2</i> ". | Amendment made to correct an error in paragraph numbering. | Yes |
| National Grid | Page 18, definition of a gas customer | Delete " <i>A customer means</i> " and start the definition with " <i>Any person</i> ". | Minor drafting change made to aid clarity. | Yes |
| National Grid | Page 18, first paragraph under " <i>Source</i> " | Use the full title for the QoS RIGs. | Amended to aid clarity. | Yes |
| Consultation covering letter (Reference 181/12) | | | | |
| National Grid | General | It is important that Ofgem remain transparent with all their costs associated with licence fees. For consistency we consider Ofgem should continue to use the relevant cost control regime for the five years that commenced from April 2010. As changes within the industry occur (e.g. European, and UK government initiatives) any additional costs that are relevant to the licensee to support Ofgem's increased workload must be transparent and with a clear auditable basis for any licence fee change. | Ofgem continues to use the RPI cost control regime that commenced in April 2010. Any additional costs that are relevant to the licensee are clearly highlighted in the Forward Work Programme. The 2013-14 Programme is currently being consulted on. | No |
| National Grid | Removal of references to the | In light of the above the section titled 'Removal of | Although it is no longer possible to make a reference to the | No |

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| | Competition Commission | <p>references to the Competition Commission' creates some confusion. In the opening paragraph it indicates that references to the Competition Commission will be removed from the licence which we agree with. However later, the consultation indicates that Ofgem would continue to recover the Commission's costs through the licence fee cost recovery mechanism. Whilst the reference to the Competition Commission is removed will licensees still be required to fund such costs?</p> | <p>Competition Commission, under the new appeals mechanism, introduced by the Electricity and Gas (Internal Markets) Regulations 2011, an appeal can be made to the Competition Commission against a licence modification decision. Where an appeal is successful, the costs that the Competition Commission directs Ofgem to pay will still be recovered from holders of a licence with a payment condition still in force through the licence fee cost recovery mechanism.</p> | |
| National Grid | Work undertaken on behalf of Other Government Departments | <p>In the LFPD, section titled 'work undertaken on behalf of other government departments' Ofgem indicate that their administration costs will include fees for work related to existing and new legislation or European Directives that is not part of Ofgem's core responsibility and that these costs may be recovered from licensees. We do not think it is appropriate that licensee's costs should include costs that are not part of Ofgem's core responsibilities. If Ofgem carry out work on behalf of other departments (e.g. government)</p> | <p>This section is a long-standing part of the Cost Control Regime (RPI-x) guidelines and procedures, covering the scenario that Ofgem is required to recharge to licence fee payers, work that it is not part of its core responsibility. This scenario has yet to crystallise. In line with Ofgem's transparency commitments, should the scenario crystallise in the future, licence fee payers will be fully consulted through the forward work programme consultation process.</p> | No |

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| | | Ofgem should charge the relevant body directly for this work so as to impose some cost discipline on them. | | |
| National Grid | Year-end reserves | We also notice in the LFPD that the Year-End Reserves (also known as Teem & Lade) has increased by £2 million to £5 million. Whilst the RPI-X regime has not changed it would be useful to have clarity over the reasons for this increase and an understanding of Ofgem's plans regarding the Year-End Reserves. | A new five year regime came into effect from 2010-11. As notified in the Corporate Strategy and Plan 2010-2015 published in March 2010, the 'teem and lade' amount has been set at £5 million. During the five year regime any savings in excess of £5 million will be returned to licence fee payers. At the end of the regime, any remaining savings over and above those that are not to be carried forward to the successor regime will be returned. | No |

Schedule 3

Condition A4: Payments by Licensee to the Authority

1. This condition applies where the licensee has been issued with a Section C (system operator standard conditions) Direction which is still in effect.

~~1.~~ 2. Where Paragraph 1 applies, ~~the~~ licensee shall, at the times stated, pay to the Authority such amounts as are determined by or under this condition.

~~2.~~ 3. In respect of each relevant year at the beginning of which the licensee holds this licence, the licensee shall pay to the Authority the aggregate of:

~~(f) an amount which is the relevant proportion of the estimated costs of the Office of Fair Trading which relate to the expansion of Consumer Direct to enable it to cater for gas and electricity consumers;~~

~~(g)~~(f) an amount which is the relevant proportion of the estimated costs expenses of the Citizens Advice or Citizens Advice Scotland ~~Office of Fair Trading~~ on, or in connection with, the support of any qualifying public consumer advice scheme ~~Consumer Direct~~ that the Secretary of State considers is reasonable having regard to the functions exercisable by the National Consumer Council in relation to gas and electricity consumers;

~~(h)~~(g) an amount that is the relevant proportion of the estimated costs of the Secretary of State during the year in question in respect of -

(i) payments made by the Secretary of State by virtue of paragraph 4(2) or (2A) of Schedule 7 to the Act (payments relating to meter examiners);

(ii) any other costs incurred by the Secretary of State in performing functions conferred by Schedule 7 to the Act or by electricity meter regulations (as defined in section 95(5) of the Energy Act 2008); and

~~(i) an amount which is the relevant proportion of the estimated costs incurred in the previous relevant year by the Competition Commission in connection with any reference made to it with respect to this licence or any other licence granted under the Act or the Gas Act 1986; and~~

~~(j)~~(h)an amount which is the relevant proportion of the difference (being a positive or negative amount), if any, between:

- (aa) any costs estimated by the Authority in the previous relevant year under sub-paragraphs 2(a) to 2(hg); and
- (bb) the actual costs of the Authority, the National Consumer Council, and the Secretary of State (including Citizens Advice or Citizens Advice Scotland) ~~and the Competition Commission (in connection with references of the type referred to in sub-paragraph 2(i))~~ for the previous relevant year ~~or, in the case of the Competition Commission, for the relevant year prior to the previous relevant year.~~

~~34.~~34.The amounts determined in accordance with paragraph ~~23~~ shall be paid by the licensee to the Authority in two instalments, with:

- (b) the first instalment being due for payment by 30 June in each relevant year; and
- (c) the second instalment being due for payment by 31 January in each relevant year

provided that, in each case, if the Authority has not given notice of the amount of the instalment due at least 30 days before the payment date stated above, the licensee shall pay the amount due within 30 days from the actual giving of notice by the Authority to the licensee (whenever notice is given).

~~4.5.~~4.5.If the licensee fails to pay the amount determined in accordance with paragraph ~~23~~ within 30 days of the payment date determined in accordance with paragraph ~~34~~, it shall with effect from that date pay simple interest on that amount at the rate which is from time to time equivalent to the base rate of NatWest Bank plc or, if there is no such base rate, such base rate as the Authority may designate for the purposes hereof.

56 In this condition:

“estimated costs”

means costs estimated by the Authority as likely to be or have been:

~~(a)~~ the costs of-

(i) the Authority calculated in accordance with principles determined by the Authority for the purposes of this condition generally (after consultation with the licensee and others likely to be affected by the application of such principles) and notified to the licensee;

(ii) the National Consumer Council; and

(iii) the Secretary of State (including Citizens Advice or Citizens Advice Scotland); ~~and~~

~~(b) the costs incurred by the Competition Commission in connection with references to it in respect of this licence or any other licence granted under the Act or Gas Act 1986, such estimate having regard to any views of the Competition Commission;~~

“relevant proportion”

means the proportion of the costs attributable to the licensee in accordance with principles determined by the Authority for the purposes of this condition generally (after consultation with the licensee and others likely to be affected by the application of those principles) and notified to the licensee ~~or, in relation to the costs of the Competition Commission, in accordance with any direction given by the Competition Commission under section 177(3) of the Energy Act 2004 or, in the absence of such direction, in accordance with~~

such principles; and