SCHEDULE 8 Regulation 50(1)

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

PART 1

Interpretation

1. In this Schedule—

"the Authority" means the Gas and Electricity Markets Authority;

"electricity distribution licence" means a licence granted under section 6(1)(c) of the Electricity Act 1989 (distribution licences)(**1**);

"electricity interconnector licence" means a licence granted under section 6(1)(e) of the Electricity Act 1989 (interconnector licences);

"electricity supply licence" means a licence granted under section 6(1)(d) of the Electricity Act 1989 (supply licences);

"electricity transmission licence" means a licence granted under section 6(1)(b) of the Electricity Act 1989 (transmission licences).

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(**2**).";

(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(**3**).";

(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(**4**).";

(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,

(**1**) 1989 c. 29. Section 6 was substituted by section 30 of the Utilities Act 2000 (c. 27) and a relevant amendment was made by section 197(9) of, and Part 1 of Schedule 23 to, the Energy Act 2004 (c. 20).
(**2**) OJ No L 211, 14.08.2009, p. 1.
(**3**) OJ No L 211, 14.08.2009, p. 55.
(**4**) OJ No L 211, 14.08.2009, p. 15.

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.

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),

(collectively "the UoS charging statements");

(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.".

PART 3

Standard conditions of electricity distribution licences

3.—(1) The standard conditions of an electricity distribution licence are amended as follows.

(2) In condition 1 (definitions for the standard conditions)—

(a) after the definition of "De Minimis Business" insert—

""**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(**5**).";

(b) after the definition of "Public Electronic Communications Network" insert—

""**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 exchange in electricity and repealing Regulation 2003/1228/EC(**6**).".

(3) In condition 4 (no abuse of the licensee's special position), in paragraph 4.9, for "If the licensee is a Distribution Services Provider, it" substitute "The licensee".

(4) In condition 6 (provision of Information to the Authority), in paragraph 6.1, after "under any legislation", insert "or in pursuance of any requirements of the Directive or the Regulation".

(5) In condition 12 (requirement to offer terms for use of system and connection), after paragraph 12.7, insert—

"**12.7A.** Where the licensee refuses to offer to enter into an agreement for Use of System for one of the reasons in paragraph 12.7 duly substantiated reasons must be given for such refusal.".

(6) In condition 13 (charging methodologies for use of system and connection), in paragraph 13.3—

(a) in sub-paragraph (c), at the end omit "and";

(b) in sub-paragraph (d), at the end, for the full stop at the end substitute "; and";

(c) after sub-paragraph (d), insert—

"(e) compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.".

(7) In condition 13A (common distribution charging methodology)—

(a) after paragraph 13A.6, insert—

(**5**) OJ No L 211, 14.08.2009, p. 55.
(**6**) OJ No L 211, 14.08.2009, p. 15.

"**13A.6A.** The first Relevant Objective is compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.";

(b) in paragraph 13A.7, for "first" substitute "second";

(c) in paragraph 13A.8, for "second" substitute "third";

(d) in paragraph 13A.9, for "third" substitute "fourth";

(e) in paragraph 13A.10—

(i) for "fourth" substitute "fifth";

(ii) for "13A.7" substitute "13A.6A".

(8) In condition 13B (EHV distribution charging methodology)—

(a) after paragraph 13B.7, insert—

"**13B.7A.** The first Relevant Objective is compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.";

(b) in paragraph 13B.8, for "first" substitute "second";

(c) in paragraph 13B.9, for "second" substitute "third";

(d) in paragraph 13B.10, for "third" substitute "fourth";

(e) in paragraph 13B.11, for "fourth" substitute "fifth".

(9) In condition 21 (the Distribution Code)—

(a) in paragraph 21.4—

(i) in sub-paragraph (b), at the end, for the full stop at the end substitute "; and";

(ii) after sub-paragraph (b), insert—

"(c) efficiently discharge the obligations imposed upon distribution licensees by the distribution licences and comply with the Regulation and any relevant legally binding decision of the European Commission and/or the Agency for the Co-operation of Energy Regulators.";

(b) re-number paragraph 218.A as paragraph 21.8A;

(c) in that paragraph—

(i) after "The review undertaken under paragraph 21.8 must" insert—

":

(a) where the Authority reasonably considers it necessary to comply with or implement the Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators 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 modifications to the Distribution Code; and";

(ii) re-number the wording from "involve an evaluation" to the end as sub-paragraph (b);

(d) in paragraph 21.11, after "as may be specified in the direction", insert "and the licensee shall forthwith comply with any such directions".

(10) In condition 22 (Distribution Connection and Use of System Agreement)—

(a) in paragraph 22.2—

(i) in sub-paragraph (c), at the end omit "and";

(ii) in sub-paragraph (d), at the end, for the full stop at the end substitute a semicolon;

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

"(e) compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators; and

(f) in relation to the Common Distribution Charging Methodology or the EHV Distribution Charging Methodology, the Relevant Objectives listed in Part B of Standard Licence Condition 22A.";

(b) in paragraph 22.5—

(i) in sub-paragraph (a), after "any other party to the DCUSA," insert, "the Authority (in relation only to amendments which it reasonably considers are necessary to comply with or implement the Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators),";

(ii) in sub-paragraph (c), at the end omit "and";

(iii) in sub-paragraph (d), at the end, for the full stop at the end substitute a semicolon;

(iv) after sub-paragraph (d), insert—

"(e) amendment proposals made by the Authority or the licensee in accordance with paragraphs 22.5(a) and 22.5(f)(i) respectively are:

(i) to be accepted into the DCUSA amendment 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 22.5(f); and

(f) the licensee and (where applicable) the panel are to comply with any direction(s) issued by the Authority under this paragraph setting and/or amending a timetable (in relation to an amendment proposal which the Authority reasonably considers is necessary to comply with or implement the Regulation and/or any relevant legally binding decisions of the European Commission and/or Agency for the Co-operation of Energy Regulators) for the:

(i) licensee to raise an amendment proposal; and/or

(ii) completion of each of the procedural steps outlined in Part C, to the extent that they are relevant; and/or

(iii) implementation of an amendment proposal.";

(c) in paragraph 22.10, for sub-paragraph (a) substitute—

"(a) a proposed implementation date either:

(i) in accordance with any direction(s) issued by the Authority under paragraph 22.5(f)(iii); or

(ii) where no direction has been issued by the Authority under paragraph 22.5(f)(iii), that would enable any proposed amendment to take effect as soon as practicable after the decision to implement it has been reached, taking into account the complexity, importance, and urgency of that amendment; and";

(d) after paragraph 22.13 insert—

"**22.13A.** They must ensure that completion of each of the procedural steps outlined in this Part C, to the extent that they are relevant, is in accordance with any timetable(s) directed by the Authority under paragraph 22.5(f).".

(11) In Appendix 1 (Schedule of DCUSA contents) to condition 22, after paragraph A3, insert—

"**A3A.** Amendment proposals raised by the Authority or the licensee under paragraphs 22.5(a) and 22.5(f)(i) respectively and/or any amendment proposal in respect of which the Authority has issued a direction(s) under paragraph 22.5(f) require Authority approval.".

(12) In condition 22A (governance and change control arrangements for relevant charging methodologies)—

(a) re-number paragraph 22A.15 as 22A.16;

(b) re-number paragraph 22A.14 as 22A.15;

(c) re-number paragraph 22A.13 as 22A.14;

(d) re-number paragraph 22A.12 as 22A.13;

(e) re-number paragraph 22A.11 as 22A.12;

(f) re-number paragraph 22A.10 as 22A.11;

(g) after paragraph 22A.9, insert—

"**22A.10.** The fifth Relevant Objective is that compliance with the CDCM facilitates compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.".

(13) In condition 23 (Master Registration Agreement), after paragraph 23.3, insert—

"**23.4.** The Master Registration Agreement must be compliant with the Regulation and any relevant decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.

23.5. The arrangements referred to in paragraph 23.3(d) shall provide:

(a) for proposals for the variation of the Master Registration Agreement to be made by the Authority (in relation only to variations which it reasonably considers are necessary to comply with or implement the Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators);

(b) for variation proposals made by the Authority or the licensee in accordance with paragraphs 23.5(a) and 23.5(c)(i) respectively:

(i) to be accepted into the Master Registration Agreement variation procedures by the committee;

(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 paragraph 23.5(c);

(c) for compliance by the licensee and (where applicable) the committee with any direction(s) issued by the Authority under this paragraph setting and/or amending a timetable (in relation to a variation proposal which the Authority reasonably considers is necessary to comply with or implement the Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators) for the:

(i) licensee to raise a variation proposal; and/or

(ii) completion of each of the procedural steps outlined in the direction, to the extent that they are relevant; and/or

(iii) implementation of a variation.".

(14) After condition 31 (undertaking from ultimate controller), insert—

"**Chapter 7A: Standard conditions 31A to 31C: Independent Distribution Network Operators**

Condition 31A. Accounts

Provisions applying to Independent Distribution Network Operators Provisions applying to Independent Distribution Network Operators

31A.1. This condition and standard conditions 31B (Independence of the Distribution Business and restricted use of Confidential Information) and 31C (Appointment of Compliance Officer) apply where the licensee is not a Distribution Services Provider.

Keeping accounts at the disposal of the public

31A.2. The licensee shall draw up, submit to audit and publish its annual accounts in accordance with any obligations to which it is subject under national company law.

31A.3. To the extent that the licensee is not subject to an obligation to draw up and submit to audit annual accounts under national company law, the licensee shall draw up, submit to audit and publish its annual accounts as if it were a limited liability company within the meaning of sections 1 and 3 of the Companies Act 2006.

31A.4. The licensee shall keep a copy of its annual accounts at the disposal of the public at its principal place of business.

Internal accounting

31A.5. The licensee, in its internal accounting, shall:

(a) keep separate accounts for its distribution activities and each if any of its transmission activities as if such activities were carried out by separate undertakings, to avoid discrimination, cross-subsidisation between these activities and distortion of competition;

(b) keep accounts, which may be consolidated, for other electricity activities not relating to transmission or distribution.

(c) ensure that revenue from ownership of the interconnector operation of the distribution system is separately identifiable;

(d) where appropriate, keep consolidated accounts for other non-electricity activities;

(e) include a balance sheet and a profit and loss account for each activity in the accounts.

Audit

31A.6. The licensee must at its own expense enter into a contract of appointment with an Appropriate Auditor for the completion of Agreed Upon Procedures in relation to the prohibition of cross-subsidy and discrimination generally and in particular under standard condition 31B.

31A.7. The contract must require that Agreed Upon Procedures are conducted in relation to each Regulatory Year and that the licensee will arrange for the Appropriate Auditor to address a report to the Authority by 31 July following the end of each Regulatory Year which states

that he has, in a manner consistent with the relevant auditing standards, completed the Agreed Upon Procedures issued by the Authority in respect of the Regulatory Year under report and which sets out his findings.

31A.8. If the Authority is satisfied that the report referred to in paragraph 6 above demonstrates that the licensee has complied with the obligation to avoid discrimination and cross-subsidies that is specified in Article 31 of Directive 2009/72/EC of the European Parliament and the European Council of 13 July 2009 and is imposed on the licensee by the condition of this licence referred to in paragraph 6 above, the report is deemed to represent the results of an audit of that obligation, as required by the Article.

Interpretation

31A.9. In this condition:

Agreed Upon Procedures means procedures from time to time agreed between the Authority, the Appropriate Auditor and the licensee for the purpose of enabling the Appropriate Auditor to review and report to the Authority on matters relating to the licensee's compliance with the obligation mentioned at paragraph 7.

Appropriate Auditor means:

(a) in the case of a licensee that is a company within the meaning of section 1 of the Companies Act 2006(**7**) a person appointed as auditor under Chapter 2 of Part 16 of that Act;

(b) in the case of any other licensee that is required by the law of a country or territory within the European Economic Area to appoint an auditor under provisions analogous to those of Chapter 2 of Part 16 of that Act, a person so appointed; and

(c) in any other case a person who is eligible for appointment as a company auditor under Part 42 of that Act.

National company law means:

(a) in the case of a licensee that is a company within the meaning of section 1 of the Companies Act 2006, that Act;

(b) in the case of any other licensee that is required by the law of a country or territory within the European Economic Area to comply with obligations to draw up, audit and publish annual accounts, that law.

Condition 31B. Independence of the Distribution Business and restricted use of Confidential Information

31B.1. This condition applies where the licensee is not a Distribution Services Provider but is part of a Vertically Integrated Undertaking.

Licensee's obligations

31B.2. The licensee must put in place and at all times maintain managerial and operational systems that prevent any Relevant Licence Holder from having access to Confidential Information except and to the extent that such information:

(a) is made available on an equal basis to any Electricity Supplier, gas supplier, or gas shipper;

(b) is referable to a Customer who at the time to which the information relates was a Customer of the Relevant Licence Holder; or

(**7**) 2006 c. 46. Amendments have been made that are not relevant for these purposes.

(c) is of a type that has been confirmed by the Authority in Writing as corporate information.

Compliance Statement must always be in place

31B.3. Except with the Authority's consent, the licensee must at all times have in place a Compliance Statement, approved by the Authority, that describes the practices, procedures, and systems which the licensee has adopted (or intends to adopt) to ensure compliance with paragraph 2.

31B.4. If the Authority does not direct the licensee to amend the Compliance Statement within 60 days of receiving it, the statement is to be treated as approved by the Authority.

31B.5. The licensee must take all reasonable steps to ensure that it complies with the terms of the Compliance Statement in place under this condition.

Specific contents of the Compliance Statement

31B.6. The Compliance Statement must, in particular, set out how the licensee will:

(a) maintain the full managerial and operational independence of the Distribution Business from any Relevant Licence Holder;

(b) maintain the branding of the Distribution Business so that it is fully independent from the branding used by any Relevant Licence Holder; and

(c) manage the transfer of employees from the Distribution Business to any Relevant Licence Holder.

31B.7. The Compliance Statement must also ensure that any arrangements to which the licensee is party that fall within any of the descriptions given in paragraph 8 are such as to prevent any breach of the requirements of paragraph 2.

31B.8. The arrangements referred to in paragraph 7 are those that enable any Relevant Undertaking, or any person engaged in or in respect of the activities of such a Relevant Licence Holder, to have any use of or access to:

(a) premises or parts of premises occupied by persons engaged in, or in respect of, the management or operation of the Distribution Business;

(b) systems for recording, processing, or storing data to which persons engaged in, or in respect of, the management or operation of the Distribution Business also have access;

(c) equipment, facilities, or property employed for the management or operation of the Distribution Business; and

(d) the services of any persons who are (whether or not as their principal occupation) engaged in, or in respect of, the management or operation of the Distribution Business.

Revision and publication of Compliance Statement

31B.9. The licensee may, with the Authority's approval, revise a Compliance Statement prepared in accordance with paragraph 3.

31B.10. The licensee must publish a copy of every Compliance Statement prepared in accordance with paragraph 3 (or revised in accordance with paragraph 9) on its Website (if it has one) within 21 days of its approval by the Authority.

Interpretation

31B.11. In this condition:

Confidential Information means information relating to, or derived from, the Distribution Business that is not published or otherwise legitimately in the public domain.

Relevant Licence Holder means any holder of:

(a) a Supply Licence; or

(b) a gas supply licence; or

(c) a gas shipper licence; or

(d) an electricity generation licence;

that is also an Affiliate or a Related Undertaking of the licensee.

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 perform in the European Economic Area at least one of the functions of generation or supply of electricity. Terms within this definition shall have the meaning given to them by the Directive.

Condition 31C. Appointment of Compliance Officer

Application to Vertically Integrated Undertakings

31C.1. This condition applies where the licensee is not a Distribution Services Provider but is part of a Vertically Integrated Undertaking.

Purpose of appointment

31C.2. The licensee must ensure, following consultation with the Authority, that a competent person (who is to be known as the Compliance Officer) is appointed for the purpose of facilitating the licensee's compliance with the Relevant Obligations.

Appropriate tasks for the Compliance Officer

31C.3. The licensee must at all times ensure that the Compliance Officer is engaged for the performance of such duties and tasks as the licensee considers it appropriate to assign to him for the purpose specified at paragraph 2.

31C.4. Those duties and tasks for the Compliance Officer must include:

(a) providing relevant advice and information to the licensee for the purpose of facilitating its compliance with the Relevant Obligations;

(b) monitoring the effectiveness of the practices, procedures, and systems adopted by the licensee in accordance with the Compliance Statement required under paragraph 3 of standard condition 31B (Independence of the Distribution Business and restricted use of Confidential Information);

(c) advising whether, to the extent that the implementation of such practices, procedures, and systems requires the co-operation of any other person, they are designed so as reasonably to allow the required co-operation;

(d) investigating any complaint or representation made available to him in accordance with paragraph 6;

(e) recommending and advising on the remedial action that any such investigation has demonstrated to be necessary or desirable;

(f) providing relevant advice and information to the licensee for the purpose of ensuring its effective implementation of the practices, procedures, and systems referred to at sub-paragraph (b), and of any remedial action recommended in accordance with sub-paragraph (e); and

(g) reporting annually to the licensee's directors about his activities during the period covered by the report, including the fulfilment of any other duties assigned to him by the licensee under this condition.

Licensee's duties to the Compliance Officer

31C.5. The licensee must ensure that the Compliance Officer is sufficiently independent to comply with the requirements of Article 26(2)(d) of the Directive and that he:

(a) is provided with such staff, premises, equipment, facilities, and other resources; and

(b) has such access to the licensee's premises, systems, information, and documentation,

as he might reasonably expect to require for the fulfilment of the duties and tasks assigned to him.

31C.6. The licensee must give the Compliance Officer a copy of any complaint or representation that it receives from any person about a matter arising under or because of the Relevant Obligations.

Licensee's own Compliance Report

31C.7. The licensee must, as soon as is reasonably practicable after receiving each annual report of the Compliance Officer under paragraph 3(g), produce a report ("the Compliance Report"):

(a) about its compliance during the relevant year with the Relevant Obligations; and

(b) about its implementation of the practices, procedures, and systems adopted in accordance with the Compliance Statement required under paragraph 3 of standard condition 31B.

31C.8. The Compliance Report produced in accordance with paragraph 6 must, in particular, do the things described in paragraphs 9 to 11.

31C.9. It must detail the activities of the Compliance Officer during the relevant year.

31C.10. It must refer to such other matters as are or may be appropriate in relation to the licensee's implementation of the practices, procedures, and systems adopted in accordance with the Compliance Statement required under paragraph 3 of standard condition 31B.

31C.11. It must set out the details of any investigations conducted by the Compliance Officer, including:

(a) the number, type, and source of the complaints or representations on which those investigations were based;

(b) the outcome of the investigations; and

(c) any remedial action taken by the licensee following them.

Publication of Compliance Report

31C.12. The licensee must:

(a) give the Authority a copy of every Compliance Report; and

(b) publish each such report on, and in a way that is readily accessible from, its Website (if it has one).

Interpretation

31C.13. For the purposes of this condition, Relevant Obligations means:

(a) the requirements of standard condition 31B (Independence of Distribution Business and restricted use of Confidential Information);

and, so far as they relate to relationships with Relevant Licence Holders within the meaning of standard condition 31B, the requirements of:

(b) paragraph 9 of standard condition 4 (No abuse of the licensee's special position) (which prohibits cross-subsidy between the licensee's Distribution Business and any other business of the licensee or of an Affiliate or Related Undertaking of the licensee); and

(c) paragraph 1 of standard condition 19 (Prohibition of discrimination under Chapters 4 and 5) (which prohibits the licensee from discriminating between any person or class or classes of persons when providing Use of System or connections or carrying out works for the purposes of connection).".

(15) In condition 42 (independence of the distribution business and restricted use of confidential information), in paragraph 42.10—

(a) in the definition of "Relevant Licence Holder", in sub-paragraph (c), for "," substitute "; or";

(b) after sub-paragraph (c), insert—

"(d) an electricity generation licence,".

(16) In condition 43 (appointment of compliance officer), in paragraph 43.4 after "The licensee must ensure that the Compliance Officer" insert "is sufficiently independent to comply with the requirements of Article 26(2)(d) of the Directive and that he".

PART 4

Standard conditions of electricity supply licences

4.—(1) The standard conditions of an electricity supply licence are amended as follows.

(2) In condition 1 (definitions for standard conditions)—

(a) after the definition of "Deemed Contract" insert—

"**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(**8**);";

(b) after the definition of "Public Electronic Communications Network" insert—

"**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(**9**);".

(3) In condition 5 (provision of information to Authority)—

(**8**) OJ No L 211, 14.08.2009, p. 55.
(**9**) OJ No L 211, 14.08.2009, p. 15.

(a) in the heading, at the end insert "**and data retention**";

(b) in paragraph 5.1, after "under any legislation" insert ", including any functions conferred on the Authority by or under the Regulation";

(c) after paragraph 5.4, insert—

"**Data retention**

5.5. The licensee shall keep, for at least five years, the Relevant Data relating to any transactions in electricity supply contracts and electricity derivatives with wholesale customers, transmission system operators or any person who sells electricity to the licensee, which have been entered into by the licensee on or after the day after the day on which the Electricity and Gas (Internal Markets) Regulations 2011 are made.

5.6. With respect to transactions in electricity derivatives, the obligation to keep the Relevant Data shall only apply once the European Commission has adopted guidelines pursuant to paragraph 4 of Article 40 of the Directive.

5.7. After receiving a request from the Authority for the Relevant Data, the licensee must give the Relevant Data to the Authority when and in the form requested.

5.8. Paragraphs 5.5 and 5.7 do not require the licensee to keep Relevant Data in respect of any feed-in tariff arrangements entered into by the licensee in accordance with Condition 33 or 34.

Definitions for condition

5.9. For the purposes of this condition:

"**Relevant Data**" means details on the characteristics of all transactions in electricity supply contracts and electricity derivatives with wholesale customers, transmission system operators, or any person who sells electricity to the licensee, including but not limited to the duration, delivery and settlement rules, the quantity, the dates and times of execution and the transaction prices and means of identifying the wholesale customer concerned, as well as specified details of all unsettled electricity supply contracts and electricity derivatives.".

(4) After condition 14 (customer transfer blocking), insert—

"**Condition 14A. Customer transfer**

Obligation to complete a Supplier Transfer within three weeks

14A.1. The licensee must include a term in each Contract that has been entered into with a Customer on or after the day after the day on which the Electricity and Gas (Internal Markets) Regulations 2011 are made, providing that the licensee will complete any Supplier Transfer in accordance with that Contract within 21 days of the Relevant Date unless:

(a) the Customer requests that the Supplier be completed at a later date; or

(b) the Customer notifies the new supplier that he does not wish the Supplier Transfer to take place; or

(c) one or more of the conditions in paragraph 14A.2 applies.

14A.2. The conditions in this paragraph are that, on or after the Relevant Date:

(a) a Relevant Electricity Supplier has prevented the Proposed Supplier Transfer in accordance with paragraph 14.2(a) to (b) or 14.4(a) to (d) of standard condition 14 (Customer transfer blocking); or

(b) a Supply Exemption Holder is currently supplying electricity to the premises and has objected to the Proposed Supplier Transfer under paragraph 2 of Schedule 2ZB to the Act; or

(c) the licensee does not have all of the information it requires in order to complete the Supplier Transfer, despite having taken all reasonable steps to obtain the missing information from the Customer, and cannot readily obtain that information from another source; or

(d) the Customer is currently taking a supply of electricity through an Exempt Distribution System and the licensee is unable to start supplying gas to the premises because:

(i) a connection which the licensee or the Customer requires to be made in accordance with paragraph 7(2) of Schedule 2ZA to the Act and that physical connection has not yet been made; or

(ii) the distribution exemption holder has specified, in a notice under paragraph 1(6)(a)(i) of Schedule 2ZA to the Act, a metering arrangement which it considers would be required for access to be given to a third party supplier (within the meaning of that Schedule) and that metering arrangement is not yet in place; or

(e) the licensee is prevented from completing the Supplier Transfer due to any other circumstance which is outside the control of the licensee and which it has taken all reasonably practicable steps to resolve.

14A.3. Where a condition in paragraph 14A.2 applies the Supplier Transfer must be completed as soon as reasonably practicable and, in any event, within 21 days of the date on which the condition ceases to apply (or, if more than one condition applies, when all relevant conditions cease to apply).

14A.4. Where the condition in 14A.2(b) applies, the licensee must not complete the Supplier Transfer before the objection by the Supply Exemption Holder under paragraph 2 of Schedule 2ZB to the Act is resolved in accordance with paragraph 1(8) of that Schedule

14A.5. The licensee must not charge a Customer for any costs associated with carrying out a Supply Transfer. The obligation in this paragraph is without prejudice to contractual conditions relating to the termination of a Non-Domestic Supply Contract and to any obligation in the Contract to pay a termination fee.

Obligation to improve switching systems

14A.6. In order to achieve the objective of completing all Supplier Transfers within 21 days of the Relevant Date, the licensee must take all reasonable steps to improve the systems and processes governing the Supplier Transfer process.

Obligation to cooperate in respect of a Supplier Transfer

14A.7. The licensee must comply with any reasonable request from another Electricity Supplier or supply exemption holder to provide information or to take any other steps which are reasonably necessary in order to enable that Electricity Supplier or supply exemption holder to complete a Supplier Transfer within 21 days of the Relevant Date.

Information for Authority

14A.8. The licensee must give the Authority any Information that the Authority reasonably requests for the purpose of establishing:

(a) what steps the licensee has taken in accordance with its obligations under paragraph 14A.5 and/or

(b) the number of Supplier Transfers that have been completed by that licensee within 21 days of the Relevant Date.

Definitions for condition

14A.9. For the purposes of this condition:

"**Relevant Date**" means:

(a) the day after the day on which a Customer enters into a Contract with a new Electricity Supplier; or

(b) if after entering into the Contract there is a period of time within which the Customer may decide not to proceed with the Contract, the earlier of:

(i) the day after the day on which that period ends; and

(ii) 14 days after the day on which the Customer entered into the Contract.

"**Supplier Transfer**" in relation to any premises at which an Electricity Supplier is supplying electricity, means the transfer of responsibility for that supply from that Electricity Supplier to another Electricity Supplier."Exempt Distribution System", "Distribution Exemption Holder" and "Supply Exemption Holder" have the meanings given in Part 1 of the Act.".

(5) After condition 19A (financial information reporting), insert—

"**Condition 19B. Prohibition of cross-subsidies**

The licensee shall ensure that its business carrying out supply activities shall not give any cross-subsidy to, or receive any cross-subsidy from any interconnection, transmission or distribution business of the licensee.".

(6) In condition 20 (enquiry service and supply number)—

(a) for the heading substitute "Enquiry service, Supply Number and dispute settlement";

(b) after paragraph 20.4, insert—

"**Dispute settlement**

20.5. The licensee must provide to each of its Customers information concerning his rights as regards the means of dispute settlement available to him in the event of a dispute with the licensee by providing that information on any relevant Promotional Materials sent to the Customer and on or with each Bill or statement of account sent to each Customer in relation to Charges for the Supply of Electricity or annually if the licensee has not sent such a Bill or statement of account to him.

20.6. For the purposes of this condition:

"**Promotional Materials**" means documents, other than newspapers, that are handed out or sent directly to consumers and are intended to promote the sale of electricity.".

(7) After condition 21A (provision of the annual statement of supply to participants of the carbon reduction commitment (CRC) energy efficiency scheme), insert—

"**Condition 21B. Billing based on meter readings**

21B.1. If a Customer provides a meter reading to the licensee that the licensee considers reasonably accurate, or if the Electricity Meter is read by the licensee, the licensee must take

all reasonable steps to reflect the meter reading in the next Bill or statement of account sent to the Customer.

21B.2. If the licensee considers that a meter reading provided by a Customer is not reasonably accurate, the licensee must take all reasonable steps to contact the Customer to obtain a new meter reading from him.".

(8) In condition 22 (duty to offer and supply under domestic supply contract)—

(a) re-number paragraph 22.7 as 22.8;

(b) re-number paragraph 22.6 as 22.7;

(c) re-number paragraph 22.5 as 22.6;

(d) after paragraph 22.4, insert—

"**Domestic terms**

22.5. A Domestic Supply Contract or a Deemed Contract with a Domestic Customer entered into or negotiated on or after the day after the day on which the Electricity and Gas (Internal Markets) Regulations 2011 are made must include:

(a) the identity and address of the licensee;

(b) the services provided, including any maintenance services provided, and any service quality levels that are to be met;

(c) if a connection is required, when that connection will take place;

(d) the means by which up to date information on all applicable tariffs and maintenance charges may be obtained;

(e) any conditions for renewal of the Domestic Supply Contract;

(f) any compensation and refund arrangements which apply if contracted quality service levels are not met, including inaccurate and delayed billing; and

(g) information concerning the Domestic Customer's rights as regards the means of dispute settlement available to them in the event of a dispute with the licensee including how dispute resolution procedures can be initiated.";

(e) after paragraph 22.8, insert—

"**Provision of Customer Information**

22.9. Where a Domestic Customer requests the licensee to pass on his Historic Consumption Data and/or Supply Number either to the Domestic Customer or to another Electricity Supplier or to any other person, the licensee shall comply with that request free of charge as soon as reasonably practicable.

22.10. For the purposes of this condition:

"**Historic Consumption Data**" means:

(a) except where a Domestic Customer has held his Domestic Supply Contract for less than 12 months, the quantity of electricity supplied to the Domestic Customer's Domestic Premises during the previous 12 months; or

(b) where the Domestic Customer has held his Domestic Contract for less than 12 months, the quantity of electricity supplied to the Domestic Customer's Domestic Premises during the duration of the Domestic Contract.".

(9) In condition 27 (payments, security deposits and disconnections)—

(a) for the heading substitute "Payments, Security Deposits, Disconnections and final Bills";

(b) after paragraph 27.16, insert—

"**Provision of final bill**

27.17. Where the responsibility for the supply of electricity to a Domestic Customer transfers from the licensee to another Electricity Supplier or otherwise terminates, the licensee must take all reasonable steps to send a final Bill or statement of account of the Domestic Customer's account within 6 weeks of the supplier transfer or termination of the Domestic Supply Contract.

27.18. Where subsequent information becomes available to correct an error in the final Bill or statement of account issued pursuant to paragraph 27.17, the licensee shall send a corrected Bill or statement of account as soon as reasonably practicable after the subsequent information becomes available.".

(10) In condition 31 (general information for domestic customers), after paragraph 31.3, insert—

"**Energy Consumer Guidance**

31.4. Paragraphs 31.5 to 31.8 apply from the date on which the National Consumer Council publishes the first version of the Energy Consumer Guidance and the Concise Guidance.

31.5. The licensee must publish the latest version of the Energy Consumer Guidance and the Concise Guidance on its website within 28 days of the date on which that version is published by the National Consumer Council.

31.6. The licensee must inform each of its Domestic Customers how the Energy Consumer Guidance and the Concise Guidance can be accessed by:

(a) providing each new Domestic Customer whose premises it supplies with electricity under a Contract or a Deemed Contract with this information when the licensee first begins to supply electricity to the Domestic Customer's premises or, in the case of a Deemed Contract, becomes aware that it is doing so;

(b) including this information in or with each Bill or statement of account sent to a Domestic Customer in relation to Charges for the Supply of Electricity or annually if the licensee has not sent such a Bill or statement of account to him; and

(c) providing this information to a Domestic Customer as soon as reasonably practicable after he requests it.

31.7. The licensee must provide a copy of the Concise Guidance to a Domestic Customer annually.

31.8. For the purposes of this condition:

"**Concise Guidance**" means the concise guidance published by the National Consumer Council under section 19A of the Consumers, Estate Agents and Redress Act 2007.

"**Energy Consumer Guidance**" means the energy consumer guidance published by the National Consumer Council under section 19A of the Consumers, Estate Agents and Redress Act 2007.".

PART 5

Standard conditions of electricity interconnector licences

5.—(1) The standard conditions of an electricity interconnector licence are amended as follows.

(2) In condition 1 (definitions and interpretation)—

(a) before the definition of the "Act" insert—

""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;";

(b) after the definition of the "Act" insert—

"the "Agency" means the Agency for the Cooperation of Energy Regulators established by Regulation 2009/713/EC of the European Parliament and of the Council of 13 July 2009(**10**);

"ancillary service" means a service necessary for the operation of the licensee's interconnector or an interconnected system;";

(c) after the definition of "CUSC" insert—

"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(**11**);";

(d) after the definition of "integrated transmission system" insert—

""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;";

(e) after the definition of "licensee's interconnector" insert—

""new interconnector capacity" means physical capacity, or a 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 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(**12**);;";

(f) after the definition of "regulatory authority" insert—

""related undertaking" has the meaning given to it in Article 2 of the Directive;";

(g) for the definition of "relevant system operator", substitute—

""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;";

(h) in paragraph 11, for "A, B, C, D or E" (in each place) substitute "A, B, C, D, E or F".

(3) In condition 4 (provision of information to the Authority), in paragraph 1—

(a) in sub-paragraph (b), at the end, omit "and";

(b) in sub-paragraph (c), for the full stop at the end substitute "; and";

(c) after sub-paragraph (c), insert—

"(d) any functions conferred on the Authority by or under the Regulation.".

(4) In condition 5 (provision of information to a relevant transmission licensee or relevant distribution licensee)—

(**10**) OJ No L 211, 14.08.2009, p. 1.
(**11**) OJ No L 211, 14.08.2009, p. 55.
(**12**) OJ No L 211, 14.08.2009, p. 15.

(a) for the heading, substitute "Information regarding technical rules, operation and co-ordinated development";

(b) re-number paragraph 5 as paragraph 6;

(c) re-number paragraph 4 as paragraph 5;

(d) re-number paragraph 3 as paragraph 4;

(e) re-number paragraph 2 as paragraph 3;

(f) re-number paragraph 1 as paragraph 2;

(g) before paragraph 2, insert—

"**1.** In order to promote effective competition and the efficient functioning of the internal market, if so directed by the Authority the licensee shall:

(a) define the technical safety criteria and technical rules establishing the minimum technical design and operational requirements for connection by users to the interconnector. The technical rules shall ensure the interoperability of systems and be objective and non-discriminatory; and

(b) publish the technical safety criteria and technical rules described in sub-paragraph (a) above, at least on its website.";

(h) in paragraph 2—

(i) for "The licensee shall furnish to any relevant transmission licensee or any relevant distribution licensee" substitute "To the extent not already published pursuant to paragraph 1 above, the licensee shall furnish to any relevant transmission licensee, any relevant distribution licensee or any operator of an interconnected system";

(ii) in sub-paragraph (a), for "for that" substitute "by a" and after "applicable industry codes;" omit "or";

(iii) in sub-paragraph (b) after "in such directions", for the full stop at the end substitute "; or";

(iv) after sub-paragraph (b), insert—

"(c) be required by the operator of an interconnected system for the purposes of ensuring the secure and efficient operation of the interconnected system and its coordinated development and interoperability with the licensee's interconnector.";

(i) in paragraph 3—

(i) for "refuse to provide an item of information" substitute "refuse to disclose an item of information under paragraph 1, sub-paragraph 2(a) and/or sub-paragraph 2(c)";

(ii) for "sub-paragraph 1(a)" substitute "paragraph 1, sub-paragraph 2(a) and/or sub-paragraph 2(c).";

(j) in paragraph 5—

(i) for "Sub-paragraph 1(a)" substitute "Sub-paragraphs 2(a) and 2(c)";

(ii) after "relevant transmission licensee", for "or" substitute ",";

(iii) after "relevant distribution licensee" insert ", or any operator of an interconnected system";

(k) in paragraph 6, in the definition of "relevant transmission licensee" after "the licensee interfaces" omit "with".

(5) In condition 6 (separation of accounts), in paragraph 1, for "cross-subsidisation" substitute "discrimination, cross-subsidisation and the distortion of competition".

(6) In condition 9 (use of revenues)—

(a) re-number paragraph 3 as paragraph 4;

(b) re-number paragraph 2 as paragraph 3;

(c) re-number paragraph 1 as paragraph 2;

(d) before paragraph 2, insert—

"**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 so as to enable the Authority to review and approve the use of revenue resulting from the allocation of interconnector capacity.

Part B: Use of Revenues";

(e) in paragraph 2, for "only for one or more of the purposes listed in sub-paragraphs 2(a) to 2(c) below" substitute "in accordance with Article 16(6) of the Regulation";

(f) after paragraph 2, insert—

"Part C: Use of Revenues Statement";

(g) in paragraph 3—

(i) for "an annual revenue statement ('use of revenues statement')" substitute "a use of revenues statement";

(ii) omit the wording from "This use of revenues statement" to the end;

(h) in paragraph 4, for "to the Authority within 12 months" to the end substitute "no later than 15 July 2011 and thereafter annually by 15 July.";

(i) after paragraph 4, insert—

"**5.** The use of revenues statement must set out, in respect of the year ending on 30 June:

(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;

(c) a statement verifying that, in the licensee's view, the actual use of revenues is in accordance with Article 16(6) of the Regulation, 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.".

(7) In condition 10 (charging methodology to apply to third party access to the licensee's interconnector)—

(a) in paragraph 1, omit "either before the licensee enters into the agreement or before the tariffs under the agreement fall due";

(b) after paragraph 1, in the sub-heading omit "and review";

(c) for paragraph 2, substitute—

"**2.** The licensee shall, sufficiently in advance of new interconnector capacity becoming operational, or by such date as the Authority may direct in writing, prepare and submit for approval by the Authority, a charging methodology for access to (including use of) the licensee's interconnector. The licensee may, subject to the approval of the Authority, submit a statement which includes both the Access Rules and the charging methodology.";

(d) re-number paragraph 21 as paragraph 25;

(e) re-number paragraph 20 as paragraph 24;

(f) re-number paragraph 19 as paragraph 23;

(g) re-number paragraph 18 as paragraph 22;

(h) re-number paragraph 17 as paragraph 21;

(i) re-number paragraph 16 as paragraph 20;

(j) re-number paragraph 15 as paragraph 19;

(k) re-number paragraph 14 as paragraph 18;

(l) re-number paragraph 13 as paragraph 17;

(m) re-number paragraph 12 as paragraph 16;

(n) re-number paragraph 11 as paragraph 15;

(o) omit paragraph 10;

(p) re-number paragraph 9 as paragraph 12;

(q) re-number paragraph 8 as paragraph 11;

(r) omit paragraph 7;

(s) re-number paragraph 6 as paragraph 10;

(t) re-number paragraph 5 as paragraph 9;

(u) re-number paragraph 4 as paragraph 5;

(v) re-number paragraph 3 as paragraph 4;

(w) after paragraph 2, insert—

"**3.** The charging methodology shall set out the methodologies for the calculation of any charges imposed for access to (including use of) the interconnector and/or the provision of ancillary services, and any payments made for access to (including use of), the interconnector, including:

(a) charges levied by the licensee for the allocation of interconnector capacity, including but not limited to:

(i) any charges for congestion management purposes, such as the non-use of nominated interconnector capacity; and

(ii) any charges for the provision (including the provision to any relevant system operator), of ancillary services, including but not limited to balancing services;

(b) payments made by the licensee for the provision of ancillary services provided by users or relevant system operators; and

(c) payments made by the licensee to users for the loss of capacity in the event of being unable to make available interconnector capacity.";

(x) in paragraph 4—

(i) after "transparent", for "and" substitute ",";

(ii) after "non-discriminatory", insert "and compliant with the Regulation and any relevant legally binding decision of the European Commission and/or the Agency";

(y) in paragraph 5, in sub-paragraph (a) after "that all persons", insert ", including those in other Member States,";

(z) after paragraph 5, insert—

"**6.** The licensee shall comply with any direction from the Authority to amend its charging methodology for the purposes of meeting the relevant charging methodology objectives, such direction to be issued without undue delay and in any event within three months of receipt of the charging methodology submitted by the licensee. Where the Authority directs changes to the charging methodology the licensee shall re-submit (by such date as may be determined by the Authority and notified to the licensee) it's charging methodology to the Authority for approval, and the provisions of paragraph 7 shall apply.

7. The charging methodology shall not be approved for the purposes of paragraph 1 unless and until the Authority has issued a direction approving the methodology on the basis that it meets the relevant charging methodology objectives, such direction to be issued without undue delay and in any event within three months of receipt of the charging methodology from the licensee, unless, prior to the expiry of that period, the Authority directs that the charging methodology is not approved. In the absence of any direction within three months of receipt of the charging methodology from the licensee, the charging methodology shall be deemed to be approved.

Provisional Charging Methodology

8. If the Authority does not approve the charging methodology submitted by the licensee, or if the licensee does not submit a charging methodology for approval, the licensee shall comply with any provisional charging methodology which the Authority may, after giving reasonable notice to the licensee, fix for an interim period and the licensee shall ensure that any compensatory measures set by the Authority are put in place to compensate the licensee and/or users as the case may be if the approved charging methodology deviates from the provisional charging methodology.";

(aa) in each of the following paragraphs, for "8, 9 and 10" substitute "11 to 14"—

(i) paragraph 9;

(ii) paragraph 10;

(bb) after paragraph 10, omit—

"Resubmission of charging methodology to the Authority for approval";

(cc) in paragraph 11—

(i) for "paragraph 10" substitute "paragraphs 13 and 14";

(ii) in sub-paragraph (a), after "that all persons", insert ", including those in other Member States,";

(iii) in sub-paragraph (b)(v), for "10" substitute "14";

(dd) after paragraph 12, insert—

"**13.** The licensee shall comply with any direction from the Authority to amend its proposed modified charging methodology for the purposes of meeting the relevant charging methodology objectives, such direction to be issued without undue delay and in any event within three months of receipt of the proposed modified charging methodology submitted by the licensee. Where the Authority directs changes to the proposed modified charging methodology the licensee shall re-submit (by such date as may be determined by the Authority and notified to the licensee) its proposed modified charging methodology to the Authority for approval and the provisions of paragraph 14 shall apply.

14. The proposed modified charging methodology shall not be approved for the purposes of paragraph 1 unless and until the Authority has issued a direction approving the proposed modified charging methodology on the basis that it meets the relevant charging methodology objectives, such direction to be issued without undue delay and in any event within three months of receipt of the proposed modified charging methodology from the licensee, unless, prior to the expiry of that period, the Authority directs that the proposed modified charging methodology is not approved (in which case paragraph 8 shall apply). In the absence of any direction within three months of receipt of the proposed modified charging methodology from the licensee, the proposed modified charging methodology shall be deemed to be approved.";

(ee) in paragraph 16, for "8" substitute "11";

(ff) in each of the following paragraphs, for "13" substitute "17"—

(i) paragraph 18;

(ii) paragraph 19;

(iii) paragraph 20;

(gg) in each of the following paragraphs, for "4 to 11" substitute "5 to 15"—

(i) paragraph 20;

(ii) paragraph 21 (in both places);

(hh) in each of the following paragraphs, for "17(b)" substitute "21(b)"—

(i) paragraph 22;

(ii) paragraph 23;

(iii) paragraph 24;

(ii) in paragraph 21 for "20" substitute "24".

(8) In condition 11 (requirement to offer terms for access to the licensee's interconnector)—

(a) omit paragraph 2;

(b) re-number paragraph 3 as paragraph 2;

(c) re-number paragraph 4 as paragraph 3;

(d) re-number paragraph 5 as paragraph 4;

(e) re-number paragraph 6 as paragraph 5;

(f) in that paragraph, for "4 or 5" substitute "3 or 4";

(g) re-number paragraph 7 as paragraph 6;

(h) re-number paragraph 8 as paragraph 7.

(9) After condition 11 (requirement to offer terms for access to the licensee's interconnector), insert—

"**Condition 11A. Approval of terms for access to the licensee's interconnector**

Initial approval of access rules

1. The licensee shall, sufficiently in advance of new interconnector capacity becoming operational, or by such date as the Authority may direct in writing, prepare and submit for approval by the Authority a statement setting out the Access Rules. The licensee may, subject to the approval of the Authority, submit a statement which includes both the charging methodology and the Access Rules.

2. In respect of interconnector capacity which was operational prior to 3 March 2011, and which has not been included in Access Rules submitted pursuant to paragraph 1, the licensee shall, by such date as the Authority may direct in writing, prepare and submit for approval by the Authority the Access Rules.

3. The Access Rules shall comply with the Regulation and must include, in particular, but not be limited to:

(a) arrangements for maximising the available interconnector capacity, including: the methodology for the calculation of interconnector capacity, the netting of capacity of any power flows in the opposite direction over the interconnector, the volume of capacity offered on a firm basis and any additional capacity offered on an interruptible basis to maximise cross-border trade;

(b) arrangements for users to obtain interconnector capacity at appropriate timescales, including, where relevant, the auction rules and procedures for nominating power flows against the capacity;

(c) arrangements for the management of congestion, including procedures for the licensee to resell or make available to other users unused interconnector capacity and for users to transfer or resell interconnector capacity;

(d) arrangements in the event that the licensee curtails, withdraws or is unable to provide available capacity;

(e) arrangements for any ancillary services, such as balancing arrangements, including where users may offer ancillary services to assist with relevant system operator balancing; and

(f) any general terms and conditions that a user must accept in order to obtain interconnector capacity.

4. The Access Rules shall be transparent, objective, non-discriminatory and compliant with the Regulation and any relevant legally binding decision of the European Commission and/or Agency (collectively 'the relevant access rules objectives').

5. Prior to submitting the Access Rules to the Authority for approval the licensee shall:

(a) take all reasonable steps to ensure that all persons, including those in other Member States who may have a direct interest in the Access Rules, are consulted and allow them a period of not less than 28 days within which to make written representations; and

(b) furnish to the Authority a report setting out:

(i) the terms originally proposed in the Access Rules;

(ii) the representations, if any, made by interested persons; and

(iii) any change in the terms of the Access Rules intended as a consequence of such representations.

6. The licensee shall comply with any direction from the Authority to amend the Access Rules for the purposes of meeting the relevant access rules objectives, such direction to be issued without undue delay and in any event 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 7 shall apply.

7. The Access Rules shall not be approved unless and until the Authority has issued a direction approving the Access Rules on the basis that they meet the relevant access rules objectives, 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.

Review of the Access Rules by the licensee

8. The licensee shall review its Access Rules at least once in each calendar year and, subject to paragraphs 10 to 13, make such modifications to the Access Rules as may be requisite for the purpose of ensuring that the Access Rules better achieve the relevant access rules objectives.

9. The licensee shall also review its Access Rules where the Authority so requests. Such review must have regard to any suggestions or comments made by the Authority on the licensee's Access Rules. The licensee shall complete any such review and provide the Authority with a report on the review within three months of the Authority's request. The licensee shall then, subject to paragraphs 10 to 13, make such modifications to the Access Rules as may be requisite for the purpose of better achieving the relevant access rules objectives.

Modification of Access Rules

10. Subject to paragraphs 12 and 13, the licensee shall not make a modification to the Access Rules unless the licensee has:

(a) taken all reasonable steps to ensure that all persons who may have a direct interest in the Access Rules, including those in other Member States, are consulted on the proposed modification and has allowed such persons a period of not less than 28 days within which to make written representations; and

(b) furnished the Authority with a report setting out:

(i) the terms originally proposed for the modification;

(ii) the representations, if any, made by interested persons to the licensee;

(iii) any change in the terms of the modification intended in consequence of such representations;

(iv) how the intended modification better achieves the relevant access rules objectives; and

(v) a timetable for the implementation of the modification and the date with effect from which the modification (if made) is to take effect, such date being not earlier than the date on which the period referred to in paragraph 13 expires.

11. The licensee shall not propose a modification to the Access Rules more than once a year unless the Authority consents otherwise.

12. The licensee shall comply with any direction from the Authority to amend its proposed modified Access Rules for the purposes of meeting the relevant access rules objectives, such direction to be issued without undue delay and in any event within three months of receipt of the proposed modified Access Rules submitted by the licensee. Where the Authority directs changes to the proposed modified Access Rules, the licensee shall re-submit (by such date as may be determined by the Authority and notified to the licensee) its proposed modified Access Rules to the Authority for approval and the provisions of paragraph 13 shall apply.

13. The proposed modified Access Rules shall not be approved unless and until the Authority has issued a direction approving the proposed modified Access Rules on the basis that they meet the relevant access rules objectives, such direction to be issued without undue delay and in any event within three months of receipt of the proposed modified Access Rules from the licensee unless, prior to the expiry of that period, the Authority directs that the proposed modified Access Rules are not approved. In the absence of any direction within three months of receipt of the proposed modified Access Rules from the licensee, the proposed modified Access Rules shall be deemed to be approved.

Publication of Access Rules

14. The licensee shall publish (at least on its website) the Access Rules as soon as practicable after the Access Rules have been approved by the Authority, or, where the Access Rules have been modified, the Access Rules as modified. Unless the Authority directs otherwise, the Access Rules shall be published 28 days prior to coming into effect.

Provision of Access Rules to any person

15. The licensee shall send a copy of its Access Rules and/or any proposed modification to the Access Rules proposed under paragraph 10, to any person who requests such Access Rules or proposed modification. The licensee may impose a reasonable charge upon a person who requests the sending of the Access Rules or any proposed modification. Such charge should be equivalent to the licensee's reasonable costs of meeting the request but shall not exceed the maximum amount specified in any directions that may be issued by the Authority for the purposes of this condition.".

(10) In condition 12 (application of licence conditions 9, 10 and 11: exemption orders)—

(a) in paragraph 2—

(i) after "paragraph 3, the Authority", for "may" substitute "must";

(ii) after "is satisfied that" insert "it has complied with";

(iii) after "the requirements", for "of paragraph 6 are met" substitute "placed on the Authority by Article 17 of the Regulation and the issuing of the exemption order is otherwise compliant with that Article";

(b) in paragraph 3—

(i) after "set out in paragraph", for "6" substitute "1 of Article 17 of the Regulation.";

(ii) at the end, insert "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.";

(c) in paragraph 4—

(i) in sub-paragraph (a), omit "for an indefinite period or";

(ii) in sub-paragraph (b), omit "unconditionally or" and after "considers appropriate" insert "including any conditions regarding non-discriminatory access to the interconnector to which the exemption relates";

(d) in paragraph 5, after "with its provisions" insert ", and must be revoked if the approval of the European Commission to the exemption expires in accordance with paragraph 8 of Article 17 of the Regulation";

(e) omit paragraph 6;

(f) re-number paragraph 7 as paragraph 6;

(g) re-number paragraph 8 as paragraph 11;

(h) after paragraph 6, insert—

"**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 event 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.";

(i) in paragraph 11, for "3 August" substitute "4 August".

(11) In condition 13 (capacity utilisation)—

(a) in the heading, for "Capacity utilisation" substitute "Not Used";

(b) omit paragraphs 1 to 9.

(12) In condition 14 (dispute resolution), in paragraph 1, for "non price terms and conditions of access" substitute "Access Rules".

(13) After condition 18 (offers for connection to or use of the GB transmission system in the transition period), insert—

"PART II

SECTION F: OTHER PROVISIONS

Condition 19. Operation and development of the interconnector

1. The licensee shall at all times act in a manner calculated to secure that it has available to it such resources, including (without limitation) management and financial resources, personnel, fixed and moveable assets, rights, licences, consents and facilities, on such terms and with all such rights, as shall ensure that it is at all times able:

(a) to properly and efficiently participate in the operation of the interconnector; and

(b) to comply in all respects with its obligations under this licence, the Act, the Regulation and any other legislation as the Authority may direct from time to time for the purposes of this licence condition.

2. The licensee shall operate, maintain and develop an economic, efficient, secure and reliable interconnector.

3. The licensee shall ensure adequate interconnector capacity and interconnector reliability to ensure the long-term ability of the interconnector to meet reasonable demands for capacity and contribute to security of supply.

4. The licensee shall manage electricity flows on the licensee's interconnector, taking into account exchanges with any interconnected system and shall ensure the availability of all ancillary services including those provided by demand response, insofar as such availability is independent from an interconnected system.

Condition 20. Prohibition of discrimination and cross-subsidies

1. The licensee shall not discriminate between users or classes of users particularly in favour of a related undertaking of the licensee.

2. The licensee shall not give any cross-subsidy to, or receive any cross-subsidy from, any entity which is a related undertaking of the licensee and which carries out one or more of the following electricity activities: supply and distribution.

Condition 21. General provisions on disclosure of information

1. Save to the extent otherwise provided in this or any other licence condition, or required by any other legal duty to disclose, 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 save where this is necessary for carrying out a business transaction.

3. Paragraph 1 above shall not prohibit disclosure by the licensee to any related undertaking which either holds a transmission licence or is the relevant system operator (being a transmission system operator) for an interconnected system.

4. Without limiting the generality of paragraphs 1 to 3 of this licence condition, the licensee shall not, in the context of sales or purchases of electricity by related undertakings, misuse commercially sensitive information obtained from third parties in the context of providing or negotiating access to the licensee's interconnector.

Condition 22. 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.

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 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.".