

Government Response to ‘Offshore Electricity Transmission – A further Joint Ofgem/DECC Regulatory Policy Update’

Annex 9

Transmission Owner Special Licence Conditions

URN 09/697 (DECC) & 23i/09 (Ofgem)

23 March 2009

Introduction

There are a limited number of changes to existing Special Conditions in the licence of National Grid Electricity Transmission (NGET) that are necessary to the implementation of the offshore transmission regime. We first consulted on proposed revisions to NGET's Special Conditions in November 2008, and have updated these in light of feedback from stakeholders and further analysis.

In addition to these changes, the further development of the standard conditions of the transmission licence to extend NGET's role of national electricity transmission system operator has had a consequential impact on the Special Conditions of NGET, Scottish Power Transmission Limited (SPTL) and Scottish Hydro-Electric Transmission Limited (SHETL. These changes replace references to "Great Britain System Operator" (GBSO) with "National Electricity Transmission System Operator" (NETSO), and are needed to avoid unintentionally extending the licensees' rights and obligations.

This annex details all the onshore TO Special Conditions changes that will be made by the Secretary of State under section 90 or 91 of the Energy Act 2004.

It will also be necessary to make changes to NGET's Special Conditions using the Authority's existing powers to modify licences under section 11 of the Electricity Act 1989. These changes will be subject to an Ofgem licence modification consultation process, conducted in parallel with the current joint DECC-Ofgem final consultation on the offshore transmission regulatory regime¹.

The Special Conditions that will set out the revenue entitlement and incentive framework for OFTOs will be agreed bi-laterally between the Authority and the OFTO at the time that the licence is granted. A draft of these Special Conditions is provided at Annex 11.

We welcome views on all aspects of the change proposals in this annex.

Updated NGET Special Conditions change proposals

There are a number of changes to the Special Conditions of onshore TO licences which are required to facilitate the implementation of the offshore transmission regime. These are set out below:

- Firstly, the revenue restrictions in the licence of NGET set out the revenue restriction against which the NETSO sets transmission charges. In addition to recovering revenues for its own TO business, it also reflects the revenues that are passed on to SPTL and SHETL.

¹ These are Special Licence Conditions C1 (Conduct of the Transmission Business), C2 (Separation of National Grid Electricity Transmission Ltd and Relevant Offshore Transmission Owner Interests), C3 (Appointment and duties of the business separation compliance officer), and C4 (Long Term Offshore Planning Strategic Options).

It is anticipated that the NETSO will also recover the revenues to be passed on to OFTOs and therefore the existing revenue restriction conditions need to be modified. It also reflects the charges that the NETSO may face in relation to embedded transmission systems and reflects the recovery of those additional costs.

- Secondly, a minor amendment to the Special Conditions of NGET will be required to facilitate the implementation of our proposed OFTO of last resort mechanism to enable the TO business to operate in the area specified in the last resort direction which may be outside its transmission area (England and Wales).
- Thirdly, an amendment to extend the geographical scope of NGET's licence to extend the NETSO function of the licensee to the territorial sea next to Great Britain and the Renewable Energy Zone (REZ).
- Finally, consequential amendments NGET's, SPTL's and SHETL's Standard Conditions will be required to change references to the "GBSO" to the "NETSO".

A summary of the proposed changes which we consider necessary to achieve these policy objectives is set out below. Respondents should note that we have only included changed marked drafting, using the November 2008 version as a baseline, for the conditions that consider need amending - other unaffected special conditions have not been attached but can be found on the electronic public register.

Summary of Changes Made
NGET Special Condition D1 - Transmission Network Revenue Restriction: Definitions
An amendment to the condition is proposed to give the definition of an offshore transmission owner for the purposes of the licensee's revenue restrictions.
NGET Special Condition D2 - Restriction on Transmission revenue
An amendment to the condition to include reference to meeting claims to NGET by offshore transmission owners for the recovery of construction costs, where a user has terminated its agreement before use of system has commenced.
NGET Special Condition D4 - Pass-through Items
An amendment to the condition to include as a cost pass through item the revenues specified by the Offshore Transmission licensees.
NGET Special Condition B - Activities Restrictions
The condition has been amended to allow for the TO business licensee to operate outside of its transmission area in the event it is directed to so do by the Authority pursuant to paragraph 2 of standard condition B18 (Offshore Transmission Owner of Last Resort).

Summary of Changes Made

Schedule 1 – Extension of NETSO Geographical Scope

Extends the geographical scope of the NETSO to include the territorial sea adjacent to Great Britain and in any Renewable Energy Zone.

- NGET Special Condition D1 - Transmission Network Revenue Restriction: Definitions
- NGET Special Condition D4 - Pass Through Items
- NGET Special Condition B - Activities Restrictions
- NGET Special Condition Schedule 1 - Specified Area
- NGET Special Condition D2 - Restriction on Transmission Network Revenue
- NGET Special Condition D9 - Capital Expenditure Incentive and Safety Net
- NGET Special Condition H - Amended Standard Conditions
- NGET Special Condition K - Requests for Transit
- NGET Special Condition M - Restriction on the Use of Certain Information
- SHETL Special Condition B - Activities Restrictions
- SHETL Special Condition D - Independence of and Appointment of Managing Director of the Transmission Business
- SHETL Special Condition G - Requests for Transit
- SPTL Special Condition B - Activities Restrictions
- SPTL Special Condition D - Independence of and Appointment of Managing Director of the Transmission Business
- SPTL Special Condition G - Requests for Transit

These conditions have been amended to replace reference to "Great Britain System Operator" with "National Electricity Transmission System Operator".

SECTION 1 – Changes necessary to facilitate GBSO role

Special Condition D1: Transmission Network Revenue Restriction: Definitions

1. In this special condition, and in special conditions D2 to D10 inclusive:

“average specified rate” means the average of the daily base rates of Barclays Bank PLC current from time to time during the period in respect of which any calculation falls to be made.

“base transmission revenue” means the revenue allowances calculated in accordance with paragraph 2 of special condition D2 (Restriction on Transmission Network Revenue).

“embedded transmission system” means a transmission system consisting of plant and equipment that includes relevant offshore lines which forms part of the national electricity transmission system by utilising a connection to an electricity distribution system.

“excluded services” means those services provided by the licensee as part of its transmission business which in accordance with the principles set out in Special Condition D10 (Excluded Services) fall to be treated as excluded services.

“interruption” shall, for the purposes of paragraphs 7 and 8 of special condition D4 (Pass Through Items), have the same meaning as set out in section 11 of the Connection and Use of

System Code provided for in paragraph 2 of standard condition C10 (Connection and Use of System Code (CUSC)).

“interruption payment”

shall, for the purposes of paragraphs 7 and 8 of special condition D4 (Pass Through Items), have the same meaning as set out in section 11 of the Connection and Use of System Code provided for in paragraph 2 of standard condition C10 (Connection and Use of System Code (CUSC)).

“logged up costs”

means:

- (a) for the purposes of paragraphs 2 and 3 of special condition D2 (Restriction on Transmission Network Revenue), the capital expenditure and operating expenditure costs incurred by the licensee in respect of those items referred to in those paragraphs; and
- (b) for the purposes of paragraphs 3 and 11 of special condition D9 (Capital Expenditure Incentive and Safety Net), the capital expenditure incurred by the licensee in respect of those items referred to in those paragraphs.

“maximum revenue”

means the revenue calculated in accordance with the formula in paragraph 2 of special

condition D2 (Restriction on Transmission Network Revenue).

“non-domestic rates”

means non-domestic rates payable by the licensee in respect of hereditaments (other than excepted hereditaments being a hereditament consisting of or comprising premises used wholly or mainly:

- (a) as a shop or other place for the sale, display or demonstration of apparatus or accessories for use by consumers of electricity (any use for receipts of payments for the use of electricity being disregarded);
- (b) as office premises of the licensee where those premises are not situated on operational land of the licensee; or
- (c) for both of the foregoing purposes (for the avoidance of doubt, office premises and operational land shall have the meaning ascribed to those terms in SI 2000/525 Central Ratings List (England) Regulations)) wholly or mainly used for the purposes of the transformation or transmission of electrical power, or for ancillary purposes.

“offshore transmission owner”

means the holder for the time being of a transmission licence in relation to which licence the Authority has issued a Section E (offshore transmission owner standard conditions) Direction and where Section E remains in effect (whether or not subject to any terms included in Section E (offshore transmission owner standard conditions)

Direction or to any subsequent variation of its terms to which the licensee may be subject).

“relevant year”	means a financial year commencing on or after 1 April 1990.
“relevant year t”	means that relevant year for the purposes of which any calculation falls to be made;
“relevant year t-1”	means the relevant year preceding relevant year t, and similar expressions shall be construed accordingly.
“remote transmission asset rentals”	means any rent or other periodic payment receivable by the licensee from an authorised electricity operator under an agreement relating to remote transmission assets.
“TIRG relevant year”	means, in relation to each transmission investment project i specified in Annex A of special condition D3 (Adjustment to the Transmission Network Revenue Restriction due to Transmission Investment for Renewable Generation), the relevant year in which a revenue allowance falls to be made under special condition D3 (Adjustment to the Transmission Network Revenue Restriction due to Transmission Investment for Renewable Generation) with respect to that transmission investment project i, where: (a) t=p means the relevant year commencing 1 April 2005;

- (b) $t=p$ to $t=-1$ means the preconstruction period (where $p \leq -1$);
- (c) $t=0$ means the relevant year in which construction of that transmission investment project i commences;
- (d) $t=0$ to $t=n$ means the construction period;
- (e) $t=n$ means the relevant year in which that transmission investment project i is commissioned;
- (f) $t=n+1$ means the relevant year in year 1 post commissioning period for that transmission investment project i and similar expressions shall be construed accordingly.

“transmission network revenue”

means the aggregate of revenue in the relevant year derived by the licensee from the provision of transmission network services and from remote transmission asset rentals.

“transmission network revenue restriction”

means special condition D2 (Restriction on Transmission Network Revenue), and such parts of special conditions D3 to D10 inclusive as are ancillary thereto, all as from time to time modified or replaced in accordance therewith or pursuant to sections 11, 14 or 15 of the Act.

“transmission network services”

shall have the same meaning as set out in standard condition C1 (Interpretation of Section C) (and for the avoidance of doubt

shall not include excluded services or balancing services activity).

“user maintenance”

means maintenance by a user of connections in operation before the grant of this licence.

2. In this special condition and in special conditions D2 to D10 inclusive, all revenue shall be measured on an accruals basis, after deduction of value added tax (if any) and any other taxes based directly on the amounts so derived.
3. Any term used in the formulae appearing in special conditions D2 to D10 inclusive, and defined for the purposes of those formulae shall have the same meaning if used in any other formulae in those other special conditions.
4. In this special condition and in special conditions D2 to D10, any cost, charge, payment or amount may either be positive or negative.

Special Condition D4: Pass Through Items

1. For the purposes of paragraph 2 of special condition D2 (Restriction on Transmission Network Revenue), in each relevant year t , PT_t shall be derived in accordance with the following formula:

$$PT_t = TSP_t + TSH_t + TOFTO_t + OFET_t + LF_t + RB_t - TSR_t + ITC_t + Term_t + TPD_t$$

where:

TSP_t means the amount specified to the licensee by SP Transmission Ltd or any successor company in relation to relevant year t pursuant to its transmission licence;

TSH_t means the amount specified to the licensee by Scottish Hydro-Electric Transmission Ltd or any successor company in relation to relevant year t pursuant to its transmission licence;

$TOFTO_t$ means the total of the revenue amounts specified to the licensee by those offshore transmission owners in relation to the relevant year t pursuant to their transmission licences;

$OFET_t$ means an amount equal to the payments made in aggregate by the licensee to electricity distributors with respect to charges for use of the electricity distribution systems by offshore generating stations connected to those systems via embedded transmission systems.

LF_t means the revenue adjustment term, whether of a positive or of a negative value, calculated in the relevant year t in respect of licence fee payments as derived from the formula set out in paragraph 2;

RB_t means the revenue adjustment term, whether of a positive or of a negative value, calculated in the relevant year t in respect of non-domestic rates as derived from the formula set out in paragraph 3;

TSR_t means the revenue adjustment term, whether of a positive or of a negative value, calculated in the relevant year t in respect of revenue earned by the licensee for tower space rental as derived from the formula set out in paragraph 6;

ITC_t shall take the value zero unless otherwise determined by the Authority in the event of the participation by Great Britain in a European Union inter-TSO compensation scheme, and following consultation with other interested parties;

$Term_t$ means an amount equal to the income received by the licensee in the relevant year t in respect of users who terminate relevant bilateral agreements for connection and /or access rights to the [GB-national electricity](#) transmission system prior to commencing use of the [GB-national electricity](#) transmission system (for the avoidance of doubt, net of any amounts that are treated as capital contributions); and

TPD_t means the temporary physical disconnection term and shall be determined in accordance with paragraphs 7 to 8.

Formula for the Licence Fee Revenue Adjustment

2. For the purposes of paragraph 1, LF_t shall be calculated in accordance with the following formula:

$$LF_t = (LP_t - LA_t) + \left(L_t \times \left(1 + \frac{I_t}{100} \right) \right)$$

where:

LP_t means an amount equal to the payments made by the licensee, in respect of relevant year t, in accordance with its obligations set out in standard licence condition A4 (Payments to the Authority) (being for the avoidance of doubt, in pounds sterling in money of the day);

LA_t is derived from the following formula:

$$LA_t = PF_t \times PIT_t$$

where:

PF_t is the amount of the licence fee payments allowance for the relevant year t (in 2004/05 prices) as set out:

Relevant year t commencing on 1 April	2007	2008	2009	2010	2011
PF_t	£8,600,000	£8,400,000	£8,200,000	£8,000,000	£8,100,000

PIT_t shall take the same meaning as given in paragraph 2 of special condition D2 (Restriction on Transmission Network Revenue);

L_t shall, in respect of the relevant year commencing 1 April 2007, be calculated as the difference between the actual licence fee payable by the licensee in the relevant year commencing 1 April 2006 pursuant to standard condition A4 (Payments to the Authority) (being, for the avoidance of doubt, in pounds sterling in money of the day) and the estimate made in respect of that relevant year of £13,200,000. In the relevant year commencing 1 April 2008 and each subsequent relevant year L_t shall take the value zero; and

I_t means the average specified rate as defined in special condition D1 (Definitions).

Formula for the Non-domestic rates Revenue Adjustment

3. For the purposes of paragraph 1, subject to paragraph 4 below, RB_t is an amount calculated in accordance with the following formula:

$$RB_t = (RP_t - RA_t) + \left(Rate_t \times \left(1 + \frac{I_t}{100} \right) \right)$$

where:

RP_t is the amount payable by the licensee, in respect of the relevant year t , in respect of non-domestic rates;

RA_t is the non-domestic rates allowance, and is derived from the following formula:

$$RA_t = RV_t \times PIT_t$$

where:

RV_t is the non-domestic rates allowance in 2004/05 prices, and shall take the value set out in the table below:

Relevant year t commencing on 1 April	2007	2008	2009	2010	2011
RV_t	£93,000,000	£93,000,000	£93,000,000	£93,000,000	£93,000,000

PIT_t shall take the same meaning as given in paragraph 2 of special condition D2 (Restriction on Transmission Network Revenue);

$Rate_t$ shall, in respect of the relevant year commencing 1 April 2007, be calculated as the difference between the non-domestic rates payable by the licensee in respect of the relevant year commencing 1 April 2006 (being for the avoidance of doubt, in pounds sterling in money of the day) and the estimate made in respect of that relevant year of £94,900,000. In the relevant year commencing 1 April 2008 and each subsequent relevant year $Rate_t$ shall take the value zero; and

I_t means the average specified rate as defined in special condition D1 (Definitions).

4. From the relevant year commencing 1 April 2010, RB_t shall take the value zero, unless otherwise directed by the Authority on or before 31 March 2010.

5. For the purposes of paragraph 4 of this condition, the Authority may direct that, in respect of the relevant year commencing 1 April 2010 and each subsequent relevant year, RB_t be calculated in accordance with the formula set out in paragraph 3 of this condition where the Authority is satisfied that the licensee has used reasonable endeavours to minimise the amount payable for those years in respect of non-domestic rates.

Formula for the tower space rental revenue adjustment

6. For the purposes of paragraph 1, TSR_t is an amount calculated in accordance with the following formula:

$$TSR_t = 0.5 \times TSRR_{t-2}$$

where:

$TSRR_{t-2}$ means the revenue received in relevant year t-2 by the licensee from any company in respect of fees for permitting mobile telephony equipment to be installed on the licensee's electricity transmission towers.

Formula for the Temporary Physical Disconnection Term

7. For the purposes of paragraph 1, TPD_t , for the relevant year t commencing 1 April 2007, is an amount equal to the interruption payments made by the licensee in relation to interruption(s) in its transmission area in respect of the period commencing on 1 April 2004 and ending on 31 March 2007 where any payments made by the licensee prior to relevant year t commencing 1 April 2007 shall be adjusted for 'financing costs' and shall be derived from the following formula:

$$TPD_t = \left[\sum_m TPD_m \times TPDMult_m \right] \times PIT_t$$

where:

m means the relevant year m such that the first relevant year shall be the year commencing on 1 April 2004 and the third relevant year shall be the year commencing 1 April 2006;

TPD_m means the interruption payments in 2004/05 prices in the relevant year m;

PIT_t shall, for the relevant year t, take the same meaning as given in paragraph 2 of special condition D2 (Restriction on Transmission Network Revenue);

TPDMult_m is the adjustment factor for financing costs set out in the table below and which is calculated using the formula below:

$$TPDMult_m = (1.0625)^p$$

Where

p is the number of years between the relevant year t and the relevant year m, and

TPDMult_m shall take the number set out in the table below:

Relevant year m in which interruption occurs	2004/05	2005/06	2006/07
TPDMult _m	1.199463	1.128906	1.0625

8. For the relevant year t commencing 1 April 2008, and each subsequent relevant year t , TPD_t shall be an amount equal to the interruption payments made by the licensee in relation to interruption(s) in its transmission area within each respective relevant year $t-1$, and shall be adjusted by financing costs at the rate of 6.25 per cent per annum.

SECTION 2 – Amendments that would be needed to facilitate the implementation of the OFTO of last resort mechanism

Special Condition B: Activities restrictions

1. Subject to the provisions of paragraph 2 below (which are made in accordance with section 7(2A)(a) of the Act), the licensee is authorised by paragraph 1 of Part I (Terms of the Licence) of this licence to participate in the transmission of electricity for the purpose of giving a supply to any premises or enabling a supply to be so given.

2. The licensee shall not, outside its transmission area, obtain or obtain access to any assets comprising part of the ~~GB~~-national electricity transmission system which are intended for the purpose of conveying electricity except:

(a) from another transmission licensee; or

(b) where the Authority has issued a direction to the licensee pursuant to paragraph 2 of standard condition B18 (Offshore Transmission Owner of Last Resort) insofar as it relates to the transmission system specified in that direction.

SECTION 3 – Extension of GBSO geographical scope

Schedule 1 - Specified Area

Great Britain, [the territorial sea adjacent to Great Britain and in any Renewable Energy Zone.](#)

[where:](#)

[Renewable Energy Zone](#) means an area designated [by Order in Council] under section [84\(4\) of the Energy Act 2004.](#)

SECTION 1 – CONTINUED...

Special Condition D2: Restriction on Transmission Network Revenue

Transmission Network Revenue Restriction

1. The licensee shall use its best endeavours to ensure that in any relevant year transmission network revenue shall not exceed the maximum revenue which shall be calculated in accordance with the formula given in paragraph 2 below.

Formula for Transmission Network Revenue Restriction

2. In respect of the relevant year commencing 1 April 2007 and each subsequent relevant year t, maximum revenue shall be calculated in accordance with the following formula:

$$TO_t = PR_t + TIRG_t + PT_t + IP_t + CxIncRA_t + IE_t + DIS_t + ER_t + LC_t + TS_t - K_t$$

where:

TO_t means maximum revenue in the relevant year t;

PR_t means base transmission revenue, which shall, in respect of the relevant year commencing 1 April 2007, be calculated as:

$$PR_t = RBT \times PIT_t$$

where:

RBT shall take the value £987,300,000 (being in 2004/05 prices); and

PIT_t is the price index adjustment for the relevant year t, and in the relevant year commencing 1 April 2004 shall take the value of 1 and in each subsequent relevant year shall be derived from the following formula:

$$PIT_t = \left[1 + \frac{RPI_t}{100} \right] \times PIT_{t-1};$$

and, in the relevant year commencing 1 April 2008 and each subsequent relevant year, PR_t shall be calculated in accordance with the following formula:

$$PR_t = PR_{t-1} \times \left(1 + \frac{RPI_t + X}{100} \right)$$

where:

PR_{t-1} means base transmission revenue in relevant year t-1 and shall be calculated in the same manner as PR_t save that references to the relevant year t shall be replaced by references to the relevant year t-1, and any other references shall be construed accordingly;

RPI_t means the percentage change (whether of a positive or a negative value) in the arithmetic average of the Retail Price Index numbers published or determined with respect to each of the six months from May to October (both inclusive) in relevant year t-1 and that is published or determined with respect to the same months in relevant year t-2; and

X shall take the value two;

$TIRG_t$ means, for each TIRG relevant year t, the aggregate of the annual revenue allowances for each transmission investment project specified in annex A to special condition D3 (Adjustment to the Transmission Network Revenue Restriction due to Transmission Investment for Renewable Generation) and shall be calculated in accordance with that special condition;

PT_t means the revenue adjustment term, whether of a positive or of a negative value, made in the relevant year t in respect of allowed pass through items as derived in accordance with special condition D4 (Pass Through Items);

IP_t means incentive revenue adjustment term, whether of a positive or of a negative value, calculated for the relevant year t in accordance with special condition D5 (Incentive Payments);

$CxIncRA_t$ means the capital expenditure incentive revenue adjustment term, whether of a positive or of a negative value, made in the relevant year commencing 1 April 2012 in respect of the application of the capital expenditure incentive regime as calculated in accordance with special condition D9 (Capital Expenditure Incentive and

Safety Net). For each relevant year prior to the relevant year commencing 1 April 2012 and for each relevant year after the relevant year commencing 1 April 2012 the term $CxIncRA_t$ shall take the value zero;

IE_t means the allowance made in respect of the relevant year t representing the estimated costs incurred by the licensee in the relevant year in association with the issuance of new equity and shall take the value set out in the table below:

	2007	2008	2009	2010	2011
National grid Electricity Transmission PLC	Nil	Nil	Nil	Nil	Nil
Scottish Hydro-Electric Transmission Ltd	Nil	Nil	£3,250,000	£2,625,000	Nil
SP Transmission Ltd	Nil	Nil	Nil	£2,500,000	Nil

DIS_t means the difference (whether of a positive or negative value) between:

- (a) the total amount charged to the licensee in relevant year $t-1$ by Scottish Hydro-Electric Transmission Ltd and SP Transmission plc in respect of Site-Specific Charges (as such charges are defined in Schedule Ten of the STC); and
- (b) the total income recovered by the licensee in respect of excluded services in relevant year $t-1$ from customers in the respective transmission areas of each of Scottish Hydro-Electric Transmission Ltd and SP Transmission plc.

ER_t means the price control extension reconciliation revenue adjustment term, which in the relevant year commencing 1 April 2007 shall be calculated in accordance with the following formula:

$$ER_t = RER_t \times PIT_t$$

where:

RER_t means the allowance in respect of the revenue reconciliation adjustment and shall take the value £700,000 (in 2004/05 prices); and

PIT_t shall take the same meaning as set out in the definition of the term PR_t above.

In respect of the relevant year commencing 1 April 2008 and each subsequent relevant year t , ER_t shall take the value zero;

LC_t means the revenue adjustment term, whether of a positive or of a zero value, made in the relevant year commencing 1 April 2012 in respect of the full recovery of efficiently incurred logged up costs (adjusted for financing costs) as specified in paragraph 3 of this condition. For each relevant year prior to the relevant year commencing 1 April 2012 and for each relevant year after the relevant year commencing 1 April 2012 LC_t shall take the value zero;

TS_t means the difference, whether of a positive or of a negative value, between:

- (a) the total amount charged to the licensee in relevant year $t-1$ by Scottish Hydro-Electric Transmission Ltd, ~~and~~ SP Transmission plc and offshore transmission owners, in respect of transmission owner final sums (as such charges are defined in schedule nine of the STC); and
- (b) an amount equal to the income received by the licensee in the relevant year $t-1$ in respect of users who terminate relevant bilateral agreements for connection and/or access rights to the ~~GB-national electricity~~ transmission system in the respective transmission areas of each of Scottish Hydro-Electric Transmission Ltd, ~~and~~ SP Transmission plc, and any offshore transmission owner prior to commencing use of the ~~GB-national electricity~~ transmission system (for the avoidance of doubt, including any amounts that are treated as capital contributions);

K_t means the revenue restriction correction term, whether of a positive or of a negative value, which is calculated in accordance with the formula below:

$$K_t = (AR_{t-1} - TO_{t-1}) \times \left[1 + \frac{(I_t + PI_t)}{100} \right]$$

where:

AR_{t-1} means, subject to paragraph 3 of special condition D6 (Adjustments to Transmission Network Revenue), transmission network revenue, in respect of the relevant year t-1 provided that in calculating AR_{t-1} for the purpose of K_t no account shall be taken of any positive or negative revenue in respect of the provision of transmission network services in any relevant year preceding t-1 other than such revenue as it is in the reasonable opinion of the Authority reasonable and appropriate to take into account;

TO_{t-1} means the maximum revenue in the relevant year t-1 except in the relevant year commencing 1st April 2007 where it shall be the maximum revenue (M_t) for the relevant year commencing 1 April 2006 as defined by Part 1 of special condition AA5A (Revised Restriction on Revenue) in the licence in force on 31 March 2007;

I_t means the average specified rate as defined in special condition D1 (Definitions); and

PI_t means the penalty interest rate in relevant year t which is equal to, where $(AR_{t-1} - TO_{t-1})$ has a positive value and transmission network revenue in relevant year t-1 exceeds the maximum revenue in relevant year t-1 by more than 2.75 per cent, the value four, otherwise is equal to the value zero.

3. For the purposes of paragraph 2, LC_t shall comprise the capital expenditure and operating expenditure costs incurred in the period 1 April 2007 to 31 March 2012, and reported to the Authority in accordance with standard condition B15 (Price Control Review Information), by the licensee against the following cost categories:

(a) underground cable tunnels up to a cap of £60,000,000 (in 2004/05 values);

(b) upgrading of operational telecommunication systems resulting from the introduction of BT's 21st Century Networks programme;

subject to the licensee satisfying the Authority that such costs have been efficiently incurred.

Special Condition D9: Capital Expenditure Incentive and Safety Net

1. The purpose of this condition is to set out how the Capital Expenditure Incentive and Safety Net, as described in the Transmission Price Control Review Final Proposals document of December 2006 (Reference number: 206/06), will operate.

Part 1: Capital Expenditure Incentive Revenue Adjustment

2. For the purposes of paragraph 2 of special condition D2 (Restriction on Transmission Network Revenue) the capital expenditure incentive revenue adjustment $CxIncRA_t$ shall in each relevant year t take the value of zero, except for the relevant year commencing on 1 April 2012 in which $CxIncRA_t$ shall be calculated in accordance with the following formula:

$$CxIncRA_t = \left(\sum_n [CIR_n \times PVF_n \times (LV_n + NTP_n)] \times PIT_t \right) + \left(\sum_n [(CIR_n - 0.25) \times PVF_n \times (IncDif_n - LV_n)] \times PIT_t \right)$$

where:

n means the relevant year n such that the first relevant year n shall be the year commencing on 1 April 2007 and accordingly the fifth relevant year n is the year commencing on 1 April 2011;

CIR_n means the capital expenditure incentive sharing factor, representing the proportion of the licensee's exposure to under or overspend against the capital expenditure allowance for the relevant year n that would be borne by the licensee during the revenue restriction period if no adjustment were to be made to the licensee's revenue in accordance with this condition and shall take the value set out in the table below:

Relevant year commencing 1 April:	2007	2008	2009	2010	2011
CIR_n	0.3981	0.3184	0.2312	0.1357	0.0313

PVF_n means the present value adjustment factor in respect of the relevant year n and shall take the value set out in the table below:

Relevant year commencing 1 April:	2007	2008	2009	2010	2011
PVF _n	1.35408	1.27443	1.19946	1.12891	1.06250

IncDif_n represents the difference, expressed in 2004/05 prices, between the adjusted efficient capital expenditure and the base capital expenditure allowance in respect of the relevant year n and shall be calculated in accordance with the following formula:

$$IncDif_n = \left(\frac{ACx_n}{PIT_n} \right) - BCx_n$$

where:

ACx_n is the adjusted efficient capital expenditure incurred by the licensee in respect of the relevant year n and shall be calculated in accordance with paragraph 3 of this condition;

PIT_n shall take the value of PIT_t for relevant year t=n, where PIT_t shall take the same meaning as given in paragraph 2 of special condition D2 (Restriction on Transmission Network Revenue);

BCx_n means, subject to Part 2 (Capital Expenditure Safety Net) of this condition, the base capital expenditure allowance, expressed in 2004/05 prices, in respect of the relevant year n and shall take the value set out in the table below:

Relevant year commencing 1 April:	2007	2008	2009	2010	2011
BCx _n	£521,200,000	£501,000,000	£545,400,000	£613,600,000	£636,600,000

LV_n means, in respect of the relevant year n, the adjustment to the capital expenditure allowance, in 2004/05 prices, arising from:

- (a) the volume of zonal additional generation entry capacity;
- (b) the volume of zonal surplus (or deficit); or

(c) the amount of transfer capacity between Scotland and England,

differing from the deemed baseline or base scenario values used for the purposes of deriving the term BCx_n set out in this paragraph and shall be calculated in accordance with paragraph 6 of this condition;

NTP_n

means the capital shortfall in relation to capital expenditure efficiently incurred in respect of the relevant year n, in 2004/05 prices, for the purpose of facilitating the connection and/or access rights of users where the users terminate relevant bilateral agreements prior to commencing use of the [GB-national electricity](#) transmission system, which shall be calculated in accordance with the following:

$$NTP_n = \frac{(TP_n - TPR_n)}{PIT_n}$$

where:

TP_n

means the capital expenditure efficiently incurred by the licensee in respect of the relevant year n for the purpose of facilitating the connection and/or access rights of users where the users terminate relevant bilateral agreements prior to commencing use of the [GB-national electricity](#) transmission system and as reported to the Authority pursuant to standard condition B15 (Price Control Review Information);

TPR_n

means an amount equal to the termination receipts received, in the form of revenues or capital contributions, in respect of TP_n in the relevant year n;

PIT_n

shall take the value of PIT_t for relevant year t=n, where PIT_t shall take the same meaning as given in paragraph 2 of special condition D2 (Restriction on Transmission Network Revenue); and

PIT_t

shall take the same meaning as given in paragraph 2 of special condition D2 (Restriction on Transmission Network Revenue).

3. For the purposes of paragraph 2, ACx_n shall be calculated in accordance with the following formula:

$$ACx_n = Cx_n - ESCx_n - LCx_n - TP_n - DCx_n$$

where:

Cx_n means the capital expenditure, expressed net of pensions contributions incurred by the licensee in the relevant year n, as reported to the Authority pursuant to standard condition B15 (Price Control Review Information). Such capital expenditure shall not include capital expenditure incurred by the licensee in the relevant year n in respect of the transmission investment projects identified in Annex A of special condition D3 (Adjustment to the Transmission Network Revenue Restriction due to Transmission Investment for Renewable Generation);

$ESCx_n$ means that amount of load related capital expenditure incurred by the licensee in the provision of excluded services as set out in special condition D10 (Excluded Services) in the relevant year n in its transmission area less any contributions to the capital cost of that expenditure made by or on behalf of the persons to whom such excluded services are provided and as reported to the Authority pursuant to standard condition B15 (Price Control Review Information);

LCx_n means that amount of capital expenditure incurred by the licensee in respect of the relevant year n that falls to be treated as logged up capital expenditure as specified in paragraph 11 to this condition and as reported to the Authority pursuant to standard condition B15 (Price Control Review Information);

TP_n shall take the same meaning as given in paragraph 2 of this condition; and

DCx_n means that amount of capital expenditure incurred by the licensee in respect of the relevant year n in respect of which the Authority has issued a direction on or before 31 March 2012 in respect of the relevant years from 1 April 2007 to 31 March 2011, and on or

before 31 March 2017 in respect of the relevant year commencing 1 April 2011, that such expenditure is deemed inefficient in accordance with paragraphs 4 and 5 of this condition. It shall take the value zero unless the Authority directs otherwise.

4. For the purposes of paragraph 3, before issuing a direction that certain capital expenditure is deemed inefficient the Authority shall issue a notice to the licensee specifying:
 - (a) the capital expenditure that the Authority proposes to deem inefficient;
 - (b) the reasons why the Authority considers that the capital expenditure referred to in subparagraph (a) is inefficient; and
 - (c) the date, being of no less than 28 days from the date of the notice, by which the licensee may make representations to the Authority in respect of the notice.
5. The Authority shall have regard to any representations made by the licensee in response to the notice referred to in paragraph 4 before making any direction in respect of paragraph 3.
6. For the purposes of paragraph 2, LV_n shall be calculated in accordance with the following formula:

$$LV_n = LVGC_n + LVZS_n + LVZD_n + LVST_n + LVWIP_n$$

where:

$LVGC_n$ means the adjustment in the capital expenditure allowance in respect of the relevant year n relative to the base capital expenditure allowance (BCx_n) to reflect requirements for local reinforcement works associated with the connection of additional generation entry capacity, and shall be calculated in accordance with paragraph 7 of this condition;

$LVZS_n$ means the adjustment in the capital expenditure allowance in respect of the relevant year n relative to the base capital expenditure allowance (BCx_n) to reflect the need to accommodate zonal surpluses of generation capacity, and shall be calculated in accordance with paragraph 8 of this condition;

$LVZD_n$ means the adjustment in the capital expenditure allowance in respect of the relevant year n relative to the base capital

expenditure allowance (BC_{x_n}) to reflect the need to accommodate zonal deficits of generation capacity, and shall be calculated in accordance with paragraph 9 of this condition;

$LVST_n$ means the adjustment in the capital expenditure allowance in respect of the relevant year n relative to the base capital expenditure allowance (BC_{x_n}) to reflect the need to accommodate additional transfers from Scotland to England, and shall be calculated in accordance with paragraph 10 of this condition; and

$LVWIP_n$ means the adjustment in the capital expenditure allowance in relevant year n relative to the base capital expenditure allowance (BC_{x_n}) in respect of works carried out by the licensee which would otherwise be included within $LVGC_n$, $LVZS_n$, $LVZD_n$, and $LVST_n$ had the relevant change in volume been provided (“work in progress”) and shall take the value zero unless the Authority directs that this adjustment shall have a positive value to reflect such work in progress.

7. For the purposes of paragraph 6, $LVGC_n$ shall be calculated in accordance with the following formula:

$$LVGC_n = \sum_{all\ j} [UCAGC_j \times (AVGC_{j,n} - AVGC_{j,n-1})]$$

where:

$UCAGC_j$ means the unit cost allowance in respect of local reinforcement works associated with the connection of additional generation capacity in zone j and shall take the values specified in Table 5 of Annex B to this condition;

j means the revenue driver zones identified in Annex A to this condition;

$AVGC_{j,n}$ means the generation entry capacity adjustment volume for zone j in the relevant year n and shall be calculated using the following formula:

$$AVGC_{j,n} = GC_{j,n} - BGC_{j,n}$$

where:

$GC_{j,n}$ means the sum for zone j of all increments to individual relevant generation entry capacities (in MW) and shall be calculated using the following formula:

$$GC_{j,n} = \sum_{\text{all } k} \left[\text{Max} \left((GN_{k,n} - BGN_k), 0 \right) \right]$$

where:

$GN_{k,n}$ means maximum of the individual relevant generation entry capacities in any relevant year from the relevant year commencing 1 April 2007 up to and including relevant year n for an individual power station k in zone j for which access charges were levied in any relevant year from the relevant year commencing 1 April 2007 up to and including relevant year n. The relevant generation entry capacity for an individual power station shall be the largest holding or (if greater than the holding) use of entry capacity rights (through any combination of firm access products) held or used by an individual power station for a total period not less than 5 days during the relevant year n;

BGN_k means the individual relevant generation entry capacities which were delivered and subject to access charges at any point in the relevant year commencing 1 April 2006;

k means each individual power station in zone j;

$BGC_{j,n}$ means the baseline generation entry capacity for zone j in the relevant year n and shall take the values in Table 1 of Annex B to this condition; and

$AVGC_{j,n-1}$ means the generation entry capacity adjustment volume for zone j in the relevant year n-1 and shall be derived as follows:

- (a) in the relevant year commencing 1 April 2007, shall have the value zero; and
- (b) in each subsequent relevant year $AVGC_{j,n-1}$ shall be calculated in the same manner as $AVGC_{j,n}$ save that

references to the relevant year n shall be replaced by references to the relevant year n-1.

8. For the purposes of paragraph 6, $LVZS_n$ shall be calculated in accordance with the following formula:

$$LVZS_n = \sum_{\text{all } j} \left[(UCAZS_j) \times (AVZS_{j,n} - AVZS_{j,n-1}) \right]$$

where:

$UCAZS_j$ means the unit cost allowance reflecting the need to accommodate zonal surpluses of generation capacity and shall take the values specified in Table 5 of Annex B to this condition;

j means the revenue driver zones identified in Annex A to this condition;

$AVZS_{j,n}$ means the zonal surplus adjustment volume for zone j in the relevant year n and shall be calculated using the following formula:

$$AVZS_{j,n} = \left[\max(ZS_{j,n}, LZS_j) - \max(BZS_{j,n}, LZS_j) \right]$$

where

LZS_j means the baseline zonal surplus for zone j and shall take the values in Table 2 of Annex B to this condition for all relevant years n ;

$BZS_{j,n}$ means the base scenario zonal surplus output in MW for zone j in the relevant year n and shall take the values specified in Table 2 of Annex B to this condition; and

$ZS_{j,n}$ means the zonal surplus in MW for zone j in the relevant year n and shall be calculated in accordance with the following formula:

$$ZS_{j,n} = ZGen_{j,n} + ZClos_{j,n} - ZDem_j,$$

where:

ZGen_{j,n} means the sum across all users connected in zone j of all long-term generation entry capacity products in MW for which charges were levied in the relevant year n including TEC and such other products that imply a user commitment of not less than one year;

ZClos_{j,n} means the sum across all users connected in zone j of all individual reductions in generation entry capacities in MW for which access charges were paid in the relevant year n-1 but not in the relevant year n (for the avoidance of doubt this number can take a zero or positive value); and

ZDem_{j,n} means the user demand at national peak in zone j in the relevant year n, which is calculated using the following formula:

$$ZDem_{j,n} = FDem_{j,n} \times \left(\frac{ODem_{j,n-1}}{FDem_{j,n-1}} \right)$$

where:

FDem_{j,n} means the sum for zone j of all Grid Supply Point demand nominations in MW for time of national peak demand made in relevant year n-1 for relevant year n;

FDem_{j,n-1} means the sum for zone j of all Grid Supply Point demand nominations in MW for time of national peak demand made in relevant year n-1 for relevant year n-1; and

ODem_{j,n-1} means the sum for zone j of all Grid Supply Point demands in MW at time of national peak demand in relevant year n-1; and

AVZS_{j,n-1} means the zonal surplus adjustment volume for zone j in the relevant year n-1 and shall be derived as follows:

- (a) in the relevant year commencing 1 April 2007, shall have a value equal to zero; and
- (b) in each subsequent year, AVZS_{j,n-1} shall be calculated in the same manner as AVZS_{j,n} save that references to the relevant year n shall be replaced by references to the relevant year n-

1 and references to the year n-1 shall be replaced by references to the relevant year n-2.

9. For the purposes of paragraph 6, $LVZD_n$ shall be calculated in accordance with the following formula:

$$LVZD_n = \sum_{\text{all } j} \left[(UCAZD_j) \times (AVZD_{j,n} - AVZD_{j,n-1}) \right]$$

where:

$UCAZD_j$ means the unit capital expenditure cost allowance in 2004/05 prices for the infrastructure required to accommodate the zonal deficit for zone j, and shall take the values specified in Table 5 of Annex B of this condition;

j means the revenue driver zones identified in Annex A to this condition;

$AVZD_{j,n}$ means the zonal deficit adjustment volume for zone j in the relevant year n and shall be calculated as follows:

$$AVZD_{j,n} = \left[\max(ZD_{j,n}, LZD_j) - \max(BZD_{j,n}, LZD_j) \right]$$

where:

LZD_j means the baseline zonal deficit in MW for zone j, as specified in Table 3 of Annex B to this condition;

$BZD_{j,n}$ means the base scenario zonal deficit output in MW to be accommodated in zone j in the relevant year n, and shall take the values specified in Table 3 of Annex B to this condition;

$ZD_{j,n}$ means the zonal deficit in MW for zone j which is specified using the following formula:

$$ZD_{j,n} = ZDem_{j,n} - ZGen_{j,n}$$

where:

$ZDem_{j,n}$ shall have the same meaning as given in paragraph 8 of this condition;

ZGen_{j,n} shall have the same meaning as given in paragraph 8 of this condition; and

AVZD_{j,n-1} means the zonal deficit adjustment volume for zone j in the relevant year n-1 and shall be derived as follows:

(a) in the relevant year commencing on 1 April 2007, shall have a value equal to zero; and

(b) in each subsequent year, AVZD_{j,n-1} shall be calculated in the same manner as AVZD_{j,n} save that references to the relevant year n shall be replaced by references to the relevant year n-1 and references to the relevant year n-1 shall be replaced by references to the relevant year n-2.

10. For the purposes of paragraph 6, LVST_n, shall be calculated in accordance with the following formula:

$$LVST_n = [(UCAST) \times (AVST_n - AVST_{n-1})]$$

where:

UCAST means the unit capital expenditure cost allowance in 2004/05 values for reinforcements associated with accommodating higher transfers from Scotland to England, and shall take the value £320,700 per MW;

AVST_n means the adjustment volume of delivered long-term output capacity in MW of the network between Scotland and England in the relevant year n and shall be calculated in accordance with the following formula:

$$AVST_n = ST_n - BST_n$$

where:

ST_n means the delivered long-term output capacity in MW of the network between Scotland and England in relevant year n. Delivery of long-term capacity across this portion of the network shall be assessed on the basis of the availability of secure capacity on the circuits that cross the England – Scotland border and the

network upstream and downstream of the border such that power transfers can be sustained for a variety of generation patterns in Scotland and England;

BST_n means the base scenario output capacity in MW of the network between Scotland and England in the relevant year n , and shall take the values specified in Table 4 of Annex B to this condition; and

$AVST_{n-1}$ means the adjustment volume of delivered long-term output capacity in MW of the network between Scotland and England in the relevant year $n-1$ and shall be derived as follows:

- (a) in the relevant year commencing 1 April 2007, shall have a value equal to zero; and
- (b) in each subsequent year, $AVST_{n-1}$ shall be calculated in the same manner as $AVST_n$ save that references to the relevant year n shall be replaced by references to the relevant year $n-1$.

11. For the purposes of paragraph 3, LCx_n shall comprise those costs incurred and reported to the Authority in accordance with standard condition B15 (Price Control Review Information), by the licensee against the following cost categories:

- (a) underground cable tunnels up to a cap of £60,000,000 (in 2004/05 values);
- (b) upgrading of operational telecommunication systems resulting from the introduction of BT's 21st Century Networks programme;

subject to the licensee satisfying the Authority that such costs have been efficiently incurred.

12. For the purposes of this condition, the licensee shall, not later than 31 July in the relevant year commencing 1 April 2008 and each subsequent relevant year n , submit a report to the Authority (in a form approved by the Authority) giving the outturn values of all of the variables stipulated in this condition in respect of the relevant year $n-1$ in accordance with standard condition B15 (Price Control Review Information).

Part 2: Capital Expenditure Safety Net

13. For the purposes of this condition, relevant capital expenditure (RelCx_t) in respect of the relevant year t shall be calculated as follows:

$$RelCx_t = \frac{Cx_t - LCx_t - ESCx_t}{PIT_t} - LV_t$$

where:

Cx_t shall take the value of Cx_n for relevant year n=t, where Cx_n shall take the same meaning as given in paragraph 3 of this condition;

LCx_t shall take the value of LCx_n for relevant year n=t, where LCx_n shall take the same meaning as given in paragraph 3 of this condition; and

ESCx_t shall take the value of ESCx_n for relevant year n=t, where ESCx_n shall take the same meaning as given in paragraph 3 of this condition;

PIT_t shall take the same meaning as given in paragraph 2 of special condition D2 (Restriction on Transmission Network Revenue); and

LV_t shall take the value of LV_n for relevant year n=t, where LV_n shall take the same meaning as given in paragraph 2 of this condition.

14. The licensee shall use reasonable endeavours to estimate relevant capital expenditure in respect of the relevant year t and each subsequent relevant year up to and including the relevant year commencing 1 April 2011.

15. For the purposes of paragraph 16, the relevant capital expenditure allowance (RelACx_t) in the relevant year t shall be calculated in accordance with the following formula:

$$RelAC_t = BCx_t$$

where

BCx_t shall take the value of BCx_n for relevant year n=t, where BCx_n shall take the same meaning as given in paragraph 2 of this condition.

16. If, in respect of the relevant year t or any subsequent relevant year up to and including the relevant year commencing on 1 April 2011, the licensee reasonably expects that relevant capital expenditure $RelCx_t$ will be less than $0.8 \times (RelACx_t)$ then the licensee shall furnish to the Authority a statement setting out:
 - (a) the amount by which the licensee expects relevant capital expenditure to fall below $RelACx_t$ in respect of that same relevant year;
 - (b) the factors which, in the licensee's reasonable opinion, has or is likely to result in the shortfall referred to in sub-paragraph (a).
17. The Authority may request any additional information in relation to paragraphs 13 to 16 of this condition that it considers is reasonably necessary to exercise its duties and functions under the Act. Such a request shall be made in writing to the licensee and specify the date by which information shall be provided being not less than 14 days from the date of the notice.
18. Where the Authority issues a request pursuant to paragraph 17, the licensee shall, unless the Authority agrees otherwise, provide such information that has been requested by the Authority by the date specified in the request.
19. The Authority may, having considered the information provided by the licensee pursuant to this condition, by notice to the licensee set out that it proposes to reduce the value of the base transmission revenue set out in paragraph 2 of special condition D2 (Restriction on Transmission Network Revenue). Such notice shall specify:
 - (a) the amount by which the Authority proposes reduce base transmission revenue as a result of relevant capital expenditure $RelCx_t$ being less than $0.8 \times (RelACx_t)$;
 - (b) the date on which the Authority proposes that the proposed reduction in base transmission revenue would take effect;
 - (c) the reasons why the Authority considers that the proposed reduction is appropriate;
 - (d) the date, being of no less than 28 days from the date of the notice, by which the Authority invites comments from the licensee; and
 - (e) the date by which the Authority intends to give notice of such proposed licence amendments pursuant to section 11 (or as the case may be, section 12) of the Act.

20. The Authority shall have regard to any representations made by the licensee in response to the notice referred to in paragraph 19 before formally proposing the modification to the value of the base transmission revenue in paragraph 2 of special condition D2 (Restriction on Transmission Network Revenue) referred to in the notice pursuant to section 11 (or as the case may be, section 12) of the Act.

21. The proposals provided to the licensee pursuant to paragraph 19 above shall be constructed, so far as is reasonably practicable, to reduce the licensee's base transmission revenue by an amount which is no more than an amount which represents the savings in financing costs, including depreciation, in respect of a reduction to the capital expenditure allowance determined by the Authority for the purpose of this part of this condition in the light of information provided by the licensee in accordance with this part of this condition.

Special Condition H: Amended standard conditions

1. Standard condition A1 (Definitions and interpretation) shall be amended by the addition of the following text between the definitions of "relinquishment of operational control" and "Retail Price Index":

"remote transmission assets" means any electric lines, electrical plant or meters in England and Wales owned by the licensee which:

- (a) are embedded in a distribution system of an authorised electricity operator within the transmission area of the licensee and are not directly connected by lines or plant owned by the licensee to a sub-station owned by the licensee and
- (b) are, by agreement between the licensee and such authorised electricity operator, operated under the direction and control of such authorised electricity operator.

2. Standard condition A1 (Definitions and interpretation) shall be amended as follows:

- (a) by the addition of the following text after "and includes" in the definition of "distribution system": "remote transmission assets (owned by the licensee within England and Wales) operated by such distributor and any";
- (b) by the addition of the following text at the end of the definitions of "GB transmission system" and "national electricity transmission system": "but shall not include any remote transmission assets";
- (c) not used;
- (d) in the definition of "transmission business":
 - (aa) not used;
 - (bb) not used;

(cc) the words "or commercial management" shall be inserted after "maintenance";

(dd) the words "the transmission owner activity," shall be inserted before "the balancing services activity"; and

(ee) not used.

3. Standard condition C1 (Interpretation of Section C) shall be amended by the addition of the following text between the definition of "transmission network services" and the definition of "use of system":

"transmission owner activity"

means

- (i) the activity of the licensee or any affiliate or related undertaking relating to the medium to long term planning, development, construction, maintenance and commercial management of the licensee's transmission system or the [GB national electricity](#) transmission system which is remunerated under special condition D2 (Restriction on Transmission Network Revenue) , and
- (ii) excluded services.

Special Condition K: Requests for transit

1. In this condition:

"entity" means any of the entities referred to in Article 3.1 of the Directive of the Council of the European Communities, dated 29th October 1990, (No. 90/547/EEC) on the transit of electricity through transmission grids ("the Directive");

"grid" means any high-voltage electricity transmission grid for the time being listed in the Annex to the Directive;

"Member State" means a Member State of the European Communities;

"transit" means a transaction for the transport of electricity between grids where:

(a) the grid of origin or final destination is situated in a Member State; and

(b) the transport involves –

(i) the crossing of at least one frontier between Member States; and

(ii) the use of the [GB-national electricity](#) transmission system and at least two other grids.

2. Any entity applying in connection with transit for an agreement for use of system shall be treated for the purposes of standard conditions C7 (Prohibition on discrimination against users), C8 (Requirement to offer terms) and C9 (Functions of the Authority) as an authorised electricity operator.

3. The licensee shall, after receiving in connection with transit for a minimum duration of one year an application by any entity for an agreement for -

(a) use of system; or

(b) connection to the [GB-national electricity](#) transmission system or modification to an existing connection,

notify the Secretary of State, the Authority and the Commission of the European Communities without delay of the matters set out in paragraph 4 below.

4. The matters of which notification must be given are:
 - (a) the application;
 - (b) if an agreement has not been concluded within 12 months of the date of receipt of the application, the reasons for the failure to conclude it; and
 - (c) the conclusion of the agreement, whether it is concluded before or after the expiry of the period mentioned in sub-paragraph (b) above.

If, in relation to an application for transit by any entity, the Authority has been requested to exercise its powers under standard condition C9 (Functions of the Authority) or special condition F (Functions of the Authority), the Authority may delay the exercise of its said powers until the terms have been considered by the body set up under Article 3.4 of the Directive and the Authority may give such weight to the opinion (if any) of that body as it thinks fit in exercising its said powers.

Special Condition M: Restriction on the use of certain information

1. This condition applies where the licensee has received an application for connection pursuant to paragraph 1(b) of standard condition C8 (Requirement to offer terms) from any person (the “applicant”), in relation to a possible connection to the [GB-national electricity](#) transmission system in an area which is outside the licensee’s transmission area.
2. Where this condition applies, any information which the licensee receives from another transmission licensee relating to the design or construction of that possible connection or relating to financial matters associated with that possible connection or any information which is derived from such information (but in each case excluding any such information which the licensee has properly received or will properly receive through another means) shall, for the purposes of this condition and special condition N (Appointment of a compliance officer) and until such time as the licensee accepts the TO offer relating to that possible connection or the applicant accepts an alternative offer made by the licensee and there are no outstanding alternative offers in respect of that TO offer, be confidential information.
3. Subject to paragraph 4, the licensee shall ensure that any confidential information is not disclosed to or used by those of its employees, agents, advisers, consultants or contractors who are responsible for, or are otherwise involved in any way in, the preparation of any alternative offer for or the making of any alternative offer to the applicant. The licensee shall further ensure that such of its employees, agents, advisers, consultants or contractors who are preparing an offer for the applicant dealing with such confidential information shall not have access to any information derived from or relating to any alternative offer or alternative offers being prepared for or which have been made to the applicant in relation to a possible connection or possible connections to any part of the [GB-national electricity](#) transmission system which falls within the licensee’s transmission area.
4. Paragraph 3 shall not (or no longer) apply if and to the extent that:
 - (a) the employees, agents, advisers, consultants or contractors who are responsible for, or are otherwise involved in, the preparation of an alternative offer are required to have access to the confidential information (or any part thereof) by virtue of any requirement of law;
 - (b) the employees, agents, advisers, consultants or contractors who are dealing with the confidential information (or any part thereof) are required to have access to any alternative offer (or any part thereof) by virtue of any requirement of law;

- (c) the relevant transmission licensee has notified (or otherwise agreed with) the licensee that the information referred to in paragraph 2 (or any part thereof) need not be treated as confidential for the purposes of this condition or special condition N (Appointment of a compliance officer);
- (d) any employees, agents, advisers, consultants or contractors are required to have access to both the confidential information (or any part thereof) and any alternative offer solely in connection with the financial sanctioning or final approval of an offer to be made to the applicant in accordance with standard condition C8 (Requirement to offer terms), provided that where following such access the licensee (or any employee, agent, adviser, consultant or contractor of the licensee on its behalf) amends any aspect of any offer to the applicant, such modification shall be notified to the Compliance Officer appointed in accordance with special condition N (Appointment of a compliance officer); or
- (e) any employees, agents, advisers, consultants or contractors are required to have access to both the confidential information (or any part thereof) and any alternative offer (or part thereof) solely in connection with assessing transmission system outage requirements and developing outage plans to facilitate connection to the [GB-national electricity](#) transmission system,

provided that effective arrangements are maintained in place at all times for ensuring that no further disclosure or use of any information supplied or obtained pursuant to this paragraph is made.

5. This condition applies without prejudice to any other confidentiality arrangements that may apply to the information referred to in paragraph 2.

6. In this condition

“alternative offer” an offer being prepared or made pursuant to paragraph 1(b) of standard condition C8 (Requirement to offer terms) shall be an alternative offer where:

- (c) it relates to a connection to the [GB-national electricity](#) transmission system at a location which is within the licensee’s transmission area; and

- (d) the applicant (whether by one or more applications):

- (i) has applied to connect to the [GB-national](#)

[electricity](#) transmission system at more than one location, at least one of which is located outside the licensee's transmission area; or

(ii) is willing to consider a connection to the [GB national electricity](#) transmission system at more than one location, at least one of which locations is outside the licensee's transmission area; and

(e) the licensee knows or it is reasonable for the licensee to assume that the applicant does not intend to connect to the [GB national electricity](#) transmission system at all the locations at which the applicant has requested an offer for connection and that it intends to choose to connect at one or more locations on the basis of the offers it receives,

but shall exclude any offer being prepared for or which has been made to the applicant which the licensee knows or it is reasonable for the licensee to assume the applicant does not consider is an alternative to any other offer which is being prepared for or which has been made to the applicant.

"applicant"

has the meaning given to that term in paragraph 1.

"confidential information"

has the meaning given to that term in paragraph 2.

SECTION 1 – CHANGES TO SP TRANSMISSION LIMITED’S TRANSMISSION LICENCE

Special Condition B. Activities restrictions

1. Subject to the provisions of paragraph 2 below (which are made in accordance with section 7(2A)(a) of the Act), the licensee is authorised by paragraph 1 of Part I of this licence to participate in the transmission of electricity for the purpose of giving a supply to any premises or enabling a supply to be so given.
2. The licensee shall not:
 - (a) co-ordinate or direct the flow of electricity onto or over the whole or any part of the [GB-national electricity](#) transmission system except where permitted to do so under the STC, subject to the approval of the Authority, or where required to do so by any other licence condition; and
 - (b) outside its transmission area, make available assets comprising part of the [GB-national electricity](#) transmission system which are intended for the purpose of conveying or affecting the flow of electricity.

Special Condition D. Independence of and appointment of managing director of the transmission business

1. (a) The licensee shall establish and shall thereafter maintain the full managerial and operational independence of the transmission business and any external transmission activities from each other business (whether or not a separate business) of the licensee and of its affiliates and related undertakings.
- (b) The licensee shall appoint an officer (hereafter referred to as "the Managing Director of Transmission") to be responsible for the conduct of the transmission business and any external transmission activities.

2. The Managing Director of Transmission may be a director:

- (a) of the transmission licensee; or
- (b) in the circumstances set out in paragraph 12 only, of the licensee and of an affiliate or related undertaking of the licensee which holds a distribution licence or a holding company only engaged in ownership or management of distribution or transmission businesses or both;

provided that the licensee shall ensure that the Managing Director of Transmission shall not be a director of any other affiliate or related undertaking of the licensee and that he shall not be engaged by the licensee in any other capacity than as Managing Director of Transmission.

3. The licensee shall arrange for the Managing Director of Transmission in the course of discharging his responsibility under paragraph 1 to be provided from time to time with:

- (a) the services of such persons (as the Managing Director of Transmission may from time to time select), whose services:
 - (i) may be dispensed with at the sole discretion (subject to compliance with relevant UK employment legislation) of the Managing Director of Transmission; and

- (ii) will only be utilised if such persons execute a contract of or for services containing an appropriate confidentiality clause regarding that information which may be acquired by such person whilst working for the transmission business and any external transmission activities;
- (b) such premises, systems, equipment, facilities, property, personnel, data and management resources; and
- (c) such finance;

as may be reasonably required by the Managing Director of Transmission for the efficient and effective management and operation of the transmission business in accordance with the licensee's duty under section 9(2)(a) of the Act and the transmission licence.

4. The licensee shall direct the Managing Director of Transmission:

- (a) to inform the directors of the licensee, in writing, if, at any time, he is of the opinion that the provision of those items specified in paragraph 3 are not sufficient to enable the licensee to comply with its duties under section 9(2)(a) of the Act and the transmission licence; and
- (b) as soon as practicable after the end of the year 2001 and of each subsequent calendar year, to furnish to the directors of the licensee:
 - (i) an informative report on the provision of those matters made in respect of that year; and
 - (ii) a statement of his opinion whether adequate arrangements have been or are likely to be made for the provision of those matters which will be required in respect of the ensuing calendar year to enable the licensee to comply with those duties including, in particular, a description of the differences in the provision of those matters made or likely to be made in that year compared with the provision made in respect of the preceding year and the reasons for those differences.

5. On receipt of any information under paragraph 4(a) or report and statement under paragraph 4(b), the licensee shall, subject to compliance with the listing rules (within the meaning of Part IV of the Financial Services Act 1986 (c.60)) of the Stock Exchange:
 - (a) give to the Authority forthwith that information or report and statement; and
 - (b) where such a report is received, publish it in such form and manner as the Authority may direct.

6. Except insofar as the Authority consents to the licensee doing so, the licensee shall only give directions to the Managing Director of Transmission as to the discharge of his responsibilities under paragraph 1:
 - (a) where:
 - (i) in the bona fide and reasonable opinion of the licensee the statutory, licence and contractual obligations of the licensee; or
 - (ii) in the bona fide opinion of the directors, their duties;so require; or
 - (b) to ensure compliance with paragraph 4.

7. The licensee shall give directions under sub- paragraph 6(a) by notice in writing, specifying in the notice the statutory, licence or contractual obligations of the licensee or duty of the directors of the licensee which require the licensee to give directions, which notice shall be copied to the Authority.

8. Except insofar as the Authority consents to the licensee not doing so, the licensee shall, subject to paragraph 9 below, ensure that:
 - (a) no business of the licensee (or of any affiliate or related undertaking of the licensee), other than the transmission business or any external transmission activities, may use or have access to:

- (i) premises or parts of premises occupied by persons engaged in, or in respect of, the management or operation of the transmission business or any external transmission activities;
 - (ii) systems for the recording, processing or storage of data to which persons engaged in, or in respect of, the management or operation of the transmission business or any external transmission activities also have access;
 - (iii) equipment, facilities or property employed for the management or operation of the transmission business or any external transmission activities; or
 - (iv) the services of persons who are (whether or not as their principal occupation) engaged in, or in respect of, the management or operation of the transmission business or any external transmission activities; and
- (b) it can and does, insofar as is legally possible, prevent any person who has ceased to be engaged in, or in respect of, the management or operation of the transmission business from being engaged in, or in respect of, the activities of any other business of the licensee (or of any affiliate or related undertaking of the licensee) until the expiry of an appropriate time from the date on which he ceased to be engaged by the transmission business.

9. The Authority may, upon the written request of the licensee, issue a direction relieving the licensee of its obligations under special condition C (Restriction on use of certain information) and under paragraphs 1(a), 2 and 8 of this condition, to such extent and subject to such terms and conditions as he may specify in that direction, where:

- (a) it is not reasonably practicable for the licensee to comply with any aspect of those obligations;

- (b) in the case of paragraphs 2 to 4 of special condition C (Restriction on use of certain information), a failure to comply with any aspect of those obligations would be of a trivial nature; or
- (c) in the case of paragraphs 1(a) and 8 of this condition, any arrangements for the use of or access to premises, systems, equipment, facilities, property or personnel by both the transmission business and any other business of the licensee (or of any affiliate or related undertaking of the licensee):
 - (i) do not involve a cross-subsidy being either given to the transmission business by such other business or received from the transmission business by such other business;
 - (ii) obtain for the transmission business, in the most efficient and economical manner possible, the use of the relevant premises, systems, equipment, facilities, property or personnel; and
 - (iii) do not restrict, distort or prevent competition in the generation or supply of electricity,

provided that the licensee shall not thereby be relieved of any obligation imposed on it by EU Directive 96/92/EC.

10. Where, subsequent to the issue of a direction pursuant to paragraph 9, the criteria set out at sub-paragraphs 9(a), (b) or (c) cease to be satisfied, the Authority may withdraw the direction or modify any terms and conditions which may be specified in it.
11. For the purposes of paragraphs 9 and 10 the Authority shall, following consultation with the licensee, determine any question as to whether the criteria set out at sub-paragraphs 9(a), (b) or (c) are or continue to be satisfied.
12. If the Authority is requested to issue any direction pursuant to paragraph 9 relating to the transmission business being managed or operated by the licensee together with any distribution business then that direction may provide that for the purposes of this condition and of special condition C (Restriction on use of certain information) the transmission business shall be taken to include any such distribution business and for

the Managing Director of Transmission to take part in the management of and/or to be a :director of any company carrying on any such distribution business.

13. In this condition

"appropriate time" means 3 months, or such shorter period as the Authority may approve in respect of any person or class of persons.

"external transmission activities" means any business of the licensee or any affiliate or related undertaking of the licensee comprising or ancillary to the maintenance, repair or operation in an emergency of any electricity distribution system or any part of the [GB-national electricity](#) transmission system other than the licensee's transmission system.

Special Condition G: Requests for transit

1. In this Condition:

"entity" means any of the entities referred to in Article 3.1 of the Directive of the Council of the European Communities, dated 29th October 1990, (No.90/547/EEC) on the transit of electricity through transmission grids ("the Directive").

"grid" means any high-voltage electricity transmission grid for the time being listed in the Annexe to the Directive.

"Member State" means a Member State of the European Union.

"transit" means a transaction for the transport of electricity between grids where:

- (a) the grid of origin or final destination is situated in a Member State; and
- (b) the transport involves:
 - (i) the crossing of at least one frontier between Member States; and
 - (ii) the use of the [GB-national electricity](#) transmission system and at least two other grids.

2. The licensee shall, after receiving in connection with transit for a minimum duration of one year an application by an entity for an agreement for:

(a) use of system; or

(b) connection to the [GB-national electricity](#) transmission system or modification to an existing connection,

notify the Secretary of State, the Authority and the European Commission without delay of the matters set out in paragraph 3 below.

3. The matters of which notification must be given are:
 - (a) the application;
 - (b) if an agreement has not been concluded within 12 months of the date of receipt of the application, the reasons for the failure to conclude it;
 - (c) the conclusion of the agreement, whether it is concluded before or after the expiry of the period mentioned in sub-paragraph (b) above.
4. If, in relation to an application for transit by any entity, the Authority has been requested to exercise its powers under standard condition C9 (Functions of the Authority), the Authority may delay the exercise of its said powers until the terms have been considered by the body set up under Article 3.4 of the Directive and the Authority may give such weight to the opinion (if any) of that body as it thinks fit in exercising its said powers.

SECTION 1 – CHANGES TO SCOTTISH-HYDRO ELECTRIC TRANSMISSION LICENCE

Special Condition B. Activities restrictions

1. Subject to the provisions of paragraph 2 below (which are made in accordance with section 7(2A)(a) of the Act), the licensee is authorised by paragraph 1 of Part I of this licence to participate in the transmission of electricity for the purpose of giving a supply to any premises or enabling a supply to be so given.
2. The licensee shall not:
 - (a) co-ordinate or direct the flow of electricity onto or over the whole or any part of the [GB-national electricity](#) transmission system except where permitted to do so under the STC, subject to the approval of the Authority, or where required to do so by any other licence condition; and
 - (b) outside its transmission area, make available assets comprising part of the [GB-national electricity](#) transmission system which are intended for the purpose of conveying or affecting the flow of electricity.

Special Condition D. Independence of and appointment of managing director of the transmission business

1. (a) The licensee shall establish and shall thereafter maintain the full managerial and operational independence of the transmission business and any external transmission activities from each other business (whether or not a separate business) of the licensee and of its affiliates and related undertakings.
- (b) The licensee shall appoint an officer (hereafter referred to as "the Managing Director of Transmission") to be responsible for the conduct of the transmission business and any external transmission activities.

2. The Managing Director of Transmission may be a director:

- (a) of the transmission licensee; or
- (b) in the circumstances set out in paragraph 12 only, of the licensee and of an affiliate or related undertaking of the licensee which holds a distribution licence or a holding company only engaged in ownership or management of distribution or transmission businesses or both;

provided that the licensee shall ensure that the Managing Director of Transmission shall not be a director of any other affiliate or related undertaking of the licensee and that he shall not be engaged by the licensee in any other capacity than as Managing Director of Transmission.

3. The licensee shall arrange for the Managing Director of Transmission in the course of discharging his responsibility under paragraph 1 to be provided from time to time with:

- (a) the services of such persons (as the Managing Director of Transmission may from time to time select), whose services:
 - (i) may be dispensed with at the sole discretion (subject to compliance with relevant UK employment legislation) of the Managing Director of Transmission; and

- (ii) will only be utilised if such persons execute a contract of or for services containing an appropriate confidentiality clause regarding that information which may be acquired by such person whilst working for the transmission business and any external transmission activities;
- (b) such premises, systems, equipment, facilities, property, personnel, data and management resources; and
- (c) such finance;

as may be reasonably required by the Managing Director of Transmission for the efficient and effective management and operation of the transmission business in accordance with the licensee's duty under section 9(2)(a) of the Act and the transmission licence.

4. The licensee shall direct the Managing Director of Transmission:

- (a) to inform the directors of the licensee, in writing, if, at any time, he is of the opinion that the provision of those items specified in paragraph 3 are not sufficient to enable the licensee to comply with its duties under section 9(2)(a) of the Act and the transmission licence; and
- (b) as soon as practicable after the end of the year 2001 and of each subsequent calendar year, to furnish to the directors of the licensee:
 - (i) an informative report on the provision of those matters made in respect of that year; and
 - (ii) a statement of his opinion whether adequate arrangements have been or are likely to be made for the provision of those matters which will be required in respect of the ensuing calendar year to enable the licensee to comply with those duties including, in particular, a description of the differences in the provision of those matters made or likely to be made in that year compared with the provision made in respect of the preceding year and the reasons for those differences.

5. On receipt of any information under paragraph 4(a) or report and statement under paragraph 4(b), the licensee shall, subject to compliance with the listing rules (within the meaning of Part IV of the Financial Services Act 1986 (c.60)) of the Stock Exchange:
 - (a) give to the Authority forthwith that information or report and statement; and
 - (b) where such a report is received, publish it in such form and manner as the Authority may direct.

6. Except insofar as the Authority consents to the licensee doing so, the licensee shall only give directions to the Managing Director of Transmission as to the discharge of his responsibilities under paragraph 1:
 - (a) where:
 - (i) in the bona fide and reasonable opinion of the licensee the statutory, licence and contractual obligations of the licensee; or
 - (ii) in the bona fide opinion of the directors, their duties;so require; or
 - (b) to ensure compliance with paragraph 4.

7. The licensee shall give directions under sub- paragraph 6(a) by notice in writing, specifying in the notice the statutory, licence or contractual obligations of the licensee or duty of the directors of the licensee which require the licensee to give directions, which notice shall be copied to the Authority.

8. Except insofar as the Authority consents to the licensee not doing so, the licensee shall, subject to paragraph 9 below, ensure that:
 - (a) no business of the licensee (or of any affiliate or related undertaking of the licensee), other than the transmission business or any external transmission activities, may use or have access to:

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 - (ii) systems for the recording, processing or storage of data to which persons engaged in, or in respect of, the management or operation of the transmission business or any external transmission activities also have access;
 - (iii) equipment, facilities or property employed for the management or operation of the transmission business or any external transmission activities; or
 - (iv) the services of persons who are (whether or not as their principal occupation) engaged in, or in respect of, the management or operation of the transmission business or any external transmission activities; and
- (b) it can and does, insofar as is legally possible, prevent any person who has ceased to be engaged in, or in respect of, the management or operation of the transmission business from being engaged in, or in respect of, the activities of any other business of the licensee (or of any affiliate or related undertaking of the licensee) until the expiry of an appropriate time from the date on which he ceased to be engaged by the transmission business.

9. The Authority may, upon the written request of the licensee, issue a direction relieving the licensee of its obligations under special condition C (Restriction on use of certain information) and under paragraphs 1(a), 2 and 8 of this condition, to such extent and subject to such terms and conditions as he may specify in that direction, where:

- (a) it is not reasonably practicable for the licensee to comply with any aspect of those obligations;

- (b) in the case of paragraphs 2 to 4 of special condition C (Restriction on use of certain information), a failure to comply with any aspect of those obligations would be of a trivial nature; or
- (c) in the case of paragraphs 1(a) and 8 of this condition, any arrangements for the use of or access to premises, systems, equipment, facilities, property or personnel by both the transmission business and any other business of the licensee (or of any affiliate or related undertaking of the licensee):
 - (i) do not involve a cross-subsidy being either given to the transmission business by such other business or received from the transmission business by such other business;
 - (ii) obtain for the transmission business, in the most efficient and economical manner possible, the use of the relevant premises, systems, equipment, facilities, property or personnel; and
 - (iii) do not restrict, distort or prevent competition in the generation or supply of electricity,

provided that the licensee shall not thereby be relieved of any obligation imposed on it by EU Directive 96/92/EC.

10. Where, subsequent to the issue of a direction pursuant to paragraph 9, the criteria set out at sub-paragraphs 9(a), (b) or (c) cease to be satisfied, the Authority may withdraw the direction or modify any terms and conditions which may be specified in it.
11. For the purposes of paragraphs 9 and 10 the Authority shall, following consultation with the licensee, determine any question as to whether the criteria set out at sub-paragraphs 9(a), (b) or (c) are or continue to be satisfied.
12. If the Authority is requested to issue any direction pursuant to paragraph 9 relating to the transmission business being managed or operated by the licensee together with any distribution business then that direction may provide that for the purposes of this

condition and of special condition C (Restriction on use of certain information) the transmission business shall be taken to include any such distribution business and for the Managing Director of Transmission to take part in the management of and/or to be a director of any company carrying on any such distribution business.

13. In this condition:

"appropriate time" means 3 months, or such shorter period as the Authority may approve in respect of any person or class of persons.

"external transmission activities" means any business of the licensee or any affiliate or related undertaking of the licensee comprising or ancillary to the maintenance, repair or operation in an emergency of any electricity distribution system or any part of the [GB-national electricity](#) transmission system other than the licensee's transmission system.

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- "entity" means any of the entities referred to in Article 3.1 of the Directive of the Council of the European Communities, dated 29th October 1990, (No.90/547/EEC) on the transit of electricity through transmission grids ("the Directive").
- "grid" means any high-voltage electricity transmission grid for the time being listed in the Annexe to the Directive.
- "Member State" means a Member State of the European Union.
- "transit" means a transaction for the transport of electricity between grids where:
- (a) the grid of origin or final destination is situated in a Member State; and
 - (b) the transport involves:
 - (i) the crossing of at least one frontier between Member States; and
 - (ii) the use of the ~~G~~national~~B~~ electricity transmission system and at least two other grids.

2. The licensee shall, after receiving in connection with transit for a minimum duration of one year an application by an entity for an agreement for:

- (a) use of system; or
- (b) connection to the ~~GB~~-national electricity transmission system or modification to an existing connection,

notify the Secretary of State, the Authority and the European Commission without delay of the matters set out in paragraph 3 below.

3. The matters of which notification must be given are:
 - (a) the application;
 - (b) if an agreement has not been concluded within 12 months of the date of receipt of the application, the reasons for the failure to conclude it;
 - (c) the conclusion of the agreement, whether it is concluded before or after the expiry of the period mentioned in sub-paragraph (b) above.
4. If, in relation to an application for transit by any entity, the Authority has been requested to exercise its powers under standard condition C9 (Functions of the Authority), the Authority may delay the exercise of its said powers until the terms have been considered by the body set up under Article 3.4 of the Directive and the Authority may give such weight to the opinion (if any) of that body as it thinks fit in exercising its said powers.