

## SCHEDULE 8

### Modification of standard conditions of licences granted under the Electricity Act 1989

## PART 2

### Standard conditions of electricity transmission licences

- 2.—(1) The standard conditions of an electricity transmission licence are amended as follows.
- (2) In condition A1 (definitions and interpretation)—
- (a) after the definition of “affiliate” insert—
- “the “Agency” means the Agency for the Cooperation of Energy Regulators established under 2009/713/EC of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators<sup>(1)</sup>.”;
- (b) after the definition of “effective time” insert—
- ““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<sup>(2)</sup>.”;
- (c) after the definition of “electricity licensee” insert—
- ““the Electricity Regulation” means Regulation 2009/714/EC of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation 2003/1228/EC<sup>(3)</sup>.”;
- (d) after the definition of “use of system charging methodology” insert—
- ““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.”.
- (3) In condition B1 (regulatory accounts)—
- (a) in paragraph 3—
- (i) in sub-paragraph (b)(viii), at the end insert “; and”;
- (ii) after sub-paragraph (b)(viii), insert—
- “(dd) where applicable, revenue from the ownership of the transmission network.”;
- (b) after paragraph 6, insert—
- “6A. The licensee shall, in its internal accounting, keep separate accounts for each of the licensee’s transmission and distribution activities (so far as relevant) as though the activities were carried out by separate undertakings.

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(1) OJ No L 211, 14.08.2009, p. 1.  
(2) OJ No L 211, 14.08.2009, p. 55.  
(3) OJ No L 211, 14.08.2009, p. 15.

**6B.** The licensee shall keep internal accounts which may be consolidated for other electricity activities not relating to transmission and distribution.

**6C.** Where appropriate, the licensee shall keep internal consolidated accounts for other electricity activities not related to transmission or distribution.

**6D.** The accounts shall include a balance sheet and a profit and loss account for each activity.”;

- (c) in paragraph 8, in sub-paragraph (a), for “Article 19 of Directive [2003/54/EC](#) of the European Parliament and of the European Council of 26 June 2003” substitute “Article 31 of the Electricity Directive”.

(4) In condition B4 (provision of information to the Authority), in paragraph 1, in sub-paragraph (a)—

(a) after “the Energy Act 2004,” omit “and”;

(b) after “the Energy Act 2008”, insert “, the Energy Act 2010, the Electricity Directive and the Electricity Regulation”.

(5) After condition B19 (connect and manage implementation), insert—

**“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 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) 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, or that a person from a third country 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, or such part of that 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, or that a person from a third country 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 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” 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;”.

(6) In condition C3 (Balancing and Settlement Code (BSC))—

(a) in paragraph 3—

(i) in sub-paragraph (d), at the end, for the full stop at the end substitute “; and”;

(ii) after sub-paragraph (d), insert—

“(e) compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency.”;

(b) in paragraph 4—

(i) in sub-paragraph (a), after “BSC parties,” insert “the Authority (in relation only to modifications which it reasonably considers are necessary to comply with or implement the Electricity Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency),”;

(ii) in sub-paragraph (aa), after “pursuant to paragraphs” insert “4(ae),”;

(iii) after sub-paragraph (ac), insert—

“(ad) for modification proposals made by the Authority and the licensee in accordance with paragraphs 4(a), 4(aa) and 4(ae)(i) respectively:

(i) to be accepted into the BSC modification procedures by the panel;

- (ii) where they are raised by the licensee, not to be withdrawn without the Authority's prior consent; and
- (iii) to proceed in accordance with any timetable(s) directed by the Authority in accordance with paragraph 4(ae);
- (ae) for compliance by the licensee and (where applicable) the panel with any direction(s) issued by the Authority under this paragraph setting and/or amending a timetable (in relation to a modification proposal which the Authority reasonably considers is necessary to comply with or implement the Electricity Regulation and/or any relevant binding decisions of the European Commission and/or the Agency) for the:
  - (i) licensee to raise a modification proposal; and/or
  - (ii) completion of each of the procedural steps outlined in paragraph 4, to the extent that they are relevant; and/or
  - (iii) implementation of a modification.”;
- (iv) in sub-paragraph (c), after “implementation of any modification to be” insert—
  - “either:
    - (i) in accordance with any direction(s) issued by the Authority under paragraph 4(ae)(iii); or
    - (ii) where no direction has been issued by the Authority under paragraph 4(ae)(iii),”;
- (v) after sub-paragraph (e), insert—
  - “(f) for the completion of each of the procedural steps outlined in this paragraph 4, to the extent that they are relevant, to be in accordance with any timetable(s) directed by the Authority under paragraph 4(ae).”;
- (c) in paragraph 4A—
  - (i) in sub-paragraph (b), after “4C”, for the full stop at the end substitute “or 4(ae)(i); or”;
  - (ii) after sub-paragraph (b), insert—
    - “(c) the modification proposal is made by the Authority in accordance with paragraph 4(a).”.
- (7) After condition C5 (use of system charging methodology), insert—

**“Condition C5A: Use of system charging requirements under the Electricity Directive**

**1. To the extent not already required under this licence, and for the avoidance of doubt:**

- (a) the licensee shall, as soon as reasonably practicable, publish:
  - (i) the statement of the use of system charging methodology prepared under paragraph 2(a) of condition C4 (Charges for use of system); and
  - (ii) a statement of use of system charges under paragraph 2(b) of condition C4 (Charges for use of system),

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(collectively “the UoS charging statements”);

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- (b) the licensee shall obtain the Authority's approval to the UoS charging statements before publication;

- (c) the licensee shall conform to the published and approved UoS charging statements.
- (8) After condition C6 (connection charging methodology), insert—

**“Condition C6A: Connection charging requirements under the Electricity Directive**

1. To the extent not already required under this licence, and for the avoidance of doubt:
- (a) the licensee shall, as soon as reasonably practicable, publish the most recent statement of the connection charging methodology prepared under paragraph 4 or paragraph 10 of condition C6 (Connection charging methodology) (“the connection charging statement”);
  - (b) the licensee shall obtain the Authority’s approval to the connection charging statement before publication;
  - (c) the licensee shall conform to the published and approved connection charging statement.”.
- (9) In condition C7 (prohibition on discriminating between users), in paragraph 2, after “subject to paragraphs 3 and 5, the licensee” insert, “shall apply charges objectively and without discrimination. The licensee”.
- (10) In condition C8 (requirement to offer terms), after paragraph 6, insert—
- “6A. In any such case the licensee shall give duly substantiated reasons for not offering to enter or not entering into any agreement.”.
- (11) In condition C10 (CUSC)—
- (a) in paragraph 1—
    - (i) in sub-paragraph (a), at the end, omit “and”;
    - (ii) in sub-paragraph (b), at the end, for “,” substitute “; and”;
    - (iii) after sub-paragraph (b) insert—
      - “(c) compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency,”;
  - (b) in paragraph 6—
    - (i) in sub-paragraph (a)(i), after “CUSC users,” insert, “the Authority (in relation only to modifications which it reasonably considers are necessary to comply with or implement the Electricity Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency),”;
    - (ii) in sub-paragraph (a)(ii), after “CUSC users,” insert “the Authority (in relation only to modifications which it reasonably considers are necessary to comply with or implement the Electricity Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency),”;
    - (iii) in sub-paragraph (aa), after “pursuant to paragraphs” insert “6(af),”;
    - (iv) after sub-paragraph (ad), insert—
      - “(ae) for modification proposals made by the Authority or the licensee in accordance with paragraphs 6(a), 6(aa) and 6(af)(i) respectively:
        - (i) to be accepted into the CUSC modification procedures by the panel;
        - (ii) where they are raised by the licensee, not to be withdrawn without the Authority’s prior consent; and

- (iii) to proceed in accordance with any timetable(s) directed by the Authority in accordance with paragraph 6(af);
- (af) for compliance by the licensee and (where applicable) the panel with any direction(s) issued by the Authority under this paragraph setting and/or amending a timetable (in relation to a modification proposal which the Authority reasonably considers is necessary to comply with or implement the Electricity Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency) for the:
  - (i) licensee to raise a modification proposal; and/or
  - (ii) completion of each of the procedural steps outlined in paragraph 6, to the extent that they are relevant; and/or
  - (iii) implementation of a modification.”;
- (v) in sub-paragraph (c), after “implementation of any modification to be” insert—
  - “either:
    - (i) in accordance with any direction(s) issued by the Authority under paragraph 6(af)(iii); or
    - (ii) where no direction is issued by the Authority under paragraph 6(af)(iii),”;
  - (vi) in sub-paragraph (c), at the end, omit “and”;
  - (vii) in sub-paragraph (d), at the end, for the full stop at the end substitute “; and”;
  - (viii) after sub-paragraph (d), insert—
    - “(e) for the completion of each of the procedural steps outlined in this paragraph 6, to the extent that they are relevant, to be in accordance with any timetable(s) directed by the Authority under paragraph 4(af).”;
- (c) in paragraph 6A—
  - (i) in sub-paragraph (b), after “6C”, for the full stop at the end substitute “or 6(af)(i); or”;
  - (ii) after sub-paragraph (b), insert—
    - “(c) the modification proposal is made by the Authority in accordance with paragraph 6(a).”.
- (12) In condition C11 (production of information about the national electricity transmission system)—
  - (a) in paragraph 1—
    - (i) in sub-paragraph (b), at the end, omit “and”;
    - (ii) after sub-paragraph (b), insert—
      - “(ba) such further information as may be necessary for any interconnected system operator to ensure the secure and efficient operation, coordinated development and interoperability of the interconnected system; and”;
  - (b) in paragraph 3—
    - (i) for “may” substitute “shall”;
    - (ii) for “year” substitute “three months”;
  - (c) after paragraph 5, insert—
    - “6. In this condition:
      - “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.”.

(13) In condition C14 (Grid Code)—

(a) in paragraph 1—

- (i) in sub-paragraph (b)(ii), at the end omit “and”;
- (ii) in sub-paragraph (b)(iii), at the end, for the full stop at the end substitute “; and”;
- (iii) after sub-paragraph (b)(iii), insert—
  - “(iv) to efficiently discharge the obligations imposed upon the licensee by this license and to comply with the Electricity Regulation and any relevant legally binding decisions of the European Commission and/or the Agency.”;

(b) in paragraph 2B—

- (i) after “The review undertaken under paragraph 2A shall” insert—

“:

- (a) where the Authority reasonably considers it necessary to comply with or implement the Electricity Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency, proceed in accordance with any timetable(s) directed by the Authority under this paragraph in relation to the progress of the review and/or implementation of any revisions to the Grid Code; and”;

- (ii) re-number the wording from “involve an evaluation” to the end as sub-paragraph (b).

(14) In condition D4A (obligations in relation to offers for connection etc), in paragraph 4, after “pursuant to paragraph 1 or paragraph 3)” insert “and shall give duly substantiated reasons to the system operator for not offering to enter or not entering into any agreement”.

(15) In condition E2 (regulatory accounts)—

(a) in paragraph 3—

- (i) in sub-paragraph (a), after “other business of the licensee” insert “, including a separate balance sheet and a separate profit and loss account (or, as appropriate, an income statement) for the consolidated transmission business and any other business of the licensee”;
- (ii) in sub-paragraph (b)(viii), after “any revenue” insert “(including, where applicable, revenue from the ownership of the transmission network)”;

(b) after paragraph 6, insert—

“**6A.** The accounting records kept or caused to be kept by the licensee under paragraph 3(a) shall include as applicable:

- (a) separate accounting records for each business of the licensee related to electricity transmission activities and electricity distribution activities;
- (b) accounting records, which may be consolidated, for each business of the licensee related to electricity activities other than electricity transmission activities and electricity distribution activities; and
- (c) unless otherwise approved by the Authority having regard to the purposes of this condition, consolidated accounts for each business of the licensee not related to electricity activities.”;

- (c) in paragraph 8, in sub-paragraph (a), for “Article 19 of Directive [2003/54/EC](#) of the European Parliament and of the Council of 26 June 2003” substitute “Article 31 of the Electricity Directive”.

- (16) In condition E5 (provision of information to the Authority), in paragraph 1—
- (a) in sub-paragraph (a), after “the Energy Act 2004” for “and” substitute “,” and after “the Energy Act 2008” insert “and the Energy Act 2010” and, at the end, omit “and”;
  - (b) in sub-paragraph (b), at the end, for the full stop at the end substitute “; and”;
  - (c) after sub-paragraph (b), insert—
    - “(c) any function conferred on the Authority by or under the Electricity Directive or Electricity Regulation, including any function conferred on the Authority in its capacity as national regulatory authority for Great Britain.”.
- (17) In condition E17 (obligations in relation to offers for connection etc.), in paragraph 5, after “in accordance with the STC” insert “, including providing duly substantiated reasons to the system operator for not offering to enter into or not entering into any agreement”.
- (18) After condition E21 (offshore transmission owner of last resort), insert—

**“Condition E22: General provisions on disclosure of information**

1. Except to the extent otherwise provided in this or any other licence condition, or required by any other legal duty to disclose information, the licensee shall not disclose commercially sensitive information which it has obtained in the course of carrying out its activities.
2. The licensee shall not disclose information about its own activities, which may be commercially advantageous in respect of supply or generation activities, in a discriminatory manner except where this is necessary for carrying out a business transaction.
3. Paragraph 1 above shall not prohibit disclosure by the licensee to any undertaking which either holds a transmission licence or is the relevant system operator (being a transmission system operator) for an interconnected system for the purpose of the undertaking carrying out its transmission activities.

**Condition E23: 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) 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, or that a person from a third country 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, or such part of that 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, or a person from a third country 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 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” 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 E24: 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 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.”.