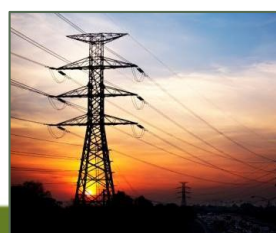


**NIE Networks' Electricity Transmission
Licence and
NIE Networks' Electricity Distribution
Licence**

**A consultation paper on our proposed
Licence modifications**

September 2015



About the Utility Regulator

The Utility Regulator is the independent non-ministerial government department responsible for regulating Northern Ireland's electricity, gas, water and sewerage industries, to promote the short and long-term interests of consumers.

We are not a policy-making department of government, but we make sure that the energy and water utility industries in Northern Ireland are regulated and developed within ministerial policy as set out in our statutory duties.

We are governed by a Board of Directors and are accountable to the Northern Ireland Assembly through financial and annual reporting obligations.

We are based at Queens House in the centre of Belfast. The Chief Executive leads a management team of directors representing each of the key functional areas in the organisation: Corporate Affairs; Electricity; Gas; Retail and Social; and Water. The staff team includes economists, engineers, accountants, utility specialists, legal advisors and administration professionals.

Our Mission

Value and sustainability in energy and water.

Our Vision

We will make a difference for consumers by listening, innovating and leading.

Our Values

Be a best practice regulator: transparent, consistent, proportional, accountable, and targeted.

Be a united team.

Be collaborative and co-operative.

Be professional.

Listen and explain.

Make a difference

Act with integrity.

Abstract

This paper sets out the Utility Regulator's (UR's) proposed changes to the two licences held by Northern Ireland Electricity Networks Limited (NIE Networks). Most of these modifications are made as a result of a final determination (FD) by the Competition Commission (CC) and are therefore made under Article 17 of the Electricity Order. The focus of this consultation is to ensure that the modifications proposed by the UR reflect the CC's FD but it is not a consultation on the merits or otherwise of the FD.

Audience

This document is likely to be of interest to NIE Networks, electricity customers, other regulated companies in the energy industry, government and other statutory bodies and consumer groups with an interest in the energy industry.

Consumer impact

The main impact of the modifications is to formalise the outcome of the CC's FD. The RP5 period is from 1st March 2012 to 31st October 2017 and these modifications are taking place more than 3 years after 1st March 2012. In practice however the monetary impact of the CC FD has been accounted for in electricity bills from October 2014. The CC's FD forecast that the transmission and distribution component of the representative domestic customer's annual bill would reduce by approximately £10 relative to RPI by the end of the four years to September 2017 from £152 per year to around £142 per year in 2012/13 prices.

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1. Background

- 1.1. The Northern Ireland Authority for Utility Regulation (the Utility Regulator (UR)) issued a determination¹ on a new price control (RP5) for Northern Ireland Electricity Networks Limited (NIE) on 23 October 2012 in respect of NIE Networks' Licences for electricity transmission and electricity distribution (each, a Licence, together the Licences), together with proposed draft Licence modifications.
- 1.2. On 20th November 2012 NIE Networks rejected the UR's price control determination.
- 1.3. The UR referred² the matter to the Competition Commission (CC), on 30th April 2013, under Article 15(1)³ of the Electricity (Northern Ireland) Order 1992 (the Order).
- 1.4. The CC published their Final Determination (FD)⁴ on RP5 on 15th April 2014 along with their public interest findings.
- 1.5. Under Article 17(1)⁵ of the Order the UR is required to make modifications to the Licences, as appear requisite to the UR, for the purpose of remedying or preventing the adverse public interest effects specified in the CC's FD.
- 1.6. In proposing to modify the Licences under Article 17 of the Order the UR has found that other modifications to the Licences need to be made and therefore the UR is taking this opportunity to also modify

¹ See here: http://www.uregni.gov.uk/uploads/publications/RP5_Main_Paper_22-10-12_FINAL.pdf

² See here: http://www.uregni.gov.uk/uploads/publications/RP5_-_Article_15_Referral_Notice.pdf

³ See here: <http://www.legislation.gov.uk/nisi/1992/231/article/15/made>

⁴ See FD here: https://assets.digital.cabinet-office.gov.uk/media/535a5768ed915d0fdb000003/NIE_Final_determination.pdf and other related documents here: <https://www.gov.uk/cma-cases/northern-ireland-electricity-price-determination>

⁵ See here: <http://www.legislation.gov.uk/nisi/1992/231/article/17/made>

the Licences under Article 14⁶ of the Order (as amended by The Gas and Electricity Licence Modification and Appeals Regulations (Northern Ireland) 2015).

2. Introduction

- 1.7. The CC's FD addressed many public interest concerns regarding NIE Networks' Licences and regulatory framework. The FD is therefore very lengthy (with some 502 pages for the FD and 193 pages in the appendices⁷) and complex; it introduces new price control mechanisms, and remedies, many of which overlap each other.
- 1.8. The FD also addressed separately, issues for the electricity transmission Licence (the 'Transmission Licence'), from the electricity distribution Licence (the 'Distribution Licence'), although many of the public interest findings relate to both Licences equally.
- 1.9. For example the FD identified that there should be separate revenue controls for the Transmission Licence and the Distribution Licence. This added further complexity to the modifications: this separation had not been done before; and in some parts the FD did not make a distinction between transmission and distribution. The UR has therefore been working with both NIE Networks and the Competition & Markets Authority (the CMA, the successor body to the CC) to help with this complexity as well as other complexities.
- 1.10. The CC's FD rightly recognised that significant work needed to be done to finalise and implement Licence modifications to reflect their

⁶ See here: <http://www.legislation.gov.uk/nisr/2015/1/regulation/4/made>

⁷ See here: <https://assets.digital.cabinet-office.gov.uk/media/534cd4b4ed915d630e000041/appendices-glossary.pdf>

public interest findings⁸.

- 1.11. The UR has reviewed the existing electricity transmission Licence⁹ (134 pages) and electricity distribution Licence¹⁰ (169 pages), in order to identify and propose the Licence modifications set out below.
- 1.12. However, the UR is concerned that, given the significant extent of the Licence modifications, coupled with the complexity of the CC's FD, it may be difficult for consultees to understand the modifications being proposed. Simply providing tracked changes (as is usually the format for Licence modification consultations) may not, in and of itself, be adequate, to allow stakeholders to assess the modifications.
- 1.13. Therefore, the UR has attempted to avoid the modifications being esoteric by cross-referencing as much as possible between the various parts of the lengthy Licence and FD documents (see Schedule 1 and Schedule 2). The UR has also sought to keep the Transmission and Distribution Licences as consistent as possible with each other.
- 1.14. This consultation seeks to gather stakeholder views on the appropriateness, accuracy and completeness of the Licence modifications, specified below, which the UR proposes to make under Article 17 and Article 14 of the Order.
- 1.15. The UR presents the modifications in two separate and distinct steps. The first step is to show the Article 17 modifications as tracked changes to the current Licence conditions. The second step is to then show the Article 14 modifications (again as tracked changes) to the

⁸ See §78 of the CC's FD here: https://assets.digital.cabinet-office.gov.uk/media/535a5768ed915d0fdb000003/NIE_Final_determination.pdf

⁹ See here: http://www.uregni.gov.uk/uploads/publications/NIE_Transmission_Licence_-_IME3_Modifications_-_effective_28_March_2014.pdf

¹⁰ See here: http://www.uregni.gov.uk/uploads/publications/NIE_Distribution_Licence_-_SWE_Modifications_-_effective_04_February_2015.pdf

Article 17 modified Licences. More detail on this is set out below.

- 1.16. The remainder of this consultation is structured as follows: an overview of the modifications; notable clarifications; and next steps.

3. An overview of the modifications

- 1.17. The UR is proposing to make substantial modifications to both the Transmission and Distribution Licences under different Articles of the Order. To help consultees understand this, Appendix 1 sets out a reasons and effects notice which references the relevant Article of the Order, under which each modification is to be made.

- 1.18. Before reviewing Appendix 1 and its associated schedules the UR thinks it is worthwhile reminding consultees of the structure of the existing T&D Licences.

- 1.19. The Distribution Licence is 169 pages long and comprises mainly of the following three sections:

- i. General Conditions (1 to 45);
- ii. Annex 1; and
- iii. Annex 2.

- 1.20. The Transmission Licence is 134 pages long and comprises mainly of the same sections:

- i. General Conditions (1 to 45);
- ii. Annex 1; and
- iii. Annex 2.

- 1.21. The above distinctions are important to allow consultees to follow the tables presented in Schedule 1 and Schedule 2 below.
- 1.22. For example, Schedule 1 and Schedule 2 identify whether a modification is made to the Transmission Licence, or to the Distribution Licence or to both Licences. This is identified in the column titled “T or D or Both”.
- 1.23. Schedule 1 and Schedule 2 identify where a modification can be found in each Licence by using two columns titled “Licence reference 1” and “Licence reference 2”. The first column (“Licence reference 1”) will help consultees identify whether a modification relates to either; the General Conditions; Annex 1; or Annex 2. The second column (“Licence reference 2”) provides more detail on where that modification can be found within those sections e.g. by referring to a particular paragraph or a particular Condition.
- 1.24. Consultees will note that Schedule 1 contains the majority of the modifications and that these are all related to the CC’s FD. The UR has therefore cross-referenced the applicable section of the CC’s FD in order to aid consultees in their assessment of our proposals. This is done via the column titled “CC FD reference”.
- 1.25. Consultees will note that, to further aid their review of these modifications, and to maintain a logical consistency between the Transmission Licence and the Distribution Licence, that the UR has, as far as possible, maintained the same structure and paragraph numbers in each e.g. the Annex 2 paragraph numbers are consistent in both the Transmission and Distribution Licences.
- 1.26. Given that the modifications are very substantial, the UR anticipates

that Schedule 1 and Schedule 2 will aid consultees to review Schedules 3, 4, 5, 6, 7, 8 and 9.

- 1.27. Modifications being made under Article 17 and relating to the main body of the Distribution Licence are presented as tracked changes at Schedule 3. However modifications being made under Article 17 and relating to, Annex 2 of the Distribution Licence and Annex 2 of the Transmission Licence, are presented as new Annexes at Schedules 4 and 5 respectively.
- 1.28. Modifications being made under Article 14 (which are to be made subsequent to the Article 17 modifications) are presented as tracked changes at Schedules 6 (the main body of the Distribution Licence), 8 (Annex 2 of the Distribution Licence) and 9 (Annex 2 of the Transmission Licence). However modifications being made under Article 14 to Annex 1 of the Distribution Licence are presented as a new Annex 1 at Schedule 7.

4. Notable clarifications

- 1.29. This section highlights four areas which warrant notable clarification. The four areas are: connections; distribution costs; asset replacement costs; and the depreciation calculation.

Connections

- 1.30. In the price control before RP5, any net connection costs or income (being the difference between a connecting party's contribution and the outturn cost to connect that party to the electricity network) were passed through to NIE Networks' RAB, such that the cost risk was shared among all electricity customers. For example, if the cost to

provide an electricity connection was more than the income received from the connecting party, then the net amount was recovered from all the other electricity customers. This policy was symmetrical: in cases where NIE Networks collected more connection income from a connecting party than was necessary to cover the costs of providing an electricity connection to that party, the net amount was also passed through to the RAB. This policy can be referred to as the ‘pass-through’ of net connection costs/income.

- 1.31. While the CC was considering the public interest of the NIE Networks’ price control and Licences, they considered in particular some types (but not all types) of connection.
- 1.32. The CC stated clearly in their FD that certain types of connection should be pass-through: for the purposes of this consultation these are referred to as ‘Type 1’ connections¹¹. However the CC did not state explicitly in their FD how the net costs/income on all other types of connection should be treated: in this consultation these are referred to as ‘Type 2’ connections.
- 1.33. Based on what was written in the text of the FD^{12&13} (and the UR’s involvement during the inquiry), the UR believed that Type 2 connections should remain pass-through in RP5 as was the case in RP4.

¹¹ Type 1 connections are those relating to: the legacy subsidy, housing sites with 12 or more dwellings; and duster infrastructure. Each of which are addressed at paragraphs 10.227, 10.301 and 10.335 in the FD text: https://assets.digital.cabinet-office.gov.uk/media/535a5768ed915d0fdb000003/NIE_Final_determination.pdf

¹² For example at paragraph 3.60 the FD states “*In consequence, new capex allowances need to be set*”. Therefore one may assume that the beginning of paragraph 3.60 was not a reference to cost pass-through of connections because such allowances were not set elsewhere in the FD.

¹³ For example paragraph 10.334 of the FD states “*We considered that it would be unduly disruptive to the charging arrangements that NIE and the UR have established for duster infrastructure if our determination did not allow them to be implemented. We recognized, in particular, that the development of alternative arrangements may take time (including consultation)...*” Therefore one may assume that, if the CC didn’t want to be unduly disruptive to the connection charging arrangements resulting from its review of dusters, then the charging arrangements were unlikely to need materially changed for any other aspect of the CC’s FD.

- 1.34. However, both NIE Networks and the CMA have told the UR that, in their opinion, Type 2 connections were not intended to be pass-through¹⁴ in RP5, and by extension, the net costs/income of Type 2 connections should sit fully with NIE Networks.
- 1.35. The UR has discussed this matter with the CMA and the CMA has explained that the CC inquiry found that the new price control should restrict the extent to which NIE Networks could pass-through its actual levels of capital expenditure to consumers. The CMA did not identify a need to maintain a pass-through approach for connections, other than for the three specific types (which the UR refers to as Type 1 connections at 1.32 above) which the CC had discussed with NIE Networks and the UR as part of the inquiry.
- 1.36. The CMA's view is that a pass-through approach is not an effective way to prevent NIE Networks from charging too much for connections, and that it would not help any customers who were overcharged.
- 1.37. The UR would be interested if respondents have any views on how they understood this matter to be dealt within the inquiry process and the FD.
- 1.38. Further to this basic question the UR would need to consider the implications of such a significant change to the electricity connections policy in NI. One of the reasons the UR did not read such a change in the FD is that it raises significant and complex issues and these would have to be fully consulted upon and carefully assessed.
- 1.39. This second question is not one of whether parties agree with the

¹⁴ As may be implied for example by the CC's FD at paragraph 3.60 where it states "*We determined that the public interest is better served by systems which, compared with cost pass-through, give NIE better incentives to enhance the efficiency of its capital expenditure.*"

CMA view but rather whether the matter needs to be considered in a holistic as opposed to an isolated manner. There is certainly merit in the argument that pass-through may not be the most effective way of preventing customers from over charging in connections. However the UR initial view is that any move away from pass-through should be done in a holistic and transparent manner with full consultation. The removal of pass-through is a fundamental change to the connections policy and must be considered in light of the Connection Charging Statement, measures in place to protect consumers and the contestability program to inject competition into the connections process.

- 1.40. To expand on this, the sections below set out relevant issues relating to: the effectiveness of the Connection Charging Statement (CCS); the connection framework in Great Britain; protecting customers against unreasonable profits; and the UR's connection conclusion. These sections raise some of the issues that the UR believes stakeholders should be aware of. None of these issues were identified in the FD.

The effectiveness of the Connection Charging Statement (CCS)

- 1.41. The regulation of NIE Networks' connection charges is facilitated primarily through general Licence conditions and through the UR's approval of the CCS¹⁵. The CCS is born out of the general condition that connecting parties should be able to make a "reasonable estimate" of the likely cost of getting connected.
- 1.42. The CCS does not set maximum charges for different types of connection work nor does it set exact charges which customers can

¹⁵ See here for an example of the CCS: <http://www.nie.co.uk/documents/Connections/NIE-Distribution-Connection-Charging-Statement-Oct.aspx>

identify based on their exact circumstances. The CCS only sets an “indicative” range upon which connection charges may be based. The CCS therefore is a weak tool for protecting customers against excessive connection charges and it also makes it very difficult to calculate a “reasonable estimate” although it is obviously debatable what a “reasonable estimate” is.

1.43. The CCS is developed on the basis that the indicative ranges are supplemented with a pass-through regime and therefore the risk that connection income differs greatly from connection cost is mitigated for both NIE Networks and electricity customers. However, if NIE Networks takes full risk and reward on Type 2 connections, any concerns with the CCS would be likely to increase.

1.44. Based on the current version of the CCS, the historic versions of the CCS and the likely future versions of the CCS (especially in the near future), the UR’s initial view is that, removing the pass through arrangement without a full review of the CCS is not in the public interest. The UR welcomes views on this.

The connection framework in Great Britain (GB)

1.45. In order to give this matter some additional context, it is worthwhile considering the connections framework in GB for the electricity distribution network operators (DNOs) licensed by Ofgem.

1.46. The UR identified the following protections for connection customers in GB:

- i. Cost reflectivity and transparency of connection charges:
 - a) Specific information to be provided in the connection offer¹⁶;

¹⁶ See electricity distribution standard licence condition 12 here: <https://epr.ofgem.gov.uk/Content/Documents/Electricity%20Distribution%20Consolidated%20Standard%20Licence%20Conditions%20-%20Current%20Version.pdf>

- b) A charging methodology based on certain principles¹⁷;
- c) A Quotation Accuracy Scheme¹⁸;
- d) A high cost project threshold of £200/kW for generation connections¹⁹;
- e) Connection reporting²⁰;
- f) An assessment of competition in connection markets²¹;
- g) A Code of Practice for providing connections²²;

ii. Financial Incentives & Penalties:

- h) Guaranteed Standards²³;
- i) Customer Satisfaction Surveys²⁴;
- j) An uncertainty mechanism for load-related expenditure²⁵;
- k) Allowing the DNO's to charge either; a zero margin; a regulated margin (e.g. 4%); or an unregulated margin, depending on Ofgem's assessment of effective competition²⁶;
- l) Time to Quote and Time to Connect²⁷; and
- m) Connections engagement²⁸.

1.47. The UR makes three high level points with regards to comparing connections in GB to connections in Northern Ireland.

1.48. Firstly, the default position in GB is pass-through (zero margin) unless the DNO can demonstrate to Ofgem's satisfaction that the connection market is working well for customers i.e. the DNOs can only make a margin if, in Ofgem's view, the connection market is working well for customers in terms of competition, quality of service, incentives and penalties etc.

¹⁷ Ibid standard licence condition 13.

¹⁸ Ibid standard licence condition 15A.

¹⁹ See paragraph 1.15 of the common connection charging methodology here:

²⁰ <http://www.dcusa.co.uk/DCUSA%20Document%20Public%20Version/DCUSA%20v7.2%20Schedule%2022.pdf>

See here for example connections reporting: <https://www.ofgem.gov.uk/publications-and-updates/direction-issuing-regulatory-instructions-and-guidance-rigs-riio-ed1>

²¹ See here for example: https://www.ofgem.gov.uk/ofgem-publications/85392/ukpncompetitionnoticev1_023dec2013.pdf

²² See here: <https://www.ofgem.gov.uk/ofgem-publications/94810/connections-may2015-decision-consultation-pdf> and here: https://www.ofgem.gov.uk/sites/default/files/docs/2015/06/decision_competition_in_connections_code_of_practice_0.pdf

²³ See here: http://www.legislation.gov.uk/uksi/2015/698/pdfs/uksi_20150698_en.pdf

²⁴ See here for example: <https://www.ofgem.gov.uk/ofgem-publications/84659/cssoverview1213.pdf>

²⁵ See section on "Load related expenditure reopener" at paragraph 3.42 onwards here:

<https://www.ofgem.gov.uk/ofgem-publications/47070/riioed1decuncertaintymechanisms.pdf>

²⁶ See here for example: <https://www.ofgem.gov.uk/ofgem-publications/87351/ukpncompetitiondetermination2014.pdf>

²⁷ See here: [https://www.ofgem.gov.uk/sites/default/files/docs/2013/12/decision_on_riio-](https://www.ofgem.gov.uk/sites/default/files/docs/2013/12/decision_on_riio-ed1_customer_service_and_connection_incentives.pdf)

[ed1_customer_service_and_connection_incentives.pdf](https://www.ofgem.gov.uk/sites/default/files/docs/2013/12/decision_on_riio-ed1_customer_service_and_connection_incentives.pdf)

²⁸ Ibid.

1.49. Secondly, in Northern Ireland, only a) and b) from the above list exist in any similar capacity: the GB framework provides many more protections for customers wishing to connect to an electricity network and this protection exists regardless of whether or not a DNO can make a margin on its costs.

1.50. Lastly, and perhaps most significantly, even with all the above protections which do not exist in Northern Ireland, Ofgem do not yet appear to be content with the connections industry in GB. Ofgem have said²⁹:

*“...we won’t be consulting at this stage on making a Market Investigation Reference (MIR) to the Competition and Markets Authority (CMA). Instead, we are giving the DNOs a **final opportunity** to change their processes and behaviours to minimize their role in the connections process and ensure a level playing field.” (emphasis added).*

1.51. Based on the connections framework in GB the UR’s initial view is that removing the pass-through arrangement without a full review of the lessons from GB is not in the public interest. The UR welcomes views on this.

Protecting customers against unreasonable profits

1.52. The UR believes it is important to consider how customers would be protected, in the hypothetical circumstance where NIE Networks has made or are making unreasonable profits on electricity connections.

1.53. The UR intends to collect information on historical connections, at

²⁹ See page 4 here: <https://www.ofgem.gov.uk/ofgem-publications/92527/connectionscompetitionreviewfindings-pdf>

least as far back as 1st April 2012, but the UR expects a number of complicating factors to arise in any assessment of reasonable connection profits. For example, some connection customers pay maintenance charges up front to NIE Networks in the expectation that NIE Networks incurs costs of maintaining that connection up to some 20 years later. Further, many connections can take a considerable amount of time to complete, meaning that income and costs for that connection are spread over multiple years. It may be difficult to understand the various costs and incomes.

- 1.54. In a case where the UR feels that there has been an unreasonable amount of connection profits the UR may attempt to enforce Licence Condition 32 paragraph 6(b) and limit NIE Networks to making a “reasonable rate of return”. However the UR sees real issues with applying this condition, for example, it may be difficult to apply this condition after a long period of time has elapsed or it may be debatable what a “reasonable rate of return” is on an ex-post basis.
- 1.55. To provide some context the initial figures produced by NIE Networks for connections in the first three years of RP5 could suggest a surplus of £4m per annum (excluding opex). While UR would emphasise that this is a rather crude figure and does not align costs and income over time it suggests that dealing with the question of reasonable returns is not just hypothetical.
- 1.56. Given that the UR has always operated a pass-through approach it has never had to operate this “reasonable rate of return” Licence mechanism. The UR notes that this Licence condition, and how it might operate, is not considered in the CC’s FD. Therefore the UR’s initial view is that removing the pass-through arrangement without a

full review of new Licence conditions and mechanisms to protect electricity customers is not in the public interest. The UR welcomes views on this.

Connections Conclusion

- 1.57. The UR has given this matter careful consideration and has had a number of discussions with the CMA and NIE Networks on the matter.
- 1.58. Our initial view is to give weight to CMA's position on the FD and therefore we set out the Article 17 modifications below (see Schedule 4 and Schedule 5) that the CMA have explained to us they would expect to see, regarding the treatment of Type 2 connections in RP5 i.e. no pass-through of Type 2 connections in RP5.
- 1.59. However, the UR initial view is that the NI electricity connections regime requires a holistic, coherent and fully transparent review to ensure it is fit for purpose and in the public interest. This review should consider all the complex issues including the problems with pass through identified by the CMA and mechanisms to protect consumers. This would all need to be considered in the context of the ongoing contestability program.
- 1.60. In order to facilitate this UR therefore proposes to make further modifications to the Licences, (see Schedule 8 and Schedule 9), using Article 14 powers. This will have the effect that there is no change to the treatment of Type 2 connections from RP4 until all the issues identified above are fully consulted upon.
- 1.61. In the context of NIE Networks' revenues and impact on customer costs we do not anticipate that the proposed modification will have any

significant impact. In the context of the wide ranging Article 17 RP5 licence modifications which set allowances and incentive regimes our view is that this proposed modification is minor in nature. The UR also notes that NIE Networks has no objections to the UR's pass-through proposal.

Distribution costs (of Transmission Load Related investment)

1.62. One of the designs set out in the FD is the ability for the UR to increase NIE Networks' maximum revenue and RAB, in addition to the allowances determined by the CC, during the price control period, to allow for additional investment projects to increase the capacity and capability of NIE Networks' transmission system. This is referred to as the 'D5' design and is set out at sections 5.246 to 5.279 of the FD.

1.63. While the UR is supportive of the CC's design, the UR is conscious that there may be an issue or a perceived issue with regards to the scope of the design and what costs should and should not be covered by the D5 design.

1.64. A potential issue with the design is that there needs to be a firm boundary between costs which are already allowed for by the CC in the FD and the additional costs which can be allowed for under D5³⁰. For example, there are already allowances for indirect costs, tree cutting and distribution expenditure in the CC's FD and it is important that D5 is considered in parallel to the other designs in the price control framework.

1.65. The FD confirms the approach to distribution load-related expenditure

³⁰ As recognised by the CC at 5.265 of the FD.

by saying that “our (the CC’s) distribution load-related expenditure allowance is a general ex-ante allowance designed to cover all distribution load related projects which will occur in the RP5 period. As such it is not an allowance which is tied to specific distribution projects.”³¹

1.66. During the inquiry NIE Networks queried this and said that in its interpretation, the D5 mechanism could include distribution works directly required to facilitate transmission developments eligible under the D5 mechanism. However, the CC’s FD said “We (the CC) disagreed and decided that the D5 provision should not include distribution network expenditure. We (the CC) did not consider that NIE’s proposal would allow for a robust boundary between our upfront allowances and further allowances under the D5 provision”³².

1.67. Therefore, the FD appears to explicitly restrict the UR from including within the D5 mechanism additional allowances for distribution works required to directly facilitate transmission load-related developments.

1.68. The Article 17 modifications are presented on this basis.

1.69. The UR however is aware that before the end of RP5 (September 2017) NIE Networks may be exposed to significant risks with regards to distribution costs. This could be the case where a D5 project requires significant distribution related costs to facilitate that investment e.g. costs for moving distribution lines.

1.70. The UR’s initial view is that it may not be fair to impose the design of RP5 as set out above.

³¹ Ibid 9.106
³² Ibid 5.266

1.71. Therefore, in recognition that such a condition may result in perverse or unintended consequences, the UR presents further modifications, under its Article 14 powers, that would allow the UR to approve additional distribution allowances as part of an approved transmission load-related project, provided that the distribution works are wholly necessary to facilitate the transmission load-related project.

Asset replacement costs

1.72. Again a similar issue (as the distribution cost issue) has arisen regarding asset replacement costs. NIE, the CMA, and the UR are keen to establish if asset replacement costs should be allowed for under the D5 price control design. As we set out above, the D5 design was intended to allow the UR to increase NIE Networks' revenue and RAB, during the price control period, in addition to the allowances determined by the CC, to allow for additional investment to increase capacity and capability of NIE Networks' transmission system.

1.73. Again the FD seems clear that asset replacement expenditure should be excluded from the scope of D5. At 5.262 of the FD the CC state:

“Our provision does not include asset replacement expenditure. Our upfront cost assessment from Section 9 is intended to cover NIE’s asset replacement needs in the period to 30 September 2017.”

1.74. NIE Networks has stated that the CC's cost assessment was based on information which is now out of date and that an allowance for a cable replacement (at Ballylumford) would have been included in the allowances had the CC have known that the information used at the time of the FD was not accurate.

1.75. In discussions with the CMA it was suggested that the draft Licence

modifications could be revised so that the exclusion of asset replacement expenditure from the D5 provision does not apply to asset replacement projects that are driven by strategic choices about the transmission capacity required to import from the power station(s) at Ballylumford although the CMA noted that any decision in relation to funding for the Ballylumford cable would be a matter for UR.

- 1.76. The UR thinks the FD is clear and has not been convinced as to why it would be appropriate to increase the scope of D5 beyond that specified in the FD. Therefore as part of the Article 17 modifications specified at Schedule 5, the UR presents Licence modifications which exclude asset replacement costs from the scope of the D5 design, but welcomes further submissions on this area.

The depreciation calculation

- 1.77. The CC decided (at 19.77 of the FD) that all aspects of the methods needed to calculate NIE Networks' RAB and depreciation should be specified in NIE Networks' Licences. Therefore, one of the issues which the UR has tried to address has been the calculation of the depreciation allowance within the Licences (this calculation was previously unspecified). The UR's approach to specifying this has been to allow for half a year's depreciation in the year of a capex addition, however NIE Networks argued that the capex additions should qualify for a full year's depreciation in the year of addition, based on the CC's FD model and NIE Networks' normal method of calculation. NIE Networks was concerned that the UR's proposed approach to depreciation would impact cash flow and result in the

- PMICR³³ ratio falling below the investment grade threshold.
- 1.78. The CMA suggested that we examine the materiality of the issue and whether the issue was compatible with the outcome of the CC's financeability assessment.
- 1.79. The assessment of financeability can be relatively complex and involve many interlinking components. However, the UR believes that the proposed approach to depreciation is compatible with the CC's FD.
- 1.80. Firstly, the UR believes the PMICR would not be materially affected by a change to depreciation because the PMICR specifically excludes depreciation being taken into account in the ratio³⁴: the words 'post-maintenance' reflect the deduction of regulatory depreciation from a company's cash flow. However the UR also notes that NIE Networks appears to disagree with this point and therefore will consider the matter further based on consultation responses.
- 1.81. Secondly, with regards to the potential cash flow issue (which NIE Networks estimates at around £12million for the RP5 period), it doesn't seem safe to take only one factor (depreciation) into account. There would also seem to be a large degree of flexibility for NIE Networks to consider, such as for example: dividend payments³⁵; the phasing of investment programmes³⁶; and the setting of tariffs to appropriately reflect regulatory revenues.
- 1.82. Lastly, if one were to assume that, the change in depreciation were to

³³ PMICR stands for post-maintenance interest cover ratio.

³⁴ Fitch illustrate this in a paper called 'Post-Maintenance Interest Coverage Ratios for UK Regulated Utilities' dated 28th February 2007.

³⁵ As referenced by the CC at paragraph 17.111 of their FD.

³⁶ It would appear to the UR that, for the first three years of RP5, NIE Networks has not spent around £25million of their investment allowances.

cause a cash flow issue (*ceteris paribus*), it would not seem safe to assume that a rational investor would be greatly concerned by a relatively short term, NPV neutral issue. Any such cash flow issue will be subject to the annual over- and under-recovery process, which an efficient company can control by more accurately forecasting³⁷ revenues.

- 1.83. The UR believes the proposed method of depreciation is reasonable from an economic and accounting perspective, and in light of other regulatory precedent, but the UR would welcome further submissions on this area.

5. Next steps

- 1.84. The UR proposes to consult simultaneously on both Article 17 and Article 14 modifications for a period of 28 days from the publication date of this document.

- 1.85. Given the interlinking nature of many of the modifications, any responses, representations or objections to this consultation will be considered by the UR, prior to any decision by the UR. The Article 14 modifications will be made a short time after the Article 17 modifications.

- 1.86. Responses to this consultation paper should be submitted by 12.00 noon on 21st October 2015. Responses should be sent to:

PJ McCloskey
Utility Regulator

³⁷ In NIE Networks' case, the over- and under-recovery process, which is proposed as part of these modifications, takes account of two financial years (including an under- or over-recovery for each of those years), and therefore dilutes the impact of inaccurate forecasting.

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- 1.87. The Utility Regulator's preference would be for responses to be submitted by e-mail.
- 1.88. Individual respondents may ask for their responses (in whole or in part) not to be published, or that their identity should be withheld from public disclosure. Where either of these is the case, the Utility Regulator will also ask respondents to supply the redacted version of the response that can be published.
- 1.89. As a public body and non-ministerial government department, the Utility Regulator is required to comply with the Freedom of Information Act (FOIA). The effect of FOIA may be that certain recorded information contained in consultation responses is required to be put into the public domain. Hence it is now possible that all responses made to consultations will be discoverable under FOIA, even if respondents ask us to treat responses as confidential. It is therefore important that respondents take account of this and in particular, if asking the Utility Regulator to treat responses as confidential, respondents should specify why they consider the information in question should be treated as such.
- 1.90. This paper is available in alternative formats such as audio, Braille etc. If an alternative format is required, please contact the office of the Utility Regulator, which will be happy to assist.

Appendix 1 – Reasons and effects notice of Article 14 and Article 17 Licence Modifications

THE NORTHERN IRELAND AUTHORITY FOR UTILITY REGULATION

NOTICE UNDER ARTICLE 14(2) AND ARTICLE 17(3) OF THE ELECTRICITY (NORTHERN IRELAND) ORDER 1992 (AS AMENDED)

MODIFICATIONS PROPOSED TO THE ELECTRICITY DISTRIBUTION LICENCE AND THE ELECTRICITY TRANSMISSION LICENCE HELD BY NORTHERN IRELAND ELECTRICITY NETWORKS LTD

The Northern Ireland Authority for Utility Regulation (hereafter referred to as 'the Authority') hereby gives notice under Article 14(2)³⁸ and under Article 17(3) of the Electricity (Northern Ireland) Order 1992 (the Order) as follows:

1. It proposes to make modifications to –
 - (a) the electricity distribution licence (the Distribution Licence) held by Northern Ireland Electricity Networks Limited, and
 - (b) the electricity transmission licence (the Transmission Licence) held by the Northern Ireland Electricity Networks Limited,each a 'Licence' and Northern Ireland Electricity Networks Limited in each case 'the Licensee'.
2. The proposed modifications to be made under Article 17(3) are –
 - (a) in respect of the Distribution Licence;
 - i. modifications to Condition 19 of the Licence;
 - ii. modifications to Annex 2 of the Licence; and
 - (b) in respect of the Transmission Licence, modifications to Annex 2 of the Licence.
3. Subsequent to the Article 17(3) modifications, the proposed modifications to be made under Article 14(2) are –
 - (a) in respect of the Distribution Licence;

³⁸ As amended by The Gas and Electricity Licence Modification and Appeals Regulations (Northern Ireland) 2015. See here: <http://www.legislation.gov.uk/nisr/2015/1/regulation/4/made>

- i. modifications to Condition 23, Condition 24A and Condition 43 of the Licence;
 - ii. modifications to Annex 1 of the Licence;
 - iii. modifications to Annex 2 of the Licence; and
 - (b) in respect of the Transmission Licence, modifications to Annex 2 of the Licence.
4. Schedule 1 to this notice identifies those modifications (or categories of modification) which the Authority proposes to make under and in accordance with Article 17(3) of the Order and explains, by way of cross-referencing, where within the proposed modifications each relevant decision of the Competition Commission (as set out in the Final Determination) is reflected.
 5. Schedule 2 to this notice sets out the proposed modifications being made under Article 14(2) of the Order and explains, by way of cross-referencing, the reasoning (in addition to the reasoning set out above) and location of each of the proposed modifications.
 6. The reasons why the Authority proposes to make Article 17(3) modifications to the Distribution Licence and the Transmission Licence are –
 - (a) to remedy or prevent the adverse effects specified in the report of the Competition Commission (now the Competition and Markets Authority), as presented to the Authority on 26 March 2014, on a reference made to it by the Authority on 30 April 2013 under Article 15 of the Order (the Final Determination),
 - (b) to ensure that the total amount of revenue that the Licensee can recover, in any relevant year commencing on or after 1st April 2012, in respect of the Distribution Business (as defined in Condition 1 of the Distribution Licence) and in respect of the Transmission Owner Business (as defined in Condition 1 of the Transmission Licence) is as specified in the Final Determination,
 - (c) to update Annex 2 of each Licence to reflect the position that each respective Annex 2 is no longer to be taken as relating to the activities authorised by both Licences but only to the activities authorised by the Licence in question,
 - (d) to update definitions of certain terms used in Annex 2 in order to take account of changes made in the regulatory framework in respect of licensable activities,
 7. The reasons why the Authority proposes to make Article 14(2) modifications to the Distribution Licence and the Transmission Licence are –
 - (a) to make clear in each Licence the treatment of connection costs and income,
 - (b) to allow the Authority to approve additional distribution allowances as part of a transmission load-related project,
 - (c) to make clear the obligation of the Licensee to report to the Authority using

the Authority's Regulatory Instructions and Guidance, and to allow for a greater level of transparency of the business of the Licensee,

- (d) to adjust the k factor revenues in recognition that market opening costs are included within Annex 2, instead of Annex 1,
 - (e) to update Annex 1 and the main body of the Distribution Licence to make more clear the calculation of PSO revenues, and
 - (f) to update the format, layout and structure of the Licences in order to present them in a way which is more readily accessible, transparent, logical, fit for purpose, workable and consistent with each other.
8. In accordance with Article 16(5)(b) of the Order, the Authority published the Final Determination on 15th April 2014. It can be accessed from the Authority's website³⁹.
9. The Article 17(3) modifications proposed are as set out in a revised version of –
- (a) the main body of the Distribution Licence as set out in Schedule 3 to this notice, and
 - (b) Annex 2 of the Distribution Licence as set out in Schedule 4 to this notice, and
 - (c) Annex 2 of the Transmission Licence as set out in Schedule 5 to this notice,
- where in each case the text to be removed is shown as being struck through and the text to be added is shown as being underlined.
10. The Article 14(2) modifications proposed are as set out in a further revised version of –
- (a) the main body of the Distribution Licence as set out in Schedule 6 to this notice, and
 - (b) Annex 1 of the Distribution Licence as set out in Schedule 7 to this notice, and
 - (c) Annex 2 of the Distribution Licence as set out in Schedule 8 to this notice, and
 - (d) Annex 2 of the Transmission Licence as set out in Schedule 9 to this notice,
- where in each case the text to be removed is shown as being struck through and the text to be added is shown as being underlined.
11. The effects of the proposed Article 17 modifications will be to –
- (a) alter the total amount of revenue that the Licensee can recover, in any relevant year commencing on or after 1st April 2012, in respect of each of the Distribution Business and the Transmission Owner Business,

³⁹ See here: http://www.uregni.gov.uk/news/utility_regulator_publishes_competition_commission_final_determination

- (b) otherwise bring each Licence into line with the detailed conclusions of the Competition Commission as set out in the Final Determination, and
 - (c) make more clear and transparent the operation of the Distribution Licence separate from the Transmission Licence.
12. The effects of subsequently making the proposed Article 14 modifications will be to –
- (a) make more clear and transparent the operation of the Distribution Licence and the Transmission Licence with regards to connection costs & income as set out at paragraphs 1.30 to 1.61 above,
 - (b) make more clear and transparent the operation of the Distribution Licence and the Transmission Licence with regards to additional distribution allowances relating to transmission load-related projects,
 - (c) make more clear and transparent the treatment of market opening costs and income, and
 - (d) require Northern Ireland Electricity Networks Limited to report to the Authority in accordance with the Authority's Regulatory Instructions and Guidance, and to allow for comparisons of the Licensee's business against the business of the electricity network operators in Great Britain.
13. Representations with respect to the proposed modifications may be made in accordance with the guidance set out in the 'Next steps' section of this consultation paper. All responses will normally be published on the Authority's website in accordance with the 'Next steps'.

Schedule 1 – List of Article 17 modifications cross referenced to the Competition Commission’s Final Determination (CC FD)

Number	Description	CC FD Reference	T or D or both	Licence Reference 1	Licence Reference 2
1	Maximum tariff revenue to be half of two reporting years including correction factors for each reporting year	19.117 (b)	Both	Annex 2	Paragraph 3.3
2	RP4 Capex efficiency incentive term (not the value)	19.86	Both	Annex 2	Paragraph 11.1b)
3	Capex disposal incentive (5 year lag)	19.74	Both	Annex 2	Paragraph 4.30
4	D1 Cost risk share of 50%	19.49 & 19.50	Both	Annex 2	Paragraphs 4.32 and 6.13
5	Metering: volume driven allowance	10.136	D	Annex 2	Paragraph 4.42
6	Recovery of specific costs previously approved (under RP4 Dt term)	5.393(a) & 10.368	Both	Annex 2	Paragraphs 4.23 and 6.9
7	Specific changes for Enduring Solution	5.393(b)	D	Annex 2	Paragraph 4.32 & 6.17
8	Bad debt costs	5.393(c)	Both	Annex 2	Paragraph 6.17
9	Injurious affection costs	19.60	Both	Annex 2	Paragraphs 4.32 & 6.17
10	Regulatory reporting costs	19.66	Both	Annex 2	Paragraph 6.17
11	Revenue protection services incentive	6.44	D	Annex 2	Paragraph 10.1
12	Pension deficit forecast	12.83	Both	Annex 2	Paragraph 7.1
13	Assumed gearing for tax	16.45	Both	Annex 2	Paragraph 9.1
14	Assumed cost of debt for tax	16.46	Both	Annex 2	Paragraph 9.1
15	Assumed Capital allowances for tax	16.60	Both	Annex 2	Paragraph 9.1
16	D5 Additional Transmission Capex	19.55	T	Annex 2	Paragraphs 4.35

17	Inclusion of RIGs reporting requirements	18.51	Both	Annex 2	Paragraph 12.15
18	Prohibition on tariff increases before October 2014	4.24	Both	Annex 2	Paragraph 2.5
19	D9 Passthrough of licence fees	19.59	Both	Annex 2	Paragraph 6.7b)
20	Refunds to customers / Adjustment to k factor for market opening revenues	19.33	D	Annex 2	Paragraph 11.1b)
21	Transparency of RAB calculation	19.77	Both	Annex 2	Paragraphs 4.1 to 4.45(transmission) / 4.52(distribution)
22	Opening K factor specified	19.82	Both	Annex 2	Paragraph 11.1a)
23	Publication of historical data to calculate revenue	19.93	Both	Annex 2	Paragraph 12.23
24	Eliminate existing and forecast over- or under-recovery	19.120	Both	Annex 2	Paragraph 3.1
25	Publishing of report: forecast maximum entitlement and forecast over or under-recovery.	19.17	Both	Annex 2	Paragraph 12.10
26	D2 Inefficient spend clause	19.53	Both	Annex 2	Paragraphs 4.19, 4.25, 6.5 and 6.11
27	Network investment (outturn and forecast) reporting annually	5.159	Both	Annex 2	Paragraph 12.4g
28	Publication of interruptions and customer minutes lost (outturn and forecast)	6.9	D	Main body	Condition 19 Paragraph 11
29	Preparation, auditing and publication of tax information	16.63	Both	Annex 2	Paragraph 12.34
30	Pass-through of certain types of Connections capex & contributions only (Legacy subsidies, 12 housing sites and clusters for distribution and clusters for transmission)	10.277, 19.64 and 19.65	Both	Annex 2	Paragraph 4.21b)
31	D10 Powerteam profit sharing	5.387	Both	Removed from Annex 2	removed
32	D10 Revenue cap term	5.387	Both	Removed from Annex 2	removed
33	D10 Dt term	5.387	Both	Removed from Annex 2	removed
34	Qualifying items for Cost Risk Share	19.48	Both	Annex 2	Paragraphs 4.17b) and 6.3b)
35	Calculation of revenue for Tariff year ending September 2017	19.123	Both	Annex 2	Tables referenced in

					paragraph 2.3
36	Outturn information required for cost risk-sharing calculations	19.52	Both	Annex 2	Paragraph 12.4d
37	Outturn information certified by a director and confidence graded	18.52 & 18.57c)	Both	Annex 2	Paragraph 12.17
38	In case of a failure to implement a new price control in time: no increases in tariffs	4.47	Both	Annex 2	Paragraph 15.2

Schedule 2 – List of Article 14 modifications

Number	Description	Reasoning	T or D or Both	Licence Reference 1	Licence Reference 2
1	Restructuring of Annex 1	Alignment with Annex 2	D	Annex 1	All of Annex 1
2	Adjustment to k factor for market opening revenues	PSO overcharges	D	Annex 1	Paragraph 5.1b)
3	Alignment of PSO definitions with restructured Annex 1	Alignment with Annex 1	D	Main body	Condition 23, Condition 24A and Condition 43
4	Exclusion of market opening systems from Annex 1	Recovery of costs in annex 2	D	Annex 1	Deletion of old paragraph 3(d)
5	RP4 Capex efficiency incentive value	Approval by the UR	Both	Annex 2	Paragraph 11.1b)
6	Making clear the price base of the calculations in Annex 1	Greater transparency	Both	Annex 1	Throughout Annex 1
7	Increased scope of D5 design to allow for distribution costs wholly necessary to facilitate transmission load-related investment	Avoid unintended consequences	T	Annex 2	Paragraph 4.37.b)
8	Pass-through of connections costs and contributions for 'all other' types of connection	Avoid unintended consequences	Both	Annex 2	Paragraph 4.21.b) & 6.7.b)iv.

Schedule 3 – Proposed Article 17 modifications to the main body of the Distribution Licence

Condition 19. Distribution System Security and Planning Standards and Operation of the Distribution System

System Security and Planning

- 1 The Licensee shall plan, develop and maintain and operate (including, without limitation and where necessary, coordinating the flow of electricity over) the Distribution System in accordance with:
 - (a) the Distribution System Security and Planning Standards; and/or
 - (b) such other standard of planning and operation as is adopted, from time to time, by the Licensee (with the approval of the Authority and following consultation with those electricity undertakings liable to be materially affected thereby),

in each case as appropriate to the purpose under consideration.

- 2 Where, in planning the development of the Distribution System, the Licensee considers it might be necessary to upgrade or replace the present and/or future capacity of the Distribution System, it shall before deciding to proceed with any such upgrade or replacement consider whether, in the circumstances of the case, energy efficiency, demand-side management or distributed generation measures may (whether in whole or in part) be more appropriate than the proposed upgrade or replacement of the present or future capacity.

Maintenance of the Distribution System

- 3 The Licensee shall, not later than such date as the Authority may specify and in consultation with the Authority, prepare and from time to time modify a written policy setting out the manner in which the Licensee proposes to comply, in connection with the maintenance of an efficient, economical and co-ordinated Distribution System, with all applicable European Union and United Kingdom environmental laws. Such written policy may be prepared as a constituent part of the statement which the Licensee is required to prepare by paragraph 2(1) of schedule 9 of the Order.

System Balancing Rules

- 4 The Licensee shall, where it is responsible for the balancing of the Distribution System, ensure that it carries out any such activity on the basis of, and in accordance with, rules it adopts for such purpose which rules:
 - (a) are objective and transparent;

(b) do not unduly discriminate between any persons; and

(c) are approved by the Authority,

(the **System Balancing Rules**).

5 Where paragraph 4 applies, the Licensee shall:

(a) ensure that the System Balancing Rules are published on and readily accessible from the Licensee's web-site; and

(b) send a copy of the System Balancing Rules to any person requesting as soon as reasonably practicable following the request.

Revision of Arrangements

6 The Licensee shall, in conjunction with all other Electricity Distributors and in consultation with electricity undertakings to the extent such persons are liable to be materially affected thereby, periodically (and at any time when requested to do so by the Authority) review the Distribution System Security and Planning Standards and their implementation.

7 Following any such review, the Licensee shall send to the Authority:

(a) a report on the outcome of that review;

(b) any revision which the Licensee proposes to make to the Distribution System Security and Planning Standards from time to time (having regard to the outcome of that review); and

(c) any written representations or objections from electricity undertakings (including any proposals for revisions to the documents that were not accepted in the course of the review) arising during the consultation process and subsequently maintained.

8 Revisions to the Distribution System Security and Planning Standards proposed by the Licensee and sent to the Authority pursuant to paragraph 7 shall require the Authority's approval before they may be made.

9 Having regard to any written representations or objections referred to in sub-paragraph 7(c), and following such further consultation (if any) as the Authority may consider appropriate, the Authority may issue directions requiring the Licensee to revise the Distribution System Security and Planning Standards in such manner as may be specified in the directions, and the Licensee shall comply with any such directions forthwith.

PerformanceStandards

- 10 The Licensee shall, whenever requested to do so by the Authority, draw up and submit to the Authority for its approval a statement setting out criteria by which performance of the Licensee in maintaining Distribution System security, availability and quality of service may be measured.
- 11 The Licensee shall within 2 months after the end of each financial year submit to the Authority a report providing details of the performance of the Licensee during the previous financial year against the criteria referred to in paragraph 10. The report shall provide forecasts in terms of the performance against the criteria referred to in paragraph 10, for the period to 30 September 2017, in light of the Licensee's recent and planned network investment, along with an explanation of any shortfalls in performance against its forecasts. The Licensee shall also publish on an annual basis a copy of the report on its website.

Derogation

- 12 The Authority may from time to time (following consultation with the Licensee, (to the extent liable to be materially affected thereby) any electricity undertaking and such (if any) other licence holders as the Authority shall consider appropriate) issue directions relieving the Licensee of its obligations under paragraph 1 in respect of such parts of the Distribution System and to such extent as may be specified in the directions.

Publication

- 13 The Licensee shall give or send a copy of the Distribution System Security and Planning Standards, and of any revision thereto, to the Authority. The Licensee shall also publish a copy of the document on its website.
- 14 The Licensee shall, subject to paragraph 15, give or send a copy of any of the Distribution System Security and Planning Standards to any person requesting it.
- 15 The Licensee may make a charge for any copy given or sent pursuant to paragraph 14 of an amount reflecting the Licensee's reasonable costs of the document which will not exceed any amount specified for the time being for the purposes of this Condition in directions issued from time to time by the Authority.

Schedule 4 – Proposed Article 17 modifications to Annex 2 of the Distribution Licence

Annex 2 - Distribution Charge Restriction Conditions

1. Definitions

1.1. In this Annex:

- “Average Specified Rate”** means the arithmetic mean of the daily base rates of Danske Bank Limited (or such other bank as the Authority shall specify from time to time) current from time to time during the period in respect of which the calculation falls to be made;
- “Connection Charging Statement”** means the statement of charges for connection to the Licensee’s distribution system as prepared by the Licensee and approved by the Authority under Condition 32 hereof which is effective for the relevant period. See distribution statement effective from 13th October 2014 here: <http://www.nie.co.uk/documents/Connections/NIE-Distribution-Connection-Charging-Statement-Oct.aspx>
- “Deferred Revenue Expenditure”** means expenditure which is classified as capital expenditure for accounting purposes (because it gives rise to economic benefits over more than one year) but is not capital expenditure for tax purposes (because it does not create a sufficiently identifiable asset). For example, Deferred Revenue Expenditure may include the replacement of age-expired network components when (for tax purposes) the network as a whole is seen as a single asset.
- “Demonstrably Inefficient or Wasteful Expenditure”** means expenditure which the Authority has (giving the reasons for its decision) determined to be demonstrably inefficient and/or wasteful, given the information reasonably available to the Licensee at the time that the Licensee made the relevant decision about that expenditure. For the avoidance of doubt, no expenditure is Demonstrably Inefficient

	<p>or Wasteful Expenditure simply by virtue of a statistical or quantitative analysis that compares very aggregated measures of the Licensee's costs with the costs of other companies.</p>
<p>“Distribution Charge Restriction Conditions”</p>	<p>means the paragraphs set out in this Annex 2 as from time to time modified or replaced in accordance therewith or pursuant to Article 14, 14A, 14E or 18 of the Order, under the Energy Order, under the SEM Order or under the Directive Regulations.</p>
<p>“Distribution Charges”</p>	<p>means all charges for the provision of Distribution Services and for Wheeling, but excluding charges levied under the PSO Agreements (as defined in Condition 24A).</p>
<p>“Distribution Services”</p>	<p>means all services provided as part of the Distribution Business other than Excluded Services.</p>
<p>“Enduring Solution”</p>	<p>means the IT system introduced to support competition in the electricity retail market in Northern Ireland, intended to aid complete separation of the customer billing processes and legacy IT systems previously shared by the Licensee and Power NI (in its capacity as an electricity supplier), and to provide a level playing field for all suppliers, unrestricted switching capability for customers and support of global aggregation for settlement of the all-island wholesale market.</p>
<p>“ERDC”</p>	<p>means early retirement deficit contributions.</p>
<p>“Excluded Services”</p>	<p>means those services provided as part of the Distribution Business which in accordance with the principles set out in paragraph 13 fall to be treated as Excluded Services.</p>
<p>“Final Determination”</p>	<p>means the report of the Competition Commission (the statutory predecessor to the Competition and Markets Authority) in relation to the Licensee's</p>

Distribution Charge Restriction Conditions, as presented to the Authority on 26 March 2014, taken together with its supporting documentation.

“Fuel Security Event”

means a Fuel Security Event as defined in the Northern Ireland Fuel Security Code, published by the Department of Enterprise, Trade and Investment.

“HMRC”

means HM Revenues and Customs or, in relation to any function of that body referred to in this Annex, such other person as may (whether in relation to the United Kingdom as a whole or Northern Ireland) be allocated the role of performing that function after the commencement of RP5.

“Licensee’s Allowed Distribution Related Security Costs”

means any cost incurred by the Distribution Business and approved by the Authority as being an allowed security cost in accordance with the Northern Ireland Fuel Security Code (as that term is therein defined), but excluding any cost which forms part of:

- a) the allowed power procurement business related security costs; or
- b) the payments to generators in relation to services provided to the power procurement business during Fuel Security Events.

“Maximum Regulated Distribution Revenue”

means the maximum Regulated Distribution Revenue that the Licensee is entitled to recover in:

- a) the Regulatory Tariff Year (as calculated in accordance with the formula at paragraph 3.2);
- b) the Regulatory Reporting Year (as calculated in accordance with the formula at paragraph 3.4); or

- c) the 6 months ending 30 September 2017.

“Metering”	means in relation to any quantity distributed, Metering equipment required pursuant to and as defined in the Grid Code, and ‘Meter’ shall be construed accordingly.
“Permitted One-Year Percentage”	means 4% of the Maximum Regulated Distribution Revenue.
“Permitted Three-Year Percentage”	means 5% of the Maximum Regulated Distribution Revenue in the second of the Regulatory Tariff years.
“Provision of Law”	means the following, to the extent that it applies to or is binding on the Licensee: <ul style="list-style-type: none">a) any enactment;b) any regulation made by the Council or the Commission of the European Union or any decision taken by the Commission;c) any interpretation of law, or finding, contained in any judgment given by a court or tribunal of competent jurisdiction in respect of which:<ul style="list-style-type: none">i. the period for making an appeal has expired and;ii. no superior court or tribunal has reached a contrary interpretation or finding; andd) any direction of a competent authority other than the Authority or the Department.
“Regulatory Asset Base”	means one of the regulatory asset bases identified at paragraph 4.1.
“Regulatory Instructions and	means the Regulatory Instructions and Guidance provided by the Authority, including guidance notes,

Guidance (RIGs)”	reporting workbooks, commentary templates and assurance templates, as set out by the Authority, to capture various different types of information and data.
“Regulatory Reporting Year”	means a period of twelve months commencing on 1 April in any year and ending on 31 March in the year following its commencement.
“Regulatory Reporting Year t”	means the Regulatory Reporting Year which ends in year t, and is therefore to be read such that: a reference to ‘ Regulatory Reporting year t = 2013 ’ is to the Regulatory Reporting Year ending on 31 March 2013; a reference to ‘ Regulatory Reporting Year t-1 ’ means the Regulatory Reporting Year immediately preceding Regulatory Reporting Year t; and similar expressions are to be construed accordingly.
“Regulatory Tariff Year”	means a period of twelve months commencing on 1 October in any year and ending on 30 September in the immediately following year.
“Regulatory Tariff Year t”	means the Regulatory Tariff Year which ends in year t, and is therefore to be read such that: a reference to ‘ Regulatory Tariff Year t = 2013 ’ is to the Regulatory Tariff Year ending on 30 September 2013.
“Regulated Distribution Revenue”	means the revenue (measured on an accruals basis) that is derived by the Licensee from Distribution Charges after deduction of value added tax (if any) and any other taxes based directly on the amount of the Distribution Charges.
“Related Party”	means both Affiliates and Related Undertakings of the Licensee as defined in Condition 1 of this licence. An Affiliate or Related Undertaking shall remain as a Related Party for the whole of the price control period even if it is no longer part of the

group due to restructuring.

“Related Party Margin”

The profit or loss recorded on a transaction with an affiliate being the excess or deficit on actual direct costs and indirect costs (excluding financing costs) fairly attributable to the transaction or the charge and the cost of providing that transaction.

For the avoidance of doubt this does not include exceptional items, tax, fines, penalties or the gain or loss on the disposal of assets or investments (of any sort), i.e. it should be the net operating costs level.

Further, the Related Party Margin does not include any transparently calculated element of such a charge that provides for a reasonable allowance for depreciation and return on capital in relation to assets to the extent that these are employed by the Related Party in the provision of services to the Licensee, and is not otherwise reflected in the Licensee’s Maximum Regulated Distribution Revenue, or recoverable through the Licensee’s connection charges.

For Captive Insurance businesses the margin is to be computed based on the captive’s premium income less reinsurance premiums, claims paid out and movements on technical and IBNR reserves attributable to the Licensee’s business only, i.e. usually reported as the profits/loss on the Technical account. Where a captive insures more than the Licensee, then it’s profit/loss should be computed pro rata to the premiums paid by the Licensee to total premium income in the captive for the year and the movements on technical and IBNR reserves not attributable to the Licensee’s business must first be removed.

“Relevant Change of Law”

means any of the following, to the extent that it applies to or is binding on the Licensee:

- a) the application of any Provision of Law

	<p>that did not previously have effect;</p> <p>b) the amendment of or change to any Provision of Law that did previously have effect; and</p> <p>c) the revocation or cessation of any Provision of Law that did previously have effect.</p>
“RP4”	means the period commencing on 1 April 2007 and ending on 31 March 2012.
“RP5”	means the period commencing on 1 April 2012 and ending on 30 September 2017.
“RP6”	means the period commencing on 1 October 2017 and ending on 30 September 2022.
“RPI_t”	means the Retail Prices Index (CHAW: 1987 = 100) published by the Office for National Statistics (or successor body) for the October month in each Regulatory Reporting Year t and is therefore to be read such that: a reference to ‘RPI t = 2010’ is to the RPI figure for October 2009.
“Specified Information”	means information (or a category of information) that is so described or defined at paragraph 12.
“Uncollected Revenue”	means <p>a) any amount owed to the Licensee in respect of Regulated Distribution Revenue (other than an amount owed to the Licensee by a system operator, such as SONI Limited), which amount remains unpaid for six months after the date it first fell due for payment or which amount the Licensee deems (in accordance with the payment security policy) to be unrecoverable before the expiry of that six months period; plus the reasonable interest</p>

attributable to such amount calculated in accordance with the payment security policy; and

- b) where the Licensee is not an affiliate of the system operator (such as SONI Limited, a body corporate registered in Northern Ireland under company number NI038715), any amount owed to the Licensee by that system operator in respect of Regulated Distribution Revenue which is to be included in the uncollected revenue amount in accordance with the payment security policy; plus the reasonable interest attributable to such amount, calculated in accordance with the payment security policy.

“Unit”

means a kilowatt hour.

“Wheeled Unit”

means a unit (whether generated inside or outside Northern Ireland) which enters the total system at any point and is delivered to a place outside Northern Ireland.

“Wheeling”

means the transportation of Wheeled Units on any part of the total system.

2. Introductory Provisions

- 2.1. Where, for the purposes of complying with its obligation at paragraph 3.1 in relation to the setting of Distribution Charges, the Licensee forecasts the Maximum Regulated Distribution Revenue for any Regulatory Tariff Year t (or any data relevant to its calculation), it shall:
 - a) have regard to any information notified to it by the Authority; and
 - b) where directed to do so by the Authority, base its forecast on any such information or make it in accordance with such methodology as the Authority may specify in the direction.
- 2.2. Unless the contrary is expressly stated:
 - a) all monetary figures in this Annex are stated in nominal prices; and
 - b) all inputs and calculations for which provision is made in this Annex are to be carried out in nominal prices.
- 2.3. The values marked with an estimation symbol (e) in Table 3, Table 6, Table 7, Table 8, Table 10, Table 12, Table 13 and Appendix 2 are without prejudice to any future licence modifications made or proposed by the Authority to implement a new restriction on the Licensee's Maximum Regulated Distribution Revenue that is effective from 1 October 2017.
- 2.4. For the purposes of this Annex, the provisions of paragraph 3 shall be deemed to apply with effect from the commencement of RP5, so that the Maximum Regulated Distribution Revenue shall be calculated from the commencement of RP5 onwards, notwithstanding paragraph 15.
- 2.5. The Licensee is prohibited, in the period 26 March 2014 to 30 September 2014, from making changes to Distribution Charges.

3. The Maximum Regulated Distribution Revenue

3.1. Without prejudice to paragraph 15, the Licensee shall with effect from 1 October 2014 use its best endeavours to set its Distribution Charges so as to ensure that, in each Regulatory Tariff Year t , the Regulated Distribution Revenue shall be equal to the Maximum Regulated Distribution Revenue for that Regulatory Tariff Year calculated in accordance with paragraph 3.2.

3.2. **The Maximum Regulated Distribution Revenue for the Regulatory Tariff Year - $RP5T_t$**

3.3. For the purposes of setting tariffs as referred to in paragraph 3.1, the following calculation shall be performed:

$$RP5T_t = (RP5R_t + RP5R_{t+1}) * 0.5$$

Where:

“ $RP5T_t$ ” means the Maximum Regulated Distribution Revenue for the Regulatory Tariff Year t ;

“ $RP5R_t$ ” means the Maximum Regulated Distribution Revenue for the Regulatory Reporting Year t , calculated in accordance with paragraph 3.4.

3.4. The Maximum Regulated Distribution Revenue for the Regulatory Reporting Year - $RP5R_t$

3.5. For the purposes of paragraph 3.3, the Maximum Regulated Distribution Revenue for the Regulatory Reporting Year t shall be calculated as follows:

$$RP5R_t = DEP_t + RET_t + O_t + P_t + COI_t + TAX_t + RPSI_t + K_t$$

Where:

- DEP_t means the depreciation amount in Regulatory Reporting Year t, calculated in accordance with paragraph 4;
- RET_t means the return amount in Regulatory Reporting Year t, calculated in accordance with paragraph 5;
- O_t means the opex amount in Regulatory Reporting Year t, calculated in accordance with paragraph 6;
- P_t means the pension deficit amount in Regulatory Reporting Year t, calculated in accordance with paragraph 7;
- COI_t means the costs of the investigation amount in Regulatory Reporting Year t, calculated in accordance with paragraph 8;
- TAX_t means the tax amount due in Regulatory Reporting Year t, calculated in accordance with paragraph 9;
- $RPSI_t$ means the revenue protection services incentive amount, in Regulatory Reporting Year t, calculated in accordance with paragraph 10; and
- K_t means the correction factor amount (whether a positive or negative number) calculated in accordance with paragraph 11.

4. The Regulatory Asset Bases - RAB_{X_t}

4.1. For the purposes of this Annex, there shall be, as set out in Table 1 below, the following Regulatory Asset Bases:

Table 1 - The Distribution Business Regulatory Asset Bases

RAB name	RAB_X
Distribution RAB	RAB_DN
Enduring Solution RAB	RAB_ES
Metering RAB	RAB_MTRN
Rathlin RAB	RAB_RT
FEMO RAB	RAB_FE
NI2007 RAB	RAB_NI
5 Year D.RAB	RAB_D5Y

4.2. In this Annex, each Regulatory Asset Base is identified as a **RAB**, and **RAB_X** refers to a Regulatory Asset Base for which X represents the suffix assigned to that RAB at paragraph 4.1.

4.3. The Opening Regulatory Asset Base - $ORAB_{X_t}$

4.4. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X , the opening Regulatory Asset Base, $ORAB_{X_t}$, being the value of that Regulatory Asset Base at the beginning of Regulatory Reporting Year t, shall be defined as:

$$ORAB_{X_t} = OE_{X_t} + OADD_{X_t}$$

Where:

OE_{X_t} being the opening value of existing assets, calculated in accordance with paragraph 4.5; and

$OADD_{X_t}$ being the opening value of additional assets, calculated in accordance with paragraph 4.13.

4.5. The opening value of existing assets - OE_{X_t}

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- 4.6. For the purposes of this Annex, in respect of Regulatory Reporting Year $t = 2013$, for each RAB_X, the opening value of existing assets ($OE_{X_{2013}}$) shall be calculated as follows:

$$OE_{X_{2013}} = OE_{2010_X_{2013}} * RPI_{2013} / RPI_{2010}$$

Where:

$OE_{2010_X_{2013}}$ is the opening value of existing assets, in a 2010 price base, for each RAB_X and for the Regulatory Reporting Year $t = 2013$, and shall be equal to the amounts specified in Table 2 below.

Table 2 - The Distribution Business opening value of existing assets (£ million, 2010 prices)

RAB_X	$OE_{2010_X_{2013}}$
RAB_DN	782.36
RAB_ES	21.21
RAB_MTRN	14.49
RAB_RT	3.96
RAB_FE	6.12
RAB_NI	19.21
RAB_D5Y	0.00

- 4.7. For the purposes of this Annex, in each Regulatory Reporting Year t other than $t = 2013$, and for each RAB_X the opening value of existing assets (OE_{X_t}) shall be calculated as follows:

$$OE_{X_t} = (CE_{X_{t-1}}) * RPI_t / RPI_{t-1}$$

Where:

CE_{X_t} is the closing value of existing assets, calculated in accordance with paragraph 4.9.

- 4.8. The closing value of existing assets - CE_{X_t}

- 4.9. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X, the closing value of existing assets (CE_{X_t}) being the value of the existing assets in that RAB at the end of Regulatory Reporting Year t , shall be calculated as follows:

$$CE_{X_t} = OE_{X_t} - FDEP_{X_t}$$

Where:

OE_{X_t} is the opening value of existing assets calculated in accordance with paragraph 4.5; and

$FDEP_{X_t}$ is the fixed depreciation amount, calculated in accordance with paragraph 4.11.

4.10. The fixed depreciation amount - $FDEP_{X_t}$

4.11. For the purposes of this Annex, in each Regulatory Reporting Year t , and for each RAB_X , the fixed depreciation amount ($Fdep_{X_t}$) means the amount representing depreciation of assets acquired pre 31 March 2012 and shall be calculated as follows:

$$FDEP_{X_t} = FDEP_{2010_{X_t}} * RPI_t / RPI_{2010}$$

Where:

$FDEP_{2010_{X_t}}$ is the fixed depreciation amount, in a 2010 price base, for each RAB_X and for each Regulatory Reporting Year t , and shall be equal to the amounts specified in Table 3 below.

Table 3 - The Distribution Business fixed depreciation amount per RAB_X for each Regulatory Reporting Year t (£ million, 2010 prices)¹

Year \ RAB_X	t=2013	t=2014	t=2015	t=2016	t=2017	t=2018
RAB_{DN}	40.47	39.11	37.64	36.37	34.95	17.02 + 17.02e
RAB_{ES}	2.12	2.12	2.12	2.12	2.12	1.06 + 1.06e
RAB_{MTRN}	1.63	1.63	1.63	1.63	1.63	0.82 + 0.82e
RAB_{RT}	0.14	0.14	0.14	0.14	0.14	0.07 + 0.07e
RAB_{FE}	2.72	2.72	0.68	-	-	-
RAB_{NI}	6.83	6.83	3.49	2.07	-	-

4.12. The opening value of additional assets - $OADD_{X_t}$

4.13. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X , the opening value of additional assets ($OADD_{X_t}$) shall be:

- a) 0 (zero) in Regulatory Reporting Year $t = 2013$; and
- b) in each subsequent Regulatory Reporting Year t , calculated as follows:

¹ See paragraph 2.3 regarding figures in this table marked with an estimation symbol (e).

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$$\text{OADD}_X_t = (\text{CADD}_X_{t-1}) * \text{RPI}_t / \text{RPI}_{t-1}$$

Where:

CADD_X_{t-1} means the closing value of additional assets in the previous Regulatory Reporting Year, calculated in accordance with paragraph 4.15.

4.14. The closing value of additional assets - CADD_X_t

4.15. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X , the closing value of additional assets (CADD_X_t) shall be calculated as follows:

$$\text{CADD}_X_t = \text{OADD}_X_t + \text{QCE}_X_t - \text{DIQCE}_X_t + \text{PTCE}_X_t - \text{DIPTCE}_X_t - \text{DEPADD}_X_t - \text{CD}_X_t + \text{CI}_X_t$$

Where:

OADD_X_t means the opening value of additional assets calculated in accordance with paragraph 4.13;

QCE_X_t means the qualifying capex expenditure amount, calculated in accordance with paragraph 4.17;

DIQCE_X_t means the demonstrably inefficient qualifying capex expenditure amount, calculated in accordance with paragraph 4.19;

PTCE_X_t means the pass through capex expenditure amount, calculated in accordance with paragraph 4.21;

DIPTCE_X_t means the demonstrably inefficient pass through capex expenditure amount, calculated in accordance with paragraph 4.25;

DEPADD_X_t means the depreciation amount for additional assets, calculated in accordance with paragraph 4.27;

CD_X_t means the capex disposal amount, calculated in accordance with paragraph 4.30; and

CI_X_t means the capex incentive amount, calculated in accordance with paragraph 4.32.

4.16. The qualifying capex expenditure amount - QCE_X_t

4.17. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X , the qualifying capex expenditure amount (QCE_X_t) shall:

- a) be the value of capex incurred by the Licensee (excluding PTCE_X_t) reasonably allocated or attributed to:
 - i. the Distribution Business;

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- ii. the Regulatory Reporting Year t; and
 - iii. RAB_X; and
- b) exclude any amounts reasonably allocated or attributed to any of the following:
- i. pension deficit repair contributions
 - ii. the net costs (or net contributions) relating to: activities or services subject to the Licensee's connection charges such that the exclusion is consistent with the Licensee's Connection Charging Statement; or any other activities or services that are treated as Excluded Services for the purpose of the restriction on the Licensee's Maximum Regulated Distribution Revenue;
 - iii. any costs recharged by the Licensee to associated businesses or related parties;
 - iv. any Related Party Margin that is charged to the Licensee by a Related Party;
 - v. any costs incurred by the Licensee as part of the PSO Agreement or otherwise recoverable under the restriction on the Licensee's PSO Charges;
 - vi. costs of external advisers incurred by the Licensee in relation to the Competition Commission inquiry which resulted in the Final Determination; and
 - vii. other costs of any description which the Authority may determine from time to time are manifestly unreasonable to include in the qualifying capex expenditure amount.

4.18. Demonstrably inefficient qualifying capex expenditure - DIQCE_{X_t}

4.19. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X, demonstrably inefficient qualifying capex expenditure (DIQCE_{X_t}) shall be the part (if any) of QCE_{X_t} that the Authority determines to be Demonstrably Inefficient or Wasteful Expenditure.

4.20. The pass through capex expenditure amount - PTCE_{X_t}

4.21. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X, the pass through capex expenditure amount (PTCE_{X_t}), shall:

- a) be the value of capex incurred by the Licensee (excluding QCE_{X_t}) reasonably allocated or attributed to:
 - i. the Distribution Business;
 - ii. the Regulatory Reporting Year t; and
 - iii. RAB_X; and

b) be calculated as follows:

$$PTCE_{X_t} = CLD_{X_t} + CC_{X_t}$$

Where:

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CLD_{X_t} means the capex legacy Dt amount calculated in accordance with paragraph 4.23; and

CC_{X_t} means the capex connections amount in Regulatory Reporting Year t and for each RAB_X, being the net costs (or net contributions) relating to activities or services subject to the Licensee's connection charges such that the inclusion is consistent with the Licensee's Connection Charging Statement as approved by the Authority, and where contributions from connecting parties are included on a cash basis. The capex connections amount shall exclude the cost of alterations to existing connections and shall only include costs of the following types of connection:

- i. new domestic and smaller businesses eligible for a subsidy and where the application for connection was prior to 1st October 2012;
- ii. housing sites with 12 or more domestic premises; and
- iii. approved generation cluster infrastructure.

4.22. The capex legacy Dt amount - CLD_{X_t}

4.23. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X, CLD_{X_t} is the capex legacy D_t amount incurred by the Licensee that the Authority determines, insofar as the Licensee has incurred these costs in line with the original approval terms, for each of the items referenced in Table 4 below:

Table 4 - The Distribution Business capex legacy Dt items (£ million, 2010 prices)

Legacy Dt items	Approval reference date	Total maximum RP5 spend
33kV reinforcement	21 October 2013	1.9
Enduring Solution project	18 June 2013	5.9

4.24. Demonstrably inefficient pass through capex expenditure - DIPTCE_{X_t}

4.25. For the purposes this Annex, in each Regulatory Reporting Year t and for each RAB_X, demonstrably inefficient pass through capex expenditure (DIPTCE_{X_t}) shall be the part (if any) of PTCE_{X_t} that the Authority determines to be Demonstrably Inefficient or Wasteful Expenditure.

4.26. The depreciation amount for additional assets - $DEPADD_{X_t}$

4.27. For the purposes of paragraph 4.15, in each Regulatory Reporting Year t and for each RAB_X , the depreciation amount for additional assets ($DEPADD_{X_t}$) shall:

a) in Regulatory Reporting Year $t=2013$, be calculated as follows:

$$DEPADD_{X_t} = 0.5 * DEPN_{X_t}$$

b) in each other Regulatory Reporting Year t , provided that the cumulative value of $DEPADD_{X_t}$ over RP5 does not exceed the value of the original net asset cost (especially for net asset additions to RABs RAB_{T5Y} and RAB_{D5Y} in year $t = 2013$) be calculated as follows:

$$DEPADD_{X_t} = 0.5 * DEPN_{X_t} + (DEPADD_{X_{t-1}} + 0.5 * DEPN_{X_{t-1}}) * RPI_t / RPI_{t-1}$$

4.28. For the purposes of paragraph 4.27, $DEPN_{X_t}$ is the full year depreciation for net assets added to RAB_X in Regulatory Reporting Year t and shall be calculated as follows:

$$DEPN_{X_t} = (QCE_{X_t} - DIQCE_{X_t} + PTCE_{X_t} - DIPTCE_{X_t} - CD_{X_t} + CI_{X_t}) * DEPR_X$$

Where:

QCE_{X_t} means the qualifying capex expenditure amount, calculated in accordance with paragraph 4.17;

$DIQCE_{X_t}$ means the demonstrably inefficient qualifying capex expenditure amount, calculated in accordance with paragraph 4.19;

$PTCE_{X_t}$ means the pass through capex expenditure amount, calculated in accordance with paragraph 4.21;

$DIPTCE_{X_t}$ means the demonstrably inefficient pass through capex expenditure amount, calculated in accordance with paragraph 4.25;

CD_{X_t} means the capex disposal amount, calculated in accordance with paragraph 4.30;

CI_{X_t} means the capex incentive amount, calculated in accordance with paragraph 4.32; and

$DEPR_X$ is the depreciation rate for each RAB_X as set out in Table 5 below:

Table 5 - The Distribution Business depreciation rate for each RAB_X

RAB_X	Depreciation rate
RAB_{DN}	3%
RAB_{ES}	10%

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RAB_MTRN	6.66%
RAB_RT	3%
RAB_FE	10%
RAB_NI	10%
RAB_D5Y	20%

4.29. The capex disposal amount - CD_{X_t}

4.30. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X , the capex disposal amount (CD_{X_t}) shall be calculated as follows:

$$CD_{X_t} = OCD_{X_{t-5}} * RPI_t / RPI_{t-5}$$

Where:

OCD_{X_t} means the outturn capex disposal amount, during Regulatory Reporting Year t , the value of which constituted part of RAB_X , being the proceeds of the disposal of any relevant asset/s (including Land, Buildings, Plant, Equipment, but not comprising Land Bank premises or scrap) minus any costs of such disposal that were reasonably incurred by the Licensee.

4.31. The capex incentive amount - CI_{X_t}

4.32. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X , the capex incentive amount (CI_{X_t}) is a sum designed to share equally between the Licensee and customers the value of any outperformance or underperformance of the Licensee against its capex allowances and shall be calculated as follows:

$$CI_{X_t} = (AC_{X_t} + ACIA_{X_t} + ACCOL_{X_t} + ACES_{X_t} - (QCE_{X_t} - DIQCE_{X_t})) * 50\%$$

Where:

AC_{X_t} is the allowed capex as set out at paragraph 4.34 (and paragraph 4.36 in the case of AC_{MTRN_t});

$ACIA_{X_t}$ is the allowed capex (if any) in respect of Regulatory Reporting Year t , for injurious affectation claims, that the Authority determines to be appropriate

for the Licensee to recover, where X corresponds to the suffix which is assigned to RAB_X at paragraph 4.1;

- ACCOL_X_t** is the allowed capex (if any) for changes of law, in an amount determined by the Authority to be appropriate in accordance with paragraph 4.45;
- ACES_X_t** is the allowed capex (if any) in respect of Regulatory Reporting Year t, for the Enduring Solution system, being the additional amount that the Authority determines to be appropriate for the Licensee to recover in respect of significant changes in the specification of the service that the Licensee is required to provide in relation to the Enduring Solution market opening system, where X corresponds to the suffix which is assigned to RAB_X at paragraph 4.1;
- QCE_X_t** is the qualifying capex expenditure amount determined in accordance with paragraph 4.16; and
- DIQCE_X_t** means the demonstrably inefficient qualifying capex expenditure amount calculated in accordance with paragraph 4.19.

4.33. **Allowed capex - AC_X_t**

4.34. For the purposes of this Annex, in each Regulatory Reporting Year t, and for each RAB_X other than RAB_MTRN, the allowed capex (AC_X_t) amounts shall be calculated as follows:

$$AC_X_t = AC_2010_X_t * RPI_t / RPI_{2010}$$

Where:

AC_2010_X_t is the allowed capex amount, in a 2010 price base, for each RAB_X and for each Regulatory Reporting Year t, and shall be equal to the amounts specified in Table 6 below.

Table 6 - The Distribution Business allowed capex per RAB_X for each Regulatory Reporting Year t (£ million, 2010 prices)²

Year \ RAB_X	t=2013	t=2014	t=2015	t=2016	t=2017	t=2018
RAB_DN	41.62	44.10	58.01	57.48	57.13	28.32 + 28.32e
RAB_D5Y	7.03	8.70	6.94	6.87	6.83	3.39 + 3.39e

4.35. **Allowed capex for Metering RAB - AC_MTRN_t**

² See paragraph 2.3 regarding figures in this table marked with an estimation symbol (e).

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4.36. For the purposes of this Annex, in each Regulatory Reporting Year t and for RAB_MTRN, the allowed capex (AC_MTRN_t) shall be calculated as follows:

$$AC_X_t = FMFA_t + (SMFA_t + MVA_t) * RPEPF_t$$

Where:

$FMFA_t$ means the first metering fixed allowance, in Regulatory Reporting Year t , and shall be calculated in accordance with paragraph 4.38;

$SMFA_t$ means the second metering fixed allowance, in Regulatory Reporting Year t , and shall be calculated in accordance with paragraph 4.40;

MVA_t means the metering volume driven allowance, in Regulatory Reporting Year t , and shall be calculated in accordance with paragraph 4.41; and

$RPEPF_t$ is the real price effect & productivity factor for each Regulatory Reporting Year t , and shall be calculated in accordance with paragraph 4.44.

4.37. **First metering fixed allowance ($FMFA_t$)**

4.38. For the purposes of paragraph 4.36, the first metering fixed allowance ($FMFA_t$) shall be calculated as follows:

$$FMFA_t = FMFA_{2010_t} * RPI_t / RPI_{2010}$$

Where:

$FMFA_{2010_t}$ means the first metering fixed allowance amount, in a 2010 price base, for each Regulatory Reporting Year t , and shall be equal to the amounts specified in specified in Table 7 below.

Table 7 - The Distribution Business first metering fixed allowance for each Regulatory Reporting Year t (£ million, 2010 prices)³

Year \ Term	t=2013	t=2014	t=2015	t=2016	t=2017	t=2018
First metering fixed allowance ($FMFA_{2010_t}$)	0.623	0.617	0.611	0.606	0.602	0.298 + 0.298 ^e

4.39. **Second metering fixed allowance ($SMFA_t$)**

4.40. For the purposes of paragraph 4.36, the second metering fixed allowance ($SMFA_t$) shall be calculated as follows:

$$SMFA_t = SMFA_{2010_t} * RPI_t / RPI_{2010}$$

³ See paragraph 2.3 regarding figures in this table marked with an estimation symbol (e).

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Where:

SMFA_{2010_t} means the first metering fixed allowance amount, in a 2010 price base, for each Regulatory Reporting Year t, and shall be equal to the amounts specified in specified in Table 8 below.

Table 8 - The Distribution Business second metering fixed allowance for each Regulatory Reporting Year t (£ million, 2010 prices)⁴

Year	t=2013	t=2014	t=2015	t=2016	t=2017	t=2018
Second metering fixed allowance (SMFA _{2010_t})	0.250	0.250	0.680	0.330	0.330	0.165 + 0.165e

4.41. Metering volume driven allowance (MVA_t)

4.42. For the purposes of paragraph 4.36, the metering volume driven allowance (MVA_t) shall be calculated as follows:

$$MVA_t = \sum_{All_C} (MV_{C_t} * MAU_{2010_C_t}) * RPI_t / RPI_{2010}$$

Where:

$$\sum_{All_C}$$

means the summation of each metering category C listed in Table 9 below;

MV_{C_t} means the volume of Metering units installed, in respect of Regulatory Reporting Year t, as reported to the Authority by the Licensee, for each category C listed in Table 9 below; and

MAU_{2010_C_t} is the metering allowance unit cost, in a 2010 price base, in respect of Regulatory Reporting Year t, for each metering category C listed in Table 9 below:

Table 9 - The Distribution Business metering allowance unit cost for each metering category C (2010 prices)

Metering category C	Metering allowance unit cost (MAU _{2010_C_t}) ⁵
Certification	£0 (zero) in Regulatory Reporting Years t = 2013 and t = 2014;

⁴ See paragraph 2.3 regarding figures in this table marked with an estimation symbol (e).

⁵ For the avoidance of doubt the reference to 'each other Regulatory Reporting Year t' in this table is without prejudice to any future licence modifications made or proposed by the Authority to implement a new restriction on the Licensee's Maximum Regulated Distribution Revenue that is effective from 1 October 2017.

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	£23.72 in each other Regulatory Reporting Year t.
Recertification	£0 (zero) in Regulatory Reporting Years t = 2013 and t = 2014; £23.72 in each other Regulatory Reporting Year t.
Commercial recertification	£0 (zero) in Regulatory Reporting Years t = 2013 and t = 2014; £242.00 in each other Regulatory Reporting Year t.
Keypad recertification	£0 (zero) in Regulatory Reporting Years t = 2013 and t = 2014; £76.51 in each other Regulatory Reporting Year t.
Keypad other	£72.00
SOSA	£27.80
Commercial	£205.00

4.43. The real price effect & productivity factor ($RPEPF_t$)

4.44. For the purposes of paragraph 4.36, the real price effect & productivity factor ($RPEPF_t$) shall, for each Regulatory Reporting Year t shall be equal to the values set out in Table 10 below.

Table 10 - The Distribution Business real price effect & productivity factor for each Regulatory Reporting Year t⁶

Year	Real price effect & productivity factor ($RPEPF_t$)
t=2013	0.978000
t=2014	0.968220
t=2015	0.959506
t=2016	0.950870
t=2017	0.945165
t=2018	0.936659 or 0.936659e

4.45. The allowed capex amount for changes of law - $ACCOL_X_t$

4.46. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X, the allowed capex amount for changes of law ($ACCOL_X_t$), being the Relevant Change of Law

⁶ See paragraph 2.3 regarding figures in this table marked with an estimation symbol (e).

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capex amount (being a positive or negative figure), determined by the Authority, for the purposes of this paragraph, in accordance with paragraphs 4.47 to 4.50.

4.47. For the purposes of paragraph 4.46, the calculation of $ACCOL_X_t$ shall occur when the Authority has determined that:

- a) there has been or will be a Relevant Change of Law;
- b) there has been or will be an amount (whether a positive or negative figure) that is directly attributable to the Relevant Change of Law; and
- c) having regard to all the circumstances, it is appropriate to include the amount within the calculation of $ACCOL_X_t$ in order to ensure that the financial position and performance of an efficient Licensee will be, so far as is reasonably practicable, the same as if the Relevant Change of Law had not taken place.

4.48. The Authority may make a determination in accordance with paragraph 4.47:

- a) on an application made to it by the Licensee; or
- b) otherwise, following consultation with the Licensee.

4.49. An application made to the Authority by the Licensee pursuant to paragraph 4.47 shall contain or be accompanied by all relevant details of the anticipated cost or revenue, and such other information as the Authority may require and, unless the Authority otherwise consents, may not be given later than the first day of April in the year immediately preceding the first of the Regulatory Reporting Years in respect of which the Licensee wishes that cost or revenue to be included in the calculation of $ACCOL_X_t$.

4.50. Where the Authority determines that an anticipated cost or revenue is appropriate for inclusion in the calculation of $ACCOL_X_t$ in one or more Regulatory Reporting Years, it shall specify the value to be attributed to that cost or revenue in respect of each Regulatory Reporting Year.

4.51. **The depreciation amount - DEP_t**

4.52. For the purposes of this Annex, in each Regulatory Reporting Year t , the depreciation amount (DEP_t) shall be calculated as follows:

$$DEP_t = \sum_{AIIAB_X} (DEPADD_X_t + FDEP_X_t)$$

Where:

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$$\sum_{AllRAB_X}$$

means the summation of the values for all Regulatory Asset Bases;

DEPADD_{X_t} means the depreciation amount for additional assets for each RAB_X, calculated in accordance with paragraph 4.26; and

FDEP_{X_t} means the fixed depreciation amount for each RAB_X, calculated in accordance with paragraph 4.11.

5. The return amount - RET_t

5.1. For the purposes of this Annex, in Regulatory Reporting Year t , the return amount (RET_t) is calculated as follows:

$$RET_t = \left(\sum_{AllRAB_X} (ORAB_{X_t} + CRAB_{X_t}) / 2 \right) * AVWACC_t$$

Where:

\sum_{AllRAB_X} means the summation of the values for every Regulatory Asset Base, RAB_X ;

$ORAB_{X_t}$ means the opening Regulatory Asset Base in respect of each RAB_X in Regulatory Reporting Year t , has the value established in accordance with paragraph 4.4;

$CRAB_{X_t}$ means the closing Regulatory Asset Base in respect of each RAB_X in Regulatory Reporting Year t , and is equal to:

$$CE_{X_t} + CADD_{X_t}$$

Where:

CE_{X_t} is the closing value of existing assets, and has the value calculated in accordance with paragraph 4.9; and

$CADD_{X_t}$ is the closing value of additional assets, and has the value calculated in accordance with paragraph 4.15.

$AVWACC_t$ means the adjusted vanilla weighted average cost of capital in Regulatory Reporting Year t , and shall be calculated as follows:

$$AVWACC_t = \frac{VWACC_t}{\sqrt{(1 + VWACC_t)}}$$

Where:

$VWACC_t$ means the vanilla weighted average cost of capital in Regulatory Reporting Year t and has a value equal to 4.10%.

6. The opex amount - O_t

6.1. For the purposes of paragraph 3.5, in each Regulatory Reporting Year t , the opex amount (O_t) shall be calculated as follows:

$$O_t = QOE_t - DIQOE_t + PTOE_t - DIPTOE_t + OI_t$$

Where:

- QOE_t means the qualifying opex expenditure amount, calculated in accordance with paragraph 6.3;
- $DIQOE_t$ means the demonstrably inefficient qualifying opex expenditure amount, calculated in accordance with paragraph 6.5;
- $PTOE_t$ means the pass through opex expenditure amount, calculated in accordance with paragraph 6.7;
- $DIPTOE_t$ means the demonstrably inefficient pass through opex expenditure amount, calculated in accordance with paragraph 6.11; and
- OI_t means the opex incentive amount in Regulatory Reporting Year t , calculated in accordance with paragraph 6.13.

6.2. The qualifying opex expenditure amount - QOE_t

6.3. For the purposes of this Annex, in each Regulatory Reporting Year t , the qualifying opex expenditure amount (QOE_t), shall:

- a) be the value of opex incurred by the Licensee (excluding $PTOE_t$) reasonably allocated or attributed to:
 - i. the Distribution Business; and
 - ii. the Regulatory Reporting Year t ; and
- b) exclude any amounts reasonably allocated or attributed to any of the following:
 - i. pension deficit repair contributions;
 - ii. the net costs (or net contributions) relating to: activities or services subject to the Licensee's connection charges such that the exclusion is consistent with the Licensee's Connection Charging Statement; or any other activities or services that are treated as Excluded Services for the purpose of the restriction on the Licensee's Maximum Regulated Distribution Revenue;
 - iii. any costs recharged by the Licensee to associated businesses or related parties;
 - iv. any Related Party Margin that is charged to the Licensee by a Related Party;
 - v. any costs incurred by the Licensee as part of the PSO Agreement or otherwise recoverable under the restriction on the Licensee's PSO Charges;

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- vi. costs of external advisers incurred by the Licensee in relation to the Competition Commission inquiry which resulted in the Final Determination; and
- vii. other costs of any description which the Authority may determine from time to time are manifestly unreasonable to include in the qualifying opex expenditure amount.

6.4. Demonstrably inefficient qualifying opex expenditure - $DIQOE_t$

6.5. For the purposes this Annex, in each Regulatory Reporting Year t , $DIQOE_t$ shall be the part (if any) of QOE_t that the Authority determines to be Demonstrably Inefficient or Wasteful Expenditure.

6.6. Pass through opex expenditure amount - $PTOE_t$

6.7. For the purposes of this Annex, in each Regulatory Reporting Year t , the pass through opex expenditure amount ($PTOE_t$) shall:

- a) be the value of opex incurred by the Licensee (excluding QOE_t) reasonably allocated or attributed to:
 - i. the Distribution Business; and
 - ii. the Regulatory Reporting Year t ; and
- b) be calculated as follows:

$$PTOE_t = OLF_t + OLD_t + OC_t$$

Where:

OLF_t is the opex licence fee amount in Regulatory Reporting Year t , being the licence fee apportioned or allocated to or required from the Licensee under Condition 7 of this Licence;

OLD_t is the opex legacy D_t amount, calculated in accordance with paragraph 6.9; and

OC_t means the opex connections amount in Regulatory Reporting Year t , being the net costs (or net contributions) relating to activities or services subject to the Licensee's connection charges such that the inclusion is consistent with the Licensee's Connection Charging Statement as approved by the Authority, and where contributions from connecting parties are included on a cash basis. The opex connections amount shall exclude the cost of alterations to existing connections and shall only include costs of the following types of connection:

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- i. new domestic and smaller businesses eligible for a subsidy and where the application for connection was prior to 1st October 2012;
- ii. housing sites with 12 or more domestic premises; and
- iii. approved generation cluster infrastructure.

6.8. The opex legacy D_t amount - OLD_t

6.9. For the purposes of this Annex, in each Regulatory Reporting Year t , OLD_t is the opex legacy D_t amount incurred by the Licensee that the Authority determines, insofar as the Licensee has incurred these costs in line with the original approval terms, for each of the items referenced in Table 11 below:

Table 11 - The Distribution Business opex legacy D_t amounts (2010 prices)

Legacy D_t items	Approval reference date(s)	Total maximum RP5 spend
Network Management System	29 May 2012 and 28 Jan 2013	£3.3 million
Smart Grid trial	10 June 2011	£0.1 million
Market opening legacy systems cost	19 June 2012	£0.5 million
Enduring Solution - transitional costs	24 January 2013	£0.7 million
Enduring Solution project	18 June 2013	£0.2 million

6.10. Demonstrably inefficient pass through opex expenditure - $DIPTOE_t$

6.11. For the purposes this Annex, in each Regulatory Reporting Year t , $DIPTOE_t$ shall be the part (if any) of $PTOE_t$ that the Authority determines to be Demonstrably Inefficient or Wasteful Expenditure.

6.12. The opex incentive amount - OI_t

6.13. For the purposes of this Annex, in each Regulatory Reporting Year t , the opex incentive amount (OI_t) is a sum designed to share equally between the Licensee and customers the

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value of any outperformance or underperformance of the Licensee against its opex allowances and shall be calculated as follows:

$$OI_t = (AO_t + AOO_t - (QOE_t - DIQOE_t)) * 50\%$$

Where:

AO_t is the allowed opex amount calculated in accordance with paragraph 6.15;

AOO_t is the allowed opex other amount calculated in accordance with paragraph 6.17;

QOE_t is the qualifying opex expenditure amount calculated in accordance with paragraph 6.3; and

$DIQOE_t$ is the demonstrably inefficient qualifying opex expenditure amount calculated in accordance with paragraph 6.5.

6.14. Allowed opex amount - AO_t

6.15. For the purposes of this Annex, in each Regulatory Reporting Year t , the allowed opex (AO_t) amounts shall be calculated as follows:

$$AO_t = AO_{2010_t} * RPI_t / RPI_{2010}$$

Where:

AO_{2010_t} means the allowed opex amount, in a 2010 price base, for each Regulatory Reporting Year t , and shall be equal to the amounts specified in specified in Table 12 below:

Table 12 - The Distribution Business allowed opex amount for each Regulatory Reporting Year t (£ million, 2010 prices)⁷

Year	t=2013	t=2014	t=2015	t=2016	t=2017	t=2018
Term						
Allowed opex amount (AO_{2010_t})	42.19	42.60	41.04	40.48	40.25	20.02 + 20.02 ^e

6.16. Allowed opex other amount - AOO_t

6.17. For the purposes of this Annex, in each Regulatory Reporting Year t , the allowed opex other amount (AOO_t), being the amounts for other opex items listed immediately below, shall be calculated as follows:

$$AOO_t = ES_t + BD_t + IA_t + RR_t + COL_t$$

⁷ See paragraph 2.3 regarding figures in this table marked with an estimation symbol (e).

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Where:

- ES_t** is the allowed opex (if any) amount in Regulatory Reporting Year t, for the Enduring Solution, being the additional amount that the Authority determines, to be appropriate for the Licensee to recover in that Regulatory Reporting Year in respect of any significant changes in the specification of the service that the Licensee is required to provide in relation to the Enduring Solution market opening system;
- BD_t** is the allowed opex (if any) amount in Regulatory Reporting Year t, for Uncollected Revenue, being the amount appropriate for the Licensee to recover in that Regulatory Reporting Year, in respect of Uncollected Revenue less any amount or part of an amount treated as Uncollected Revenue in respect of a preceding Relevant Reporting Year t that has been paid to the Licensee in Relevant Reporting Year t;
- IA_t** is the allowed opex (if any) amount in Regulatory Reporting Year t, for injurious affectation, being the amount that the Authority determines to be appropriate for the Licensee to recover in respect of injurious affectation claims in that Regulatory Reporting Year;
- RR_t** is the allowed opex (if any) amount in Regulatory Reporting Year t, for regulatory reporting, being the additional amount that the Authority determines to be appropriate for the Licensee to recover in that Regulatory Reporting Year, in respect of regulatory reporting costs; and
- COL_t** is the allowed opex (if any) amount for changes of law, in an amount determined by the Authority to be appropriate in accordance with paragraph 6.18.

6.18. The allowed opex amount for changes of law - COL_t

6.19. For the purposes of this Annex, in each Regulatory Reporting Year t, the allowed opex amount for changes of law (COL_t), being the Relevant Change of Law opex amount (being a positive or negative figure) determined by the Authority, for the purposes of this paragraph, in accordance with paragraphs 6.20 to 6.23.

6.20. For the purposes of paragraph 6.19, the calculation of COL_t shall occur when the Authority has determined that:

- a) there has been or will be a Relevant Change of Law;
- b) there has been or will be an amount (whether a positive or negative figure) that is directly attributable to the Relevant Change of Law; and
- c) having regard to all the circumstances, it is appropriate to include the amount within the calculation of COL_t in order to ensure that the financial position and performance of

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an efficient Licensee will be, so far as is reasonably practicable, the same as if the Relevant Change of Law had not taken place.

- 6.21. The Authority may make a determination in accordance with paragraph 6.20:
- a) on an application made to it by the Licensee; or
 - b) otherwise, following consultation with the Licensee.
- 6.22. An application made to the Authority by the Licensee pursuant to paragraph 6.20 shall contain or be accompanied by all relevant details of the anticipated cost or revenue, and such other information as the Authority may require and, unless the Authority otherwise consents, may not be given later than the first day of April in the year immediately preceding the first of the Regulatory Reporting Years in respect of which the Licensee wishes that cost or revenue to be included in the calculation of COL_t .
- 6.23. Where the Authority determines that an anticipated cost or revenue is appropriate for inclusion in the calculation of COL_t in one or more Regulatory Reporting Years, it shall specify the value to be attributed to that cost or revenue in respect of each Regulatory Reporting Year.

7. The pension deficit amount - P_t

7.1. For the purposes of this Annex, in each Regulatory Reporting Year t , P_t means the pension deficit amount, including the ERDC amount in Regulatory Reporting Year t , and shall be calculated as follows:

$$P_t = P_{2010_t} * RPI_t / RPI_{2010}$$

Where:

P_{2010_t} means the pension deficit amount, in a 2010 price base, for each Regulatory Reporting Year t , and shall be equal to the amounts specified in specified in Table 13 below:

Table 13 - The Distribution Business pension deficit amount for each Regulatory Reporting Year t (£ million, 2010 prices)⁸

Period \ Term	t=2013	t=2014	t=2015	t=2016	t=2017	t=2018
Historic Deficit Repair	12.60	12.60	12.60	12.60	12.60	6.30 + 6.30e
ERDC Disallowance	(3.59)	(3.59)	(3.59)	(3.59)	(3.59)	(1.79) + (1.79)e
Pension deficit amount (P_{2010_t})	9.02	9.02	9.02	9.02	9.02	4.51 + 4.51e

⁸ See paragraph 2.3 regarding figures in this table marked with an estimation symbol (e).

8. The costs of the investigation amount (COI_t)

- 8.1. For the purposes of paragraph 3.5, in each Regulatory Reporting Year t , the costs of the investigation amount (COI_t), shall be calculated as follows:

$$COI_t = COI_{2010_t} * RPI_t / RPI_{2010}$$

Where:

COI_{2010_t} means the costs of the investigation amount, in a 2010 price base, and shall be equal to zero in every Regulatory Reporting Year t except for Regulatory Reporting Year $t = 2014$ where it shall be equal to £1.023 million.

9. The Tax Amount - TAX_t

9.1. For the purposes of paragraph 3.5, in Regulatory Reporting Year t, the tax amount (TAX_t) is calculated as follows in nominal prices:

$$TAX_t = TR_t / (1 - TR_t) * (RET_t + DEP_t - INT_t - CA_t)$$

Where:

- TR_t** means the corporation Tax Rate applicable in Northern Ireland in Regulatory Reporting Year t, as specified from time to time by HMRC;
- RET_t** means the return amount in Regulatory Reporting Year t, calculated in accordance with paragraph 5.1;
- DEP_t** means the depreciation amount in Regulatory Reporting Year t, calculated in accordance with paragraph 4.45;
- INT_t** means an amount equal to the Interest on the value of the average of all Regulatory Asset Bases, in Regulatory Reporting Year t and shall be calculated as follows:

$$INT_t = \frac{\left(\sum_{AllRAB_X} (ORAB_X_t + CRAB_X_t) \right)}{2} * G * NCOD$$

Where:

- \sum_{AllRAB_X} means the summation of the values for all Regulatory Asset Bases;
- ORAB_X_t** is the value of the opening Regulatory Asset Base for each RAB_X in Regulatory Reporting Year t, calculated in accordance with paragraph 4.4;
- CRAB_X_t** is the value of the closing Regulatory Asset Base for each RAB_X in Regulatory Reporting Year t, calculated in accordance with paragraph 5.1;
- G** means notional gearing and has the value of 45%;
- NCOD** means the notional nominal cost of debt and has the value of 6.45%; and
- CA_t** means, in each Regulatory Reporting Year t, an amount equal to the value of regulatory capital allowances in accordance with guidelines published by HMRC considered appropriate by the Authority for the purposes of calculating Maximum Regulated Distribution Revenue in respect of that Regulatory Reporting Year, calculated on a notional basis, under the hypothetical assumptions that:
- i. capital additions, while considering ii, iii, and iv immediately below, are calculated as follows:

$$\sum_{AIRAB_X} (QCE_X_t - DIQCE_X_t + PTCE_X_t - DIPTCE_X_t - CD_X_t + CI_X_t)$$

Where:

- \sum_{AIRAB_X} means the summation of the values for all Regulatory Asset Bases;
- QCE_X_t means the qualifying capex expenditure amount, calculated in accordance with paragraph 4.17;
- $DIQCE_X_t$ means the demonstrably inefficient qualifying capex expenditure amount, calculated in accordance with paragraph 4.19;
- $PTCE_X_t$ means the pass through capex expenditure amount, calculated in accordance with paragraph 4.21;
- $DIPTCE_X_t$ means the demonstrably inefficient pass through capex expenditure amount, calculated in accordance with paragraph 4.24;
- CD_X_t means the capex disposal amount, calculated in accordance with paragraph 4.30; and
- CI_X_t means the capex incentive amount, calculated in accordance with paragraph 4.32; and
- ii. the regulatory capital allowances are the maximum capital allowance available to the Licensee, irrespective of whether or not the Licensee chooses to utilise such allowances in full;
 - iii. if the Licensee opts to defer capital allowance claims in respect of any capital allowance in any given year, the amount of capital allowance available in any subsequent year excludes any amounts for which claims were so deferred (to avoid double counting any capital allowance);
 - iv. the regulatory capital allowances include amortization of Deferred Revenue Expenditure; and
 - v. the opening written down values are as specified in Table 14 below:

Table 14 - The Distribution Business opening tax capital allowance values (£ million, nominal prices)

Category	Opening RP5 written down value
General Pool	56.65
Long life asset pool	287.42
Deferred revenue	111.61 ⁹

⁹ The gross value of capital additions before RP5 was £123.82million

10. The revenue protection services incentive amount - $RPSI_t$

10.1. In each Regulatory Reporting Year, the revenue protection services incentive amount, $RPSI_t$, shall be calculated as follows:

$$RPSI_t = RPSR_t * 50\%$$

Where:

$RPSR_t$ means the revenue protection services revenue (being zero (0) or a negative number), in Regulatory Reporting Year t, being the sums recovered or earned by the Licensee during that Regulatory Reporting Year from the provision of revenue protection services, which shall together include in particular:

- i. any money recovered by the Licensee from an electricity consumer in the exercise of the Licensee's powers in relation to illegal abstraction of electricity;
- ii. any money recovered by the Licensee from third parties to cover the cost of the network repairs or other repairs associated with illegal abstraction; and
- iii. any income generated by the Licensee from the provision of revenue protection services to third parties.

11. The correction factor amount - K_t

11.1. For the purposes of paragraph 3.5 and for the closure of the RP5 period, the correction factor amount (K_t) shall be calculated as follows:

- a) in Regulatory Reporting Year $t = 2013$:

$$K_t = KRP4$$

Where:

KRP4 means the closing K factor for the RP4 price control at 31st March 2012 and has the value of -£10.611 million.

- b) in Regulatory Reporting Years $t = 2014$, $t = 2015$, $t = 2016$ and $t = 2017$:

$$K_t = (RP5R_{t-1} - ARP5_{t-1}) * (1 + I_t) + RP4CI_t$$

Where:

RP5R_{t-1} means the Maximum Regulated Distribution Revenue, in Regulatory Reporting Year $t-1$;

ARP5_{t-1} means the actual Regulated Distribution Revenue recovered through Distribution Charges in Regulatory Reporting Year $t-1$, save that for each Regulatory Reporting Year $t=2013$ & $t=2014$ actual Regulated Distribution Revenue will be increased by £12 million (nominal prices); and

I_t means the Average Specified Rate; and

RP4CI_t means the amounts due to the Licensee under the capex efficiency incentive that applied under the RP4 price control.

- c) for the closure of the RP5 period (the 6 months ending 30 September 2017):

$$K_t = (RP5R_{SEP17} - ARP5_{SEP17}) * (1 + I_t)$$

Where:

RP5R_{SEP17} means the Maximum Regulated Distribution Revenue for the 6 months ending 30 September 2017;

ARP5_{SEP17} means the actual Regulated Distribution Revenue recovered through Distribution Charges for the 6 months ending 30 September 2017; and

I_t means the Average Specified Rate.

12. Information to be provided to the Authority in connection with the Distribution Charge Restriction Conditions

12.1. Introduction

12.2. In addition to, and without prejudice to, the provisions of Condition 8 of the Licence, the Licensee shall, in relation to the Distribution Charge Restriction Conditions, furnish the Authority with Specified Information as set out in this paragraph 12.

12.3. Specified Information

12.4. The Licensee shall, subject to other provisions set out in the Licence and in this paragraph 12, provide to the Authority the following Specified Information:

- a) forecasts and/or estimates in accordance with paragraph 12.6, with regards to the setting of Distribution Charges;
- b) any explanation and/or statement as to whether or not the provisions at paragraph 12.11 are likely to be applicable, with regards to the restriction of Distribution Charges;
- c) information to comply with the Authority's Regulatory Instructions and Guidance (RIGs) in accordance with paragraph 12.15;
- d) information which provides a reconciliation of the values published in the accounting statements (referred to at Condition 2 of the Licence) for opex and capex with:
 - i. the qualifying opex expenditure amount (QOE_t) and the pass through opex expenditure amount ($PTOE_t$);
 - ii. the qualifying capex expenditure amount (QCE_{X_t}) for each RAB_X and the pass through capex expenditure amount ($PTCE_{X_t}$) for each RAB_X; and
 - iii. the cost information provided to comply with the Authority's RIGs in accordance with paragraph 12.15;
- e) information regarding pension deficits, in accordance with paragraph 12.20;
- f) information on historical revenues, including:
 - i. all data used in the calculation of the Licensee's Maximum Regulated Distribution Revenue, in accordance with paragraph 12.21;
 - ii. the revenue derived from Excluded Services (showing separately the revenue from each category of excluded service) in accordance with paragraph 13.6;
- g) information on network investment projects and volumes, including:
 - i. a forecast of the network investment for the RP6 price control period, in accordance with paragraph 12.25; and
 - ii. information on pre-funded costs, in accordance with paragraph 12.26;

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- iii. information on outturn RP5 projects and volumes, and planned RP5 projects and volumes in accordance with paragraph 12.29; and
 - h) information on the Licensee's ESQCR compliance, in accordance with paragraph 12.32;
 - i) information on tax, in accordance with paragraph 12.34; and
 - j) the statutory accounts of any Related Party, in accordance with paragraph 12.37.
- 12.5. Unless otherwise specified in this Annex or the Licence, the Specified Information listed at paragraph 12.4 shall be submitted:
- a) for the time period as the Authority may reasonably require and as may be specified in directions issued by the Authority;
 - b) by a date as the Authority may reasonably require and as may be specified in directions issued by the Authority;
 - c) in a format as the Authority may reasonably require and as may be specified in directions issued by the Authority; and
 - d) to the relevant employees of the Authority and to the electricity_network_reporting@uregni.gov.uk mailbox or subsequent equivalent mailbox.
- 12.6. **Forecasts / estimates with regards to setting Distribution Charges**
- 12.7. Where any change is intended to be made in Distribution Charges regulated under paragraph 3, the Licensee shall not later than 14 days prior to the time of publication of such change, provide the Authority with:
- a) a written forecast of the Maximum Regulated Distribution Revenue, together with its components, in respect of each Regulatory Reporting Year t upon which the intended change would affect;
 - b) a written estimate of the Maximum Regulated Distribution Revenue, together with its components, in respect of each Regulatory Reporting Year prior to the first Regulatory Reporting Year t upon which the intended change would affect; and
 - c) a written forecast of the over- or under-recovery in all future Regulatory Tariff Years for which the Licensee forecasts an over- or under- recovery.
- 12.8. If within 3 months of the commencement of any Regulatory Tariff Year t the Licensee has not made any such change in charges as is referred to in paragraph 12.7, the Licensee shall provide the Authority with:
- a) a written forecast of the Maximum Regulated Distribution Revenue, together with its components, in respect of each Regulatory Reporting Year upon which Regulatory Tariff Year t has an effect; and

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- b) a written forecast of the over- or under-recovery in all future Regulatory Tariff Years for which the Licensee forecasts an over- or under- recovery.
- 12.9. Any forecast or estimate provided in accordance with paragraph 12.7 or 12.8 shall be accompanied by such information as regards the assumptions underlying the forecast or estimate as may be necessary to enable the Authority to be satisfied that the forecast or estimate has been properly prepared on a consistent basis.
- 12.10. In addition, any forecast or estimate provided in accordance with paragraph 12.7 or 12.8 shall be published by the Licensee on the Licensee's website.
- 12.11. Restriction of Distribution Charges**
- 12.12. If, in respect of any Regulatory Tariff Year, the Regulated Distribution Revenue exceeds the Maximum Regulated Distribution Revenue by more than the Permitted One-Year Percentage, the Licensee shall furnish an explanation to the Authority, and in the next following Regulatory Tariff Year, the Licensee shall not effect any increase in Distribution Charges unless it has demonstrated to the reasonable satisfaction of the Authority that the Regulated Distribution Revenue would not be likely to exceed the Maximum Regulated Distribution Revenue in that following Regulatory Tariff Year.
- 12.13. If, in respect of any three successive Regulatory Tariff Years, the sum of the amounts by which the Regulated Distribution Revenue has exceeded the Maximum Regulated Distribution Revenue, is more than the Permitted Three-Year Percentage, then in the next following Regulatory Tariff Year the Licensee shall, if required by the Authority, adjust its Distribution Charges such that the Regulated Distribution Revenue would not be likely, in the judgement of the Authority, to exceed the Maximum Regulatory Distribution Revenue in that next following Regulatory Tariff Year.
- 12.14. Not later than six weeks after the commencement of each Regulatory Tariff Year, the Licensee shall send to the Authority a statement as to:
- a) whether or not the provisions of:
 - i. paragraph 12.12 are likely to be applicable in consequence of the Regulated Distribution Revenue in the preceding Regulatory Tariff Year; and/ or
 - ii. paragraph 12.13 are likely to be applicable in consequence of the Regulated Distribution Revenue in the preceding 3 Regulatory Tariff Years; and
 - b) the Licensee's best estimate as to the cumulative over- or under- recovery at the last day of the most recently ended Regulatory Tariff Year.

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12.15. Information to comply with Authority's Regulatory Instructions and Guidance (RIGs)

12.16. The Licensee shall, furnish the Authority with any information required to comply with the Authority's RIGs, as may change from time to time.

12.17. The Licensee shall ensure that the RIGs information referred to at paragraph 12.16 includes estimations of the Licensee's confidence in that information and is certified by a relevant director.

12.18. The Licensee shall, publish on the Licensee's website, the information supplied in accordance with paragraph 12.16, subject to the minimum redactions considered necessary by the Authority to protect commercially sensitive information.

12.19. Pension deficits

12.20. The Licensee shall, furnish the Authority with relevant information regarding any pension deficits, splitting accordingly the historic deficit (assuming a cut-off date of 31 March 2012) and incremental deficit.

12.21. Historical data used in the calculation of the Licensee's Maximum Regulated Distribution Revenue

12.22. The Licensee shall, furnish the Authority with all historical data used to calculate the Maximum Regulated Distribution Revenue as set out in the formulas in this Annex.

12.23. The Licensee shall, for the period from 1 April 2012, publish, on the Licensee's website and in the Licensee's accounting statements referred to in Condition 2 of the Licence, the data referred to at 12.22.

12.24. Forecast network investment in the RP6 price control period

12.25. The Licensee shall, on an annual basis submit to the Authority the Licensee's estimate of the expected investments, volumes and projects for the RP6 price control period.

12.26. Information on pre-funded costs

12.27. The Licensee shall, on an annual basis submit to the Authority an estimate of the pre-funded costs, being the network investments, volumes and projects required in periods after RP5 which can be attributed to the cancellation, reduction or deferral of any investments, volumes or projects that the Competition Commission assumed as part of the cost assessment underpinning its Final Determination (the planned investments, volumes and projects).

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- 12.28. The Licensee shall submit to the Authority, on an annual basis, to supplement the information referred to at paragraph 12.27, reconciliations of the information referred to at paragraph 12.27 to the planned investments, volumes and projects specified at Appendix 1 and Appendix 2 below.
- 12.29. **Information on the outturn RP5 investments, projects and volumes, and planned RP5 investments, projects and volumes**
- 12.30. The Licensee shall, on an annual basis, for the RP5 period, submit to the Authority:
- a) information on the outturn investments, volumes and projects; and
 - b) information on the planned investments, volumes and projects.
- 12.31. The Licensee shall submit to the Authority, on an annual basis, to supplement the information referred to at paragraph 12.30, reconciliations of the information referred to at paragraph 12.30 to the planned investments, volumes and projects, specified at Appendix 1 and Appendix 2 below.
- 12.32. **Reporting on the Licensee's ESQCR compliance**
- 12.33. The Licensee shall, report on the Licensee's ESQCR compliance, with additional details on the Licensee's patrolling activity, including a split of low voltage work into low voltage undergrounds and low voltage overhead lines.
- 12.34. **Information on tax**
- 12.35. The Licensee shall, no later than 12 months after the end of each Regulatory Reporting Year, prepare and submit to the Authority an annual report, in a form to be approved by the Authority, setting out:
- a) audited tax reports that enable a full reconciliation between:
 - i. information submitted to HMRC on the Licensee's tax affairs; and
 - ii. information used for the calculation of the tax element of the Licensee's Maximum Regulated Distribution Revenue, as calculated at paragraph 9 of this Annex;
 - b) information submitted to HMRC on the Licensee's tax affairs;
 - c) information used for the calculation of the tax element of the Licensee's Maximum Regulated Distribution Revenue, as calculated at paragraph 9 of this Annex; and
 - d) any retrospective adjustments in respect of previous years together with any restatement of 12.35.a), 12.35.b) and 12.35.c).

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12.36. The Licensee shall, on an annual basis, publish on the Licensee's website the information supplied under 12.35 subject to the minimum redactions, considered necessary by the Authority, to protect commercially sensitive information.

12.37. **The statutory accounts of any Related Party**

12.38. The Licensee shall, no later than 10 months after the end of each Regulatory Reporting Year, prepare and submit to the Authority the financial statements of any Related Party, for the Regulatory Reporting Year, with whom the Licensee has had a transaction in that Regulatory Reporting Year.

13. Excluded Services for purposes of Distribution Business

- 13.1. There may be treated as Excluded Services provided by the Distribution Business such services in respect of which charges are made which:
- a) do not fall within paragraph 13.2; and
 - b) may (subject to paragraph 13.7) be determined by the Licensee as falling under one of the principles set out in paragraphs 13.3 to 13.5.
- 13.2. No service provided as part of the Distribution Business shall be treated as an excluded service insofar as it relates to the provision of services remunerated under use of system charges in accordance with Condition 32 including (without prejudice to the foregoing):
- a) the transport of electricity;
 - b) the carrying out of works for the installation of electric lines or electrical plant (not otherwise payable in the form of connection charges) for the purpose of maintaining or upgrading the Licensee's distribution system;
 - c) the carrying out of works or the provision of maintenance or repair or other services for the purpose of enabling the Licensee to comply with Conditions 19, 26 and 27, the Electricity Supply Regulations (Northern Ireland) 1991 as amended by the Electricity Supply (Amendment) Regulations (Northern Ireland) 1993 or any regulations made under Article 32 of the Order or any other enactment relating to safety or standards applicable in respect of the Distribution Business;
 - d) the provision, installation and maintenance of any meters, switchgear or other electrical plant ancillary to the grant of use of system.
- 13.3. The whole or an appropriate proportion (as the case may be) of the charges of the type described in paragraph 3 of Condition 32 and borne by any person as connection charges in respect of connections made after the grant of this Licence may be treated as Excluded Services.
- 13.4. There may be treated as an excluded service charge for the relocation of electric lines or electrical plant and the carrying out of works associated therewith pursuant to a statutory obligation (other than under Article 12(2) of the Order) imposed on the Licensee.
- 13.5. There may be treated as an excluded service any service of a type not referred to above which:
- a) consists in the provision of services for the specific benefit of a third party requesting the same; and
 - b) is not made available as a normal part of the Distribution Business remunerated by use of system charges, including (without prejudice to the foregoing):

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- i. special metering (including “time of day” metering) to facilitate energy saving programmes for the benefit of customers requesting the same;
 - ii. prepayment metering equipment;
 - iii. charges for moving mains, services or meters forming part of the Licensee’s distribution system to accommodate extension, re-design or re-development of any premises on which the same are located or to which they are connected; and
 - iv. the provision of electric lines and electrical plant (a) insofar as the same are required for the specific purpose of enabling the provision of top-up or standby or (b) to provide a higher degree of security than is required for the purposes of complying with Condition 19.

- 13.6. The Licensee shall following the end of each Regulatory Reporting Year furnish to the Authority, as being one of the items of Specified Information referred to in paragraph 12.3, details specifying separately the nature of all services provided as part of the Distribution Business and treated as Excluded Services by the Licensee during the course of such year and stating the revenues derived in respect of each such service so treated.

- 13.7. Where the Authority is satisfied that it is reasonable in all the circumstances that any service treated by the Licensee as being or not being an excluded service should not be so treated, the Authority shall issue directions to that effect. Any such directions may, where a service is directed to be treated as an excluded service, contain such conditions as the Authority shall see fit in relation to the charges which the Licensee may make for such excluded service and the other terms and conditions upon which the Licensee may provide such excluded service. In accordance with the terms of such directions, such service shall cease to be treated as an excluded service with effect from the date of issue of such directions or such earlier date as may be specified in the directions.

14. Allowances in respect of security costs

14.1. At any time during a Fuel Security Event, the Authority may (having regard to its duties under the Energy Order) by means of directions:

- a) suspend or modify for the unexpired term of the Fuel Security Event the Distribution Charge Restriction Conditions or any part or parts thereof; or
- b) introduce for the unexpired term of the Fuel Security Event new Distribution Charge Restriction Conditions,

in either case, so as to make such provision as in the opinion or estimation of the Authority is requisite or appropriate to enable the Licensee to recover by means of appropriate equitable increases in the charges made in the course of the Distribution Business an amount estimated as being equal to the Licensee's allowed distribution related security costs during such event, and the Licensee shall comply with the terms of any directions so issued.

14.2. Subject to paragraphs 14.3 and 14.5, the Licensee shall in any Regulatory Reporting Year be entitled to recover an aggregate amount equal to the Licensee's allowed distribution related security costs in that year or (insofar as not previously recovered) any previous year, by means of appropriate equitable increases in the charges made by the Licensee in the course of the Distribution Business.

14.3. Paragraph 14.2 shall not apply insofar as such Licensee's allowed distribution related security costs:

- a) were otherwise recovered by the Licensee; or
- b) were taken into account by the Authority in setting charge restriction conditions by means of directions issued under paragraph 14.1.

14.4. The Licensee shall following the end of each Regulatory Reporting Year provide to the Authority details in respect of that Regulatory Reporting Year of:

- a) the aggregate amounts charged under paragraph 14.2 on account of the Licensee's allowed distribution related security costs; and
- b) the bases and calculations underlying the increases in charges made by the Licensee in the course of the Distribution Business under paragraph 14.2.

14.5. Where the Authority is satisfied that the Licensee has recovered amounts in excess of the Licensee's allowed distribution related security costs, the Authority may issue directions requiring the Licensee to take such steps as may be specified to reimburse customers of the Distribution Business for the excess amounts charged to them, and the Licensee shall comply with any directions so issued.

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14.6. No amounts charged by the Licensee under this paragraph 14 (whether or not subsequently required to be reimbursed) shall be taken into account for the purpose of applying the distribution charge restriction provisions of paragraph 3.

15. Duration of the charge restriction conditions

- 15.1. Subject to the following paragraphs of this Annex, the Distribution Charge Restriction Conditions shall apply so long as the Licence continues in force.
- 15.2. The Distribution Charge Restriction Conditions outlined in paragraph 3.2 do not apply to tariff years from 1 October 2017 onwards. In the absence of modifications to those provisions, the licensee shall not be able to increase (in nominal terms) any of the tariffs or charges contributing to its Regulated Distribution Revenue above the levels applicable on 1 October 2016.
- 15.3. **Disapplication**
- 15.4. The Distribution Charge Restriction Conditions shall cease to have effect (in whole or in part, as the case may be) if the Licensee delivers to the Authority a request (a “Disapplication Request”) made in accordance with paragraph 15.6 and:
- a) the Authority agrees in writing to the request; or
 - b) the application of this Annex (or any part of it) is terminated by a notice (a “Disapplication Notice”) given by the Licensee in accordance with paragraph 15.7 and not withdrawn.
- 15.5. Save where the Authority agrees otherwise, no disapplication following delivery of a Disapplication Request pursuant to paragraphs 15.4 to 15.10 shall have effect earlier than the date (the “Disapplication Date”) which is the later of:
- a) the date occurring 18 months after delivery of the Disapplication Request; and
 - b) 30 September 2017.
- 15.6. A Disapplication Request pursuant to paragraphs 15.4 to 15.10 shall:
- a) be in writing addressed to the Authority;
 - b) specify this Annex or any part of it to which the request relates (excluding in either case paragraphs 15.4 to 15.10); and
- 15.7. state the date from which the Licensee wishes the Authority to agree that the Annex or specified part of it shall cease to have effect. A Disapplication Notice pursuant to paragraphs 15.4 to 15.10:
- a) may be given in the circumstances described in either paragraph 15.8 or 15.9;
 - b) may be withdrawn at any time prior to the Disapplication Date; and
 - c) where it is given, shall:
 - i. be in writing addressed to the Authority;

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- ii. specify this Annex or any part of it (which shall comprise only such part as was specified in the Disapplication Request) to which the notice relates;
 - iii. state the date from which the Licensee wishes the notice to take effect, which shall not be earlier than the Disapplication Date.

- 15.8. The circumstances described in this paragraph are that, by the beginning of the period of six months which will end with the Disapplication Date, the Authority has not in response to the Disapplication Request published a decision under Article 14(8) of the Order to modify:
 - a) this Annex (or any part of it) to which the request relates; or
 - b) paragraphs 15.4 to 15.10, so as to remove the right of the Licensee to give to the Authority a Disapplication Notice in respect of the relevant Disapplication Request.

- 15.9. The circumstances described in this paragraph are that:
 - a) by no later than the beginning of the period of six months which will end with the Disapplication Date, the Authority has in response to the Disapplication Request published a decision of a type referred to in paragraph 15.8 above;
 - b) the Licensee has exercised its right to appeal to the CMA against that decision in accordance with Article 14B of the Order;
 - c) the CMA has, in respect of the provisions to which the Disapplication Request relates:
 - i. quashed the decision of the Authority under Article 14E(2)(a) of the Order;
 - ii. neither remitted the matter back to the Authority under Article 14E(2)(b) of the Order nor substituted its own decision for that of the Authority under Article 14E(2)(c) of the Order; and
 - d) no more than 30 days has elapsed since the date on which the CMA quashed the decision of the Authority.

- 15.10. A Disapplication Request or Disapplication Notice served under paragraphs 15.4 to 15.10 may be served in respect of a specified geographic area.

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Appendix 1 - The Distribution Business: planned investments, volumes and projects capitalised to RAB (2010 prices)

Project ID	Project name	Asset name / further information	Predefined output	Direct	Indirect	Allowed capex
D06	Distribution Tower Lines	Refurbishment 26km Tower Lines	Specified number of units, as per BPQ	£1.33 million	£0.07 million	£1.40 million
D07	33kV Overhead Lines	Re-engineer	Specified number of units, as per BPQ	£6.11 million	£2.41 million	£8.52 million
		Refurbish	Specified number of units, as per BPQ			
		TAR	N/A			
D08	11kV Overhead Lines	Re-engineer	Specified number of units, as per BPQ	£34.52 million	£13.64 million	£48.16 million
		Refurbish	Specified number of units, as per BPQ			
		TAR	N/A			
D09	LV Lines	Refurbishment - Urban and rural	Specified number of units, as per BPQ	£9.86 million	£3.90 million	£13.76 million
		TAR	N/A			
		Line Undergrounding (Direct Access)	Specified number of units, as per BPQ			
		Line Undergrounding (Land locked)	Specified number of units, as per BPQ			
D10	Undereaves	Replace 0.4kV services (undereaves)	Specified number of units, as per BPQ	£8.84 million	£3.50 million	£12.34 million
D11	LV cut-outs	Replace house service cut-outs at 8000 properties	Specified number of units	£1.79 million	£0.09 million	£1.88 million
D13	Primary Plant	Indoor Switchgear (33kV)	Specified number of units	£27.72 million	£1.43 million	£29.14 million
		Outdoor switchgear - Circuit Breaker (33Kv)	Specified number of units			
		Outdoor switchgear - replacement of complete Mesh (with indoor switchboard)	Specified number of units			

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		Outdoor switchgear - replacement of Mesh equipment (33kV)	Specified number of units			
		Primary switchgear (33kV, 11kV & 6.6kV)	Specified number of units			
		Building refurbishment	Specified number of units			
		Civil works to primary substations	N/A			
		Primary substation lease renewal	N/A			
D14	Primary Transformers	Replace 33/11kV Transformer (upto 6.25MVA)	Specified number of units	£8.96 million	£0.46 million	£9.42 million
		Replace 33/11kV Transformer (upto 12.5MVA)	Specified number of units			
		Replace 33/11kV Transformer (upto 18.75MVA)	Specified number of units			
		Replace 33/6.6kV Transformer (upto 18.75MVA)	Specified number of units			
		Replace 33/6.6kV Transformer (upto 20/25MVA)	Specified number of units			
D15	Secondary Substations	Replace RMU	Specified number of units	£35.89 million	£1.85 million	£37.74 million
		Replace complete S/S	Specified number of units			
		Replace complete S/S and temp	Specified number of units			
		Replace switchboard	Specified number of units			
		Replace OH fed GMT	Specified number of units			
		Replace H pole S/S	Specified number of units			
		H pole: TX change only	Specified number of units			
		H pole: replace LV cab	Specified number of units			
		Replace 4 pole structure	Specified number of units			
		Replace 4 pole structure defects	Specified number of units			

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		Replace sectionisers	Specified number of units			
		Replace minipillars	Specified number of units			
		Inspection programme	N/A			
		Replace LV wall mounted fuseboard	Specified number of units			
		Ancillary systems	N/A			
D16	Distribution Cables	Refurbishment of 4 x 33kV fluid filled circuits	Specified number of units	£4.40 million	£0.23 million	£4.63 million
		Refurbishment of hydraulic systems	N/A			
		Sheath renewal	N/A			
		Replacement of oil sections OL147 & 148	Specified improvement at specified location(s)			
		Purchase of hydraulic leak detection equipment	N/A			
		Replacement of L42T connections	Specified number of units			
		Purchase and installation of on-line condition monitoring equipment	Specified improvement at specified location(s)			
		Refurbishment/replacement outdoor terminations	N/A			
		Replace 15km of HV cable	Specified number of units			
		Replace 14.5km of LV cable	Specified number of units			
		Replace 6km of VB main cable	Specified number of units			
D17	Fault & emergency ¹⁰	N/A	N/A	£0.00 million	£12.40 million	£12.40 million
D18	Distribution Reactive ¹¹	N/A	N/A	£0.00 million	£8.38 million	£8.38 million
D20	Design & Consultancy	N/A	N/A	£0.00 million	£5.97 million	£5.97 million

¹⁰ This category of expenditure shall not be included in the calculation of pre-funded costs for price controls subsequent to RP5.

¹¹ This category of expenditure shall not be included in the calculation of pre-funded costs for price controls subsequent to RP5.

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D39	SCADA	N/A	N/A	£1.16 million	£0.06 million	£1.22 million
D41	Operational Telecoms network	N/A	N/A	£2.13 million	£0.11 million	£2.24 million
D43	ESQCR - Distribution	Full survey and asset register	A full ESQCR asset register and associated reporting	£8.92 million	£0.00 million	£8.92 million
D49	Smart Grid	Condition monitoring	Specified number of units	£2.67 million	£0.14 million	£2.81 million
D50	Substation Flooding Enforcement (D)	Permanent protection several distribution substations	Specified number of units	£0.76 million	£0.04 million	£0.80 million
D51	Public Realms	Replacement / urban regeneration	N/A	£0.76 million	£0.04 million	£0.80 million
D56	Capitalised Tree Cutting	N/A	N/A			£28.54 million
D57	Distribution load related allowance ¹²	N/A	N/A	£22.88 million	£2.15 million	£25.02 million
D101	Non-recoverable alterations	N/A	N/A	£13.67 million	£4.43 million	£18.09 million
N/A	Non-network capex: ICT	IT infrastructure, telecoms infrastructure and business applications	As per BPQ but after FD adjustments			£9.54 million
N/A	NIE Powerteam assets used for capex	N/A	N/A			£3.25 million
N/A	NIE Powerteam tools and equipment used for capex, plus non-network capex: premises	N/A	N/A			£0.96 million

¹² This category of expenditure shall not be included in the calculation of pre-funded costs for price controls subsequent to RP5.

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N/A	Network investment embedded in managed service charge	N/A	N/A	£5.16 million
N/A	Metering capex	Metering certification, recertification and other work.	Allowed capex subject to volumes of metering work completed (see paragraph 4.35 of Annex 2)	£33.84 million
N/A	Other costs apportioned to Distribution RAB	N/A	N/A	£25.34 million
Total distribution investments capitalised to RAB ¹³				£360.24 million

¹³ The total of £360.24million equals the allowed capex in Table 6 for the RP5 period (£326.42million) plus metering capex of £33.84million (subject to rounding).

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Appendix 2 - The Distribution Business: planned investments allowed as opex for each Regulatory Reporting Year t (2010 prices)¹⁴

<i>Year</i>	t=2013	t=2014	t=2015	t=2016	t=2017	t=2018
Category						
Benchmarked indirect, Inspections, Maintenance, Faults & Tree cutting costs (excl connections) allocated to opex	£22.33 million	£22.04 million	£21.82 million	£21.65 million	£21.56 million	£10.70 million + £10.70e million
Business Rates	£10.71 million	£10.80 million	£10.80 million	£10.88 million	£10.97 million	£5.48 million + £5.48e million
Enduring Solution	£5.60 million	£5.43 million	£4.98 million	£4.56 million	£4.34 million	£2.16 million + £2.16e million
Meter reading	£3.28 million	£3.24 million	£3.20 million	£3.18 million	£3.17 million	£1.57 million + £1.57e million
Other cost allowances	£1.69 million	£2.52 million	£1.65 million	£1.64 million	£1.63 million	£0.81 million + £0.81e million
Other income allowances	-£1.42 million	-£1.42 million	-£1.42 million	-£1.42 million	-£1.42 million	-£0.71 million - £0.71e million
Total¹⁵	£42.19 million	£42.60 million	£41.04 million	£40.48 million	£40.25 million	£20.02 million + £20.02e million

¹⁴ See paragraph 2.3 regarding figures in this table marked with an estimation symbol (e).

¹⁵ The totals in this row match the allowed opex amounts in Table 12.

Schedule 1 Authorised Distribution Area

1. The authorised distribution area shall comprise Northern Ireland.

Schedule 2 Terms as to Revocation

- 1 The Authority may at any time revoke the Licence by not less than 30 days' notice in writing to the Licensee:
 - (a) if the Licensee agrees in writing with the Authority that the Licence should be revoked;
 - (b) if any licence fee required to be paid under the Licence is unpaid 30 days after it has become due and remains unpaid for a period of 14 days after the Authority has given the Licensee notice that the payment is overdue provided that no such notice shall be given earlier than the sixteenth day after the day on which the amount payable became due;
 - (c) if the Licensee fails to comply with a final order (within the meaning of Article 42 of the Energy Order) or with a provisional order (within the meaning of Article 42 of the Energy Order) which has been confirmed under Article 42 of the Energy Order and which (in either case) has been made in respect of a contravention or apprehended contravention of a Condition or of a relevant requirement as defined in Article 41(2)(a) of the Energy Order imposed on the Licensee in its capacity as holder of the Licence and (in either case) such failure is not rectified to the satisfaction of the Authority within three months after the Authority has given notice of such failure to the Licensee, provided that no such notice shall be given by the Authority before the expiration of the period within which an application under Article 44 of the Energy Order could be made questioning the validity of the final or provisional order or before the proceedings relating to any such application are finally determined;
 - (d) if the Licensee fails to comply with an order made by a court under section 34 of the Competition Act 1998; or fails to comply with an order made under section 72, 75, 76, 81, 83, 84, 158, 160 or 161 of, or under paragraph 2, 5, 6, 10 or 11 of schedule 7 to, the Enterprise Act 2002; or any partner, director, member, secretary or manager of the Licensee is found guilty of an offence under section 188 or 201 of the Enterprise Act 2002;
 - (e) if the Licensee:
 - (i) is unable to pay its debts (within the meaning of Article 103(1) or (2) of the Insolvency (Northern Ireland) Order 1989, but subject to paragraph 3 of this

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Schedule) or if any voluntary arrangement is proposed in relation to it under Article 14 of that Order, or if it enters into any scheme of arrangement

- (other than for the purpose of reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by the Authority);
- (ii) has a receiver (which expression shall include an administrative receiver within the meaning of Article 5(1) of the Insolvency (Northern Ireland) Order 1989) of the whole or any material part of its assets or undertaking appointed;
 - (iii) has an administration order under Article 21 of the Insolvency (Northern Ireland) Order 1989 made in relation to it;
 - (iv) passes any resolution for winding-up other than a resolution previously approved in writing by the Authority; or
 - (v) becomes subject to an order for winding-up by a court of competent jurisdiction;
- (f) if the Licensee is convicted of having committed an offence under Article 63 of the Order or under Article 46 of the Gas (Northern Ireland) Order 1996;
- (g) if the Licensee fails to pay any financial penalty (within the meaning of Article 45 of the Energy Order) imposed in respect of a contravention or apprehended contravention of a Condition or of a “relevant requirement” as defined in Article 41(2)(a) of the Energy Order by the due date for such payment and such payment is not made to the Authority within three months after the Authority has given notice in writing of such failure to the Licensee, provided that no such notice shall be given by the Authority before the expiration of the period within which an application under Article 49 of the Energy Order could be made questioning the validity or effect of the financial penalty or before the proceedings relating to any such application are finally determined; or
- (h) if the Licensee ceases to carry on the Distribution Business other than with the consent of the Authority.
- 2 For the purposes of paragraph 1(e)(i) of this Schedule, Article 103(1)(a) of the Insolvency (Northern Ireland) Order 1989 shall have effect as if for “£750” there was substituted “£250,000” or such higher figure as the Authority may from time to time determine by notice in writing to the Authority and the Licensee.
- 3 The Licensee shall not be deemed to be unable to pay its debts for the purposes of paragraph 1(e)(i) of this Schedule if any such demand as is mentioned in Article 103(1)(a) of

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the Insolvency (Northern Ireland) Order 1989 is being contested in good faith by the Licensee with recourse to all appropriate measures and procedures or if any such demand is satisfied before the expiration of such period as may be stated in any notice given by the Authority under paragraph 1 of this Schedule.

Schedule 3 Plans Of Land Comprising The Land Bank

Schedule 5 – Proposed Article 17 modifications to Annex 2 of the Transmission Licence

Annex 2 - Transmission Charge Restriction Conditions

1. Definitions

1.1. In this Annex:

- “Average Specified Rate”** means the arithmetic mean of the daily base rates of Danske Bank Limited (or such other bank as the Authority shall specify from time to time) current from time to time during the period in respect of which the calculation falls to be made;
- “Connection Charging Statement”** means the statement of charges for connection to the Licensee’s transmission system as prepared by the Licensee and approved by the Authority under Condition 22 hereof which is effective for the relevant period.
- “Deferred Revenue Expenditure”** means expenditure which is classified as capital expenditure for accounting purposes (because it gives rise to economic benefits over more than one year) but is not capital expenditure for tax purposes (because it does not create a sufficiently identifiable asset). For example, Deferred Revenue Expenditure may include the replacement of age-expired network components when (for tax purposes) the network as a whole is seen as a single asset.
- “Demonstrably Inefficient or Wasteful Expenditure”** means expenditure which the Authority has (giving the reasons for its decision) determined to be demonstrably inefficient and/or wasteful, given the information reasonably available to the Licensee at the time that the Licensee made the relevant decision about that expenditure. For the avoidance of doubt, no expenditure is Demonstrably Inefficient or Wasteful Expenditure simply by virtue of a statistical or quantitative analysis that compares very aggregated measures of the Licensee’s costs with the costs of other companies.

“ERDC”	means early retirement deficit contributions.
“Excluded Services”	means those services provided as part of the Transmission Owner Business which in accordance with the principles set out in paragraph 13 fall to be treated as Excluded Services.
“Final Determination”	means the report of the Competition Commission (the statutory predecessor to the Competition and Markets Authority) in relation to the Licensee’s Transmission Charge Restriction Conditions, as presented to the Authority on 26 March 2014, taken together with its supporting documentation.
“Fuel Security Event”	means a Fuel Security Event as defined in the Northern Ireland Fuel Security Code, published by the Department of Enterprise, Trade and Investment.
“HMRC”	means HM Revenues and Customs or, in relation to any function of that body referred to in this Annex, such other person as may (whether in relation to the United Kingdom as a whole or Northern Ireland) be allocated the role of performing that function after the commencement of RP5.
“Licensee’s Allowed Transmission Related Security Costs”	means any cost incurred by the Transmission Owner Business and approved by the Authority as being an allowed security cost in accordance with the Northern Ireland Fuel Security Code (as that term is therein defined), but excluding any cost which forms part of: <ul style="list-style-type: none">a) the allowed power procurement business related security costs; orb) the payments to generators in relation to services provided to the power procurement business during Fuel Security Events.
“Maximum Regulated Transmission Revenue”	means the maximum Regulated Transmission Revenue that the Licensee is entitled to recover in:

- a) the Regulatory Tariff Year (as calculated in accordance with the formula at paragraph 3.2);
- b) the Regulatory Reporting Year (as calculated in accordance with the formula at paragraph 3.4); or
- c) the 6 months ending 30 September 2017.

“Metering”

means in relation to any quantity transmitted, Metering equipment required pursuant to and as defined in the Grid Code, and ‘Meter’ shall be construed accordingly.

“Permitted One-Year Percentage”

means 4% of the Maximum Regulated Transmission Revenue.

“Permitted Three-Year Percentage”

means 5% of the Maximum Regulated Transmission Revenue in the second of the Regulatory Tariff years.

“Provision of Law”

means the following, to the extent that it applies to or is binding on the Licensee:

- a) any enactment;
- b) any regulation made by the Council or the Commission of the European Union or any decision taken by the Commission;
- c) any interpretation of law, or finding, contained in any judgment given by a court or tribunal of competent jurisdiction in respect of which:
 - i. the period for making an appeal has expired and;
 - ii. no superior court or tribunal has reached a contrary interpretation or finding; and
- d) any direction of a competent authority other than the Authority or the Department.

“Regulatory Asset Base”	means one of the regulatory asset bases identified at paragraph 4.1.
“Regulatory Instructions and Guidance (RIGs)”	a) means the Regulatory Instructions and Guidance provided by the Authority, including guidance notes, reporting workbooks, commentary templates and assurance templates, as set out by the Authority, to capture various different types of information and data.
“Regulatory Reporting Year”	means a period of twelve months commencing on 1 April in any year and ending on 31 March in the year following its commencement.
“Regulatory Reporting Year t”	means the Regulatory Reporting Year which ends in year t, and is therefore to be read such that: a reference to ‘ Regulatory Reporting year t = 2013 ’ is to the Regulatory Reporting Year ending on 31 March 2013; a reference to ‘ Regulatory Reporting Year t-1 ’ means the Regulatory Reporting Year immediately preceding Regulatory Reporting Year t; and similar expressions are to be construed accordingly.
“Regulatory Tariff Year”	means a period of twelve months commencing on 1 October in any year and ending on 30 September in the immediately following year.
“Regulatory Tariff Year t”	means the Regulatory Tariff Year which ends in year t, and is therefore to be read such that: a reference to ‘ Regulatory Tariff Year t = 2013 ’ is to the Regulatory Tariff Year ending on 30 September 2013.
“Regulated Transmission Revenue”	means the revenue (measured on an accruals basis) that is derived by the Licensee from Transmission Charges after deduction of value added tax (if any) and any other taxes based directly on the amount of the Transmission Charges.

“Related Party”

means both Affiliates and Related Undertakings of the Licensee as defined in Condition 1 of this licence. An Affiliate or Related Undertaking shall remain as a Related Party for the whole of the price control period even if it is no longer part of the group due to restructuring.

“Related Party Margin”

The profit or loss recorded on a transaction with an affiliate being the excess or deficit on actual direct costs and indirect costs (excluding financing costs) fairly attributable to the transaction or the charge and the cost of providing that transaction.

For the avoidance of doubt this does not include exceptional items, tax, fines, penalties or the gain or loss on the disposal of assets or investments (of any sort), i.e. it should be the net operating costs level.

Further, the Related Party Margin does not include any transparently calculated element of such a charge that provides for a reasonable allowance for depreciation and return on capital in relation to assets to the extent that these are employed by the Related Party in the provision of services to the Licensee, and is not otherwise reflected in the Licensee’s Maximum Regulated Transmission Revenue, or recoverable through the Licensee’s connection charges.

For Captive Insurance businesses the margin is to be computed based on the captive’s premium income less reinsurance premiums, claims paid out and movements on technical and IBNR reserves attributable to the Licensee’s business only, i.e. usually reported as the profits/loss on the Technical account. Where a captive insures more than the Licensee, then its profit/loss should be computed pro rata to the premiums paid by the Licensee to total premium income in the captive for the year and the movements on technical and IBNR reserves not attributable to the Licensee’s business must first be removed.

“Relevant Change of Law”	means any of the following, to the extent that it applies to or is binding on the Licensee: <ul style="list-style-type: none">a) the application of any Provision of Law that did not previously have effect;b) the amendment of or change to any Provision of Law that did previously have effect; andc) the revocation or cessation of any Provision of Law that did previously have effect.
“RP4”	means the period commencing on 1 April 2007 and ending on 31 March 2012.
“RP5”	means the period commencing on 1 April 2012 and ending on 30 September 2017.
“RP6”	means the period commencing on 1 October 2017 and ending on 30 September 2022.
“RPI_t”	means the Retail Prices Index (CHAW: 1987 = 100) published by the Office for National Statistics (or successor body) for the October month in each Regulatory Reporting Year t and is therefore to be read such that: a reference to ‘RPI t = 2010’ is to the RPI figure for October 2009.
“Specified Information”	means information (or a category of information) that is so described or defined at paragraph 12.
“Transmission Charge Restriction Conditions”	means the paragraphs set out in this Annex 2 as from time to time modified or replaced in accordance therewith or pursuant to Article 14, 14A, 14E or 18 of the Order, under the Energy Order, under the SEM Order or under the Directive Regulations.
“Transmission Charges”	means all charges for the provision of Transmission Services and for Wheeling, but excluding charges levied under the PSO Agreements (as defined in Condition 24A).

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“Transmission Services”	means all services provided as part of the Transmission Owner Business other than the Excluded Services.
“Uncollected Revenue”	means, where the Licensee is not an affiliate of the system operator (such as SONI Limited, a body corporate registered in Northern Ireland under company number NI038715), any amount owed to the Licensee by that system operator in respect of Regulated Transmission Revenue which is to be included in the uncollected revenue amount in agreement with the Authority; plus the reasonable interest attributable to such amount, calculated in accordance with any such agreement.
“Unit”	means a kilowatt hour.
“Wheeled Unit”	means a unit (whether generated inside or outside Northern Ireland) which enters the total system at any point and is delivered to a place outside Northern Ireland.
“Wheeling”	means the transportation of Wheeled Units on any part of the total system.

2. Introductory Provisions

- 2.1. Where, for the purposes of complying with its obligation at paragraph 3.1 in relation to the setting of Transmission Charges, the Licensee forecasts the Maximum Regulated Transmission Revenue for any Regulatory Tariff Year t (or any data relevant to its calculation), it shall:
 - a) have regard to any information notified to it by the Authority; and
 - b) where directed to do so by the Authority, base its forecast on any such information or make it in accordance with such methodology as the Authority may specify in the direction.
- 2.2. Unless the contrary is expressly stated:
 - a) all monetary figures in this Annex are stated in nominal prices; and
 - b) all inputs and calculations for which provision is made in this Annex are to be carried out in nominal prices.
- 2.3. The values marked with an estimation symbol (e) in Table 3, Table 6, Table 9, Table 10 and Appendix 2 are without prejudice to any future licence modifications made or proposed by the Authority to implement a new restriction on the Licensee's Maximum Regulated Transmission Revenue that is effective from 1 October 2017.
- 2.4. For the purposes of this Annex, the provisions of paragraph 3 shall be deemed to apply with effect from the commencement of RP5, so that the Maximum Regulated Transmission Revenue shall be calculated from the commencement of RP5 onwards, notwithstanding paragraph 15.
- 2.5. The Licensee is prohibited, in the period 26 March 2014 to 30 September 2014, from making changes to Transmission Charges.

3. The Maximum Regulated Transmission Revenue

3.1. Without prejudice to paragraph 15, the Licensee shall with effect from 1 October 2014 use its best endeavours to set its Transmission Charges so as to ensure that, in each Regulatory Tariff Year t , the Regulated Transmission Revenue shall be equal to the Maximum Regulated Transmission Revenue for that Regulatory Tariff Year calculated in accordance with paragraph 3.2.

3.2. **The Maximum Regulated Transmission Revenue for the Regulatory Tariff Year - $RP5T_t$**

3.3. For the purposes of setting tariffs as referred to in paragraph 3.1, the following calculation shall be performed:

$$RP5T_t = (RP5R_t + RP5R_{t+1}) * 0.5$$

Where:

“ $RP5T_t$ ” means the Maximum Regulated Transmission Revenue for the Regulatory Tariff Year t ;

“ $RP5R_t$ ” means the Maximum Regulated Transmission Revenue for the Regulatory Reporting Year t , calculated in accordance with paragraph 3.4.

- 3.4. The Maximum Regulated Transmission Revenue for the Regulatory Reporting Year - $RP5R_t$
- 3.5. For the purposes of paragraph 3.3, the Maximum Regulated Transmission Revenue for the Regulatory Reporting Year t shall be calculated as follows:

$$RP5R_t = DEP_t + RET_t + O_t + P_t + COI_t + TAX_t + K_t$$

Where:

- DEP_t means the depreciation amount in Regulatory Reporting Year t , calculated in accordance with paragraph 4;
- RET_t means the return amount in Regulatory Reporting Year t , calculated in accordance with paragraph 5;
- O_t means the opex amount in Regulatory Reporting Year t , calculated in accordance with paragraph 6;
- P_t means the pension deficit amount in Regulatory Reporting Year t , calculated in accordance with paragraph 7;
- COI_t means the costs of the investigation amount in Regulatory Reporting Year t , calculated in accordance with paragraph 8;
- TAX_t means the tax amount due in Regulatory Reporting Year t , calculated in accordance with paragraph 9; and
- K_t means the correction factor amount (whether a positive or negative number) calculated in accordance with paragraph 11.

4. The Regulatory Asset Bases - RAB_{X_t}

- 4.1. For the purposes of this Annex, there shall be, as set out in Table 1 below, the following Regulatory Asset Bases:

Table 1 - The Transmission Owner Business Regulatory Asset Bases

RAB name	RAB_X
Transmission RAB	RAB_TN
Renewables RAB	RAB_RN
Old NS Interconnector RAB	RAB_NSI
5 Year T.RAB	RAB_T5Y

- 4.2. In this Annex, each Regulatory Asset Base is identified as a **RAB**, and **RAB_X** refers to a Regulatory Asset Base for which X represents the suffix assigned to that RAB at paragraph 4.1.

4.3. The Opening Regulatory Asset Base - $ORAB_{X_t}$

- 4.4. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X , the opening Regulatory Asset Base, $ORAB_{X_t}$, being the value of that Regulatory Asset Base at the beginning of Regulatory Reporting Year t, shall be defined as:

$$ORAB_X = OE_{X_t} + OADD_{X_t}$$

Where:

OE_{X_t} being the opening value of existing assets, calculated in accordance with paragraph 4.5; and

$OADD_{X_t}$ being the opening value of additional assets, calculated in accordance with paragraph 4.13.

4.5. The opening value of existing assets - OE_{X_t}

- 4.6. For the purposes of this Annex, in respect of Regulatory Reporting Year t = 2013, for each RAB_X , the opening value of existing assets ($OE_{X_{2013}}$) shall be calculated as follows:

$$OE_{X_{2013}} = OE_{2010_X_{2013}} * RPI_{2013} / RPI_{2010}$$

Where:

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$OE_{2010_X_{2013}}$ is the opening value of existing assets, in a 2010 price base, for each RAB_X and for the Regulatory Reporting Year $t = 2013$, and shall be equal to the amounts specified in Table 2 below.

Table 2 - The Transmission Owner Business opening value of existing assets (£ million, 2010 prices)

RAB_X	$OE_{2010_X_{2013}}$
RAB_TN	191.20
RAB_RN	11.91
RAB_NSI	1.06
RAB_T5Y	0.00

4.7. For the purposes of this Annex, in each Regulatory Reporting Year t other than $t = 2013$, and for each RAB_X the opening value of existing assets (OE_{X_t}) shall be calculated as follows:

$$OE_{X_t} = (CE_{X_{t-1}}) * RPI_t / RPI_{t-1}$$

Where:

CE_{X_t} is the closing value of existing assets, calculated in accordance with paragraph 4.9.

4.8. The closing value of existing assets - CE_{X_t}

4.9. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X, the closing value of existing assets (CE_{X_t}) being the value of the existing assets in that RAB at the end of Regulatory Reporting Year t , shall be calculated as follows:

$$CE_{X_t} = OE_{X_t} - FDEP_{X_t}$$

Where:

OE_{X_t} is the opening value of existing assets calculated in accordance with paragraph 4.5; and

$FDEP_{X_t}$ is the fixed depreciation amount, calculated in accordance with paragraph 4.11.

4.10. The fixed depreciation amount - $FDEP_{X_t}$

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4.11. For the purposes of this Annex, in each Regulatory Reporting Year t , and for each RAB_X, the fixed depreciation amount ($Fdep_X_t$) means the amount representing depreciation of assets acquired pre 31 March 2012 and shall be calculated as follows:

$$FDEP_X_t = FDEP_2010_X_t * RPI_t / RPI_{2010}$$

Where:

$FDEP_2010_X_t$ is the fixed depreciation amount, in a 2010 price base, for each RAB_X and for each Regulatory Reporting Year t , and shall be equal to the amounts specified in Table 3 below.

Table 3 - The Transmission Owner Business fixed depreciation amount per RAB_X for each Regulatory Reporting Year t (£ million, 2010 prices)¹

Year \ RAB_X	t=2013	t=2014	t=2015	t=2016	t=2017	t=2018
RAB_TN	9.36	9.07	8.74	8.46	8.15	3.98 + 3.98e
RAB_RN	0.37	0.37	0.37	0.37	0.37	0.19 + 0.19e
RAB_NSI	0.06	0.06	0.06	0.04	0.04	0.02 + 0.02e

4.12. The opening value of additional assets - $OADD_X_t$

4.13. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X, the opening value of additional assets ($OADD_X_t$) shall be:

- 0 (zero) in Regulatory Reporting Year $t = 2013$; and
- in each subsequent Regulatory Reporting Year t , calculated as follows:

$$OADD_X_t = (CADD_X_{t-1}) * RPI_t / RPI_{t-1}$$

Where:

$CADD_X_{t-1}$ means the closing value of additional assets in the previous Regulatory Reporting Year, calculated in accordance with paragraph 4.15.

4.14. The closing value of additional assets - $CADD_X_t$

4.15. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X, the closing value of additional assets ($CADD_X_t$) shall be calculated as follows:

$$CADD_X_t = OADD_X_t + QCE_X_t - DIQCE_X_t + PTCE_X_t - DIPTCE_X_t - DEPADD_X_t - CD_X_t + CI_X_t$$

¹ See paragraph 2.3 regarding figures in this table marked with an estimation symbol (e).

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Where:

- OADD_{X_t}** means the opening value of additional assets calculated in accordance with paragraph 4.13;
- QCE_{X_t}** means the qualifying capex expenditure amount, calculated in accordance with paragraph 4.17;
- DIQCE_{X_t}** means the demonstrably inefficient qualifying capex expenditure amount, calculated in accordance with paragraph 4.19;
- PTCE_{X_t}** means the pass through capex expenditure amount, calculated in accordance with paragraph 4.21;
- DIPTCE_{X_t}** means the demonstrably inefficient pass through capex expenditure amount, calculated in accordance with paragraph 4.25;
- DEPADD_{X_t}** means the depreciation amount for additional assets, calculated in accordance with paragraph 4.27;
- CD_{X_t}** means the capex disposal amount, calculated in accordance with paragraph 4.30; and
- CI_{X_t}** means the capex incentive amount, calculated in accordance with paragraph 4.32.

4.16. The qualifying capex expenditure amount - QCE_{X_t}

4.17. For the purposes of this Annex, in each Regulatory Reporting Year *t* and for each RAB_X, the qualifying capex expenditure amount (QCE_{X_t}) shall:

- a) be the value of capex incurred by the Licensee (excluding PTCE_{X_t}) reasonably allocated or attributed to:
 - i. the Transmission Owner Business;
 - ii. the Regulatory Reporting Year *t*; and
 - iii. RAB_X; and
- b) exclude any amounts reasonably allocated or attributed to any of the following:
 - i. pension deficit repair contributions
 - ii. the net costs (or net contributions) relating to: activities or services subject to the Licensee's connection charges such that the exclusion is consistent with the Licensee's Connection Charging Statement; or any other activities or services that are treated as Excluded Services for the purpose of the restriction on the Licensee's Maximum Regulated Transmission Revenue;
 - iii. any costs recharged by the Licensee to associated businesses or related parties;
 - iv. any Related Party Margin that is charged to the Licensee by a Related Party;
 - v. any costs incurred by the Licensee as part of the PSO Agreement or otherwise recoverable under the restriction on the Licensee's PSO Charges;

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- vi. costs of external advisers incurred by the Licensee in relation to the Competition Commission inquiry which resulted in the Final Determination; and
- vii. other costs of any description which the Authority may determine from time to time are manifestly unreasonable to include in the qualifying capex expenditure amount.

4.18. Demonstrably inefficient qualifying capex expenditure - $DIQCE_{X_t}$

4.19. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X , demonstrably inefficient qualifying capex expenditure ($DIQCE_{X_t}$) shall be the part (if any) of QCE_{X_t} that the Authority determines to be Demonstrably Inefficient or Wasteful Expenditure.

4.20. The pass through capex expenditure amount - $PTCE_{X_t}$

4.21. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X , the pass through capex expenditure amount ($PTCE_{X_t}$), shall:

- a) be the value of capex incurred by the Licensee (excluding QCE_{X_t}) reasonably allocated or attributed to:
 - i. the Transmission Owner Business;
 - ii. the Regulatory Reporting Year t ; and
 - iii. RAB_X ; and
- b) be calculated as follows:

$$PTCE_{X_t} = CLD_{X_t} + CC_{X_t}$$

Where:

CLD_{X_t} means the capex legacy D_t amount calculated in accordance with paragraph 4.23; and

CC_{X_t} means the capex connections amount in Regulatory Reporting Year t and for each RAB_X , being the net costs (or net contributions) relating to activities or services subject to the Licensee's connection charges such that the inclusion is consistent with the Licensee's Connection Charging Statement as approved by the Authority, and where contributions from connecting parties are included on a cash basis. The capex connections amount shall exclude the cost of alterations to existing connections and shall only include costs of connections relating to approved generation cluster infrastructure.

4.22. The capex legacy D_t amount - CLD_{X_t}

4.23. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X , CLD_{X_t} is the capex legacy D_t amount incurred by the Licensee that the Authority determines,

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insofar as the Licensee has incurred these costs in line with the original approval terms, for each of the items referenced in Table 4 below:

Table 4 - The Transmission Owner Business capex legacy Dt items (£ million, 2010 prices)

Legacy Dt items	Approval reference date	Total maximum RP5 spend
Wind farm clusters	21 December 2010	0.5
Medium term plan I	15 June 2011	3.8
Medium term plan II	22 February 2013	25.2

4.24. **Demonstrably inefficient pass through capex expenditure - DIPTCE_{X_t}**

4.25. For the purposes this Annex, in each Regulatory Reporting Year *t* and for each RAB_X, demonstrably inefficient pass through capex expenditure (DIPTCE_{X_t}) shall be the part (if any) of PTCE_{X_t} that the Authority determines to be Demonstrably Inefficient or Wasteful Expenditure.

4.26. **The depreciation amount for additional assets - DEPADD_{X_t}**

4.27. For the purposes of paragraph 4.15, in each Regulatory Reporting Year *t* and for each RAB_X, the depreciation amount for additional assets (DEPADD_{X_t}) shall:

a) in Regulatory Reporting Year *t*=2013, be calculated as follows:

$$\text{DEPADD}_{X_t} = 0.5 * \text{DEPN}_{X_t}$$

b) in each other Regulatory Reporting Year *t*, provided that the cumulative value of DEPADD_{X_t} over RP5 does not exceed the value of the original net asset cost (especially for net asset additions to RABs RAB_{T5Y} and RAB_{D5Y} in year *t* = 2013) be calculated as follows:

$$\text{DEPADD}_{X_t} = 0.5 * \text{DEPN}_{X_t} + (\text{DEPADD}_{X_{t-1}} + 0.5 * \text{DEPN}_{X_{t-1}}) * \text{RPI}_t / \text{RPI}_{t-1}$$

4.28. For the purposes of paragraph 4.27, DEPN_{X_t} is the full year depreciation for net assets added to RAB_X in Regulatory Reporting Year *t* and shall be calculated as follows:

$$\text{DEPN}_{X_t} = (\text{QCE}_{X_t} - \text{DIQCE}_{X_t} + \text{PTCE}_{X_t} - \text{DIPTCE}_{X_t} - \text{CD}_{X_t} + \text{CI}_{X_t}) * \text{DEPR}_X$$

Where:

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- QCE_{X_t}** means the qualifying capex expenditure amount, calculated in accordance with paragraph 4.17;
- DIQCE_{X_t}** means the demonstrably inefficient qualifying capex expenditure amount, calculated in accordance with paragraph 4.19;
- PTCE_{X_t}** means the pass through capex expenditure amount, calculated in accordance with paragraph 4.21;
- DIPTCE_{X_t}** means the demonstrably inefficient pass through capex expenditure amount, calculated in accordance with paragraph 4.25;
- CD_{X_t}** means the capex disposal amount, calculated in accordance with paragraph 4.30;
- CI_{X_t}** means the capex incentive amount, calculated in accordance with paragraph 4.32; and
- DEPR_X** is the depreciation rate for each RAB_X as set out in Table 5 below:

Table 5 - The Transmission Owner Business depreciation rate for each RAB_X

RAB_X	Depreciation rate (DEPR_X)
RAB_{TN}	3%
RAB_{RN}	3%
RAB_{NSI}	3%
RAB_{T5Y}	20%

4.29. **The capex disposal amount - CD_{X_t}**

4.30. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X, the capex disposal amount (**CD_{X_t}**) shall be calculated as follows:

$$CD_{X_t} = OCD_{X_{t-5}} * RPI_t / RPI_{t-5}$$

Where:

OCD_{X_t} means the outturn capex disposal amount, during Regulatory Reporting Year t, the value of which constituted part of RAB_X, being the proceeds of the disposal of any relevant asset/s (including Land, Buildings, Plant, Equipment, but not comprising Land Bank premises or scrap) minus any costs of such disposal that were reasonably incurred by the Licensee.

4.31. **The capex incentive amount - CI_{X_t}**

- 4.32. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB $_X$, the capex incentive amount (CI_{X_t}) is a sum designed to share equally between the Licensee and customers the value of any outperformance or underperformance of the Licensee against its capex allowances and shall be calculated as follows:

$$CI_{X_t} = (AC_{X_t} + ACIA_{X_t} + ACTS_{X_t} + ACCOL_{X_t} - (QCE_{X_t} - DIQCE_{X_t})) * 50\%$$

Where:

- AC_{X_t} is the allowed capex as set out at paragraph 4.34;
- $ACIA_{X_t}$ is the allowed capex (if any) in respect of Regulatory Reporting Year t , for injurious affectation claims, that the Authority determines to be appropriate for the Licensee to recover, where X corresponds to the suffix which is assigned to RAB $_X$ at paragraph 4.1;
- $ACTS_{X_t}$ is the allowed capex (if any) for transmission system capacity or capability, in an amount determined by the Authority to be appropriate in accordance with paragraph 4.35;
- $ACCOL_{X_t}$ is the allowed capex (if any) for changes of law, in an amount determined by the Authority to be appropriate in accordance with paragraph 4.38;
- QCE_{X_t} is the qualifying capex expenditure amount determined in accordance with paragraph 4.16; and
- $DIQCE_{X_t}$ means the demonstrably inefficient qualifying capex expenditure amount calculated in accordance with paragraph 4.19.

- 4.33. **Allowed capex - AC_{X_t}**

- 4.34. For the purposes of this Annex, in each Regulatory Reporting Year t , and for each RAB $_X$, the allowed capex (AC_{X_t}) amounts shall be calculated as follows:

$$AC_{X_t} = AC_{2010_{X_t}} * RPI_t / RPI_{2010}$$

Where:

- $AC_{2010_{X_t}}$ is the allowed capex amount, in a 2010 price base, for each RAB $_X$ and for each Regulatory Reporting Year t , and shall be equal to the amounts specified in Table 6 below.

Table 6 - The Transmission Owner Business allowed capex per RAB $_X$ for each Regulatory Reporting Year t (£ million, 2010 prices)²

² See paragraph 2.3 regarding figures in this table marked with an estimation symbol (e).

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Year RAB_X	t=2013	t=2014	t=2015	t=2016	t=2017	t=2018
RAB_TN	5.65	9.48	23.17	22.96	22.82	11.31 + 11.31e
RAB_T5Y	0.30	0.72	0.70	0.70	0.69	0.34 + 0.34e

4.35. Allowed capex for transmission system capacity or capability - $ACTS_{X_t}$

4.36. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X, the allowed capex for transmission system capacity or capability ($ACTS_{X_t}$), is any amount that the Authority deems to be appropriate, for the expected incremental efficient costs to increase the transmission system capacity or capability in respect of specific projects.

4.37. The value of $ACTS_{X_t}$ in each Regulatory Reporting Year t and for each RAB_X shall be that which the Authority considers appropriate, and for these purposes:

- a) an allowance may be determined in respect of any project only if the project is sufficiently material and has been requested by the relevant system operator (e.g. SONI) in line with the Transmission Interface Arrangements, in a submission which is in such format and contains such information as may be specified by the Authority for that purpose (e.g. including whole life costs and benefits in an objective cost benefit analysis).
- b) no allowance may be determined in respect of any project to the extent to which it takes the form of:
 - i. Distribution works directly required to facilitate transmission developments; or
 - ii. Asset replacement expenditure (other than any asset replacement works forming part of approved projects); and
- c) the Authority may follow such procedure as it considers appropriate prior to making its determination, including by providing for any audit, assessment or consultation in respect of the project submission;
- d) the Authority may make its determination subject to conditions with which the Licensee shall be required to comply, including in particular conditions as to any monitoring, audit and reporting in relation to the project; and
- e) the Authority may only make a fresh assessment of projects considered in the Final Determination where there has been substantial changes to the nature or scope of these projects, otherwise, the allowances for these projects shall be based on the project cost estimates provided in Table 7 below.

Table 7 - The Transmission Owner Business pre-determined transmission load related project allowances (2010 prices)

Project	Project Name	Allowed capex before adjusting for: real price effects; productivity factors; or price base.
T26	Ballylumford 110kV switchboard replacement	£15.3 million
T27	Airport Road 110/33kV substation	£4.0 million
T30	4 th transformer at Castlereagh 275/110 kV substation	£2.2 million
T31	Armagh Main 110/33 kV substation	£2.0 million
T33	Castlereagh-Knock 110kV partial cable replacement	£1.6 million
T34	Tandragee 275kV substation 2 nd bus coupler	£1.3 million
T38	Cregagh 110kV substation isolators and earth switches	£0.4 million
T39	Hannahstown & Kells 275kV substation	£0.2 million

4.38. The allowed capex amount for changes of law - $ACCOL_{X_t}$

4.39. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X , the allowed capex amount for changes of law ($ACCOL_{X_t}$), being the Relevant Change of Law capex amount (being a positive or negative figure), determined by the Authority, for the purposes of this paragraph, in accordance with paragraphs 4.40 to 4.43.

4.40. For the purposes of paragraph 4.39, the calculation of $ACCOL_{X_t}$ shall occur when the Authority has determined that:

- a) there has been or will be a Relevant Change of Law;

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- b) there has been or will be an amount (whether a positive or negative figure) that is directly attributable to the Relevant Change of Law; and
- c) having regard to all the circumstances, it is appropriate to include the amount within the calculation of $ACCOL_X_t$ in order to ensure that the financial position and performance of an efficient Licensee will be, so far as is reasonably practicable, the same as if the Relevant Change of Law had not taken place.

4.41. The Authority may make a determination in accordance with paragraph 4.40:

- a) on an application made to it by the Licensee; or
- b) otherwise, following consultation with the Licensee.

4.42. An application made to the Authority by the Licensee pursuant to paragraph 4.40 shall contain or be accompanied by all relevant details of the anticipated cost or revenue, and such other information as the Authority may require and, unless the Authority otherwise consents, may not be given later than the first day of April in the year immediately preceding the first of the Regulatory Reporting Years in respect of which the Licensee wishes that cost or revenue to be included in the calculation of $ACCOL_X_t$.

4.43. Where the Authority determines that an anticipated cost or revenue is appropriate for inclusion in the calculation of $ACCOL_X_t$ in one or more Regulatory Reporting Years, it shall specify the value to be attributed to that cost or revenue in respect of each Regulatory Reporting Year.

4.44. **The depreciation amount - DEP_t**

4.45. For the purposes of this Annex, in each Regulatory Reporting Year t , the depreciation amount (DEP_t) shall be calculated as follows:

$$DEP_t = \sum_{AllRAB_X} (DEPADD_X_t + FDEP_X_t)$$

Where:

\sum_{AllRAB_X} means the summation of the values for all Regulatory Asset Bases;

$DEPADD_X_t$ means the depreciation amount for additional assets for each RAB_X , calculated in accordance with paragraph 4.26; and

$FDEP_X_t$ means the fixed depreciation amount for each RAB_X , calculated in accordance with paragraph 4.11.

5. The return amount - RET_t

5.1. For the purposes of this Annex, in Regulatory Reporting Year t , the return amount (RET_t) is calculated as follows:

$$RET_t = \left(\sum_{AllRAB_X} (ORAB_{X_t} + CRAB_{X_t}) / 2 \right) * AWACC_t$$

Where:

\sum_{AllRAB_X} means the summation of the values for every Regulatory Asset Base, RAB_X ;

$ORAB_{X_t}$ means the opening Regulatory Asset Base in respect of each RAB_X in Regulatory Reporting Year t , has the value established in accordance with paragraph 4.4;

$CRAB_{X_t}$ means the closing Regulatory Asset Base in respect of each RAB_X in Regulatory Reporting Year t , and is equal to:

$$CE_{X_t} + CADD_{X_t}$$

Where:

CE_{X_t} is the closing value of existing assets, and has the value calculated in accordance with paragraph 4.9; and

$CADD_{X_t}$ is the closing value of additional assets, and has the value calculated in accordance with paragraph 4.15.

$AWACC_t$ means the adjusted vanilla weighted average cost of capital in Regulatory Reporting Year t , and shall be calculated as follows:

$$AWACC_t = \frac{VWACC_t}{\sqrt{(1 + VWACC_t)}}$$

Where:

$VWACC_t$ means the vanilla weighted average cost of capital in Regulatory Reporting Year t and has a value equal to 4.10%.

6. The opex amount - O_t

6.1. For the purposes of paragraph 3.5, in each Regulatory Reporting Year t , the opex amount (O_t) shall be calculated as follows:

$$O_t = QOE_t - DIQOE_t + PTOE_t - DIPTOE_t + OI_t$$

Where:

- QOE_t means the qualifying opex expenditure amount, calculated in accordance with paragraph 6.3;
- $DIQOE_t$ means the demonstrably inefficient qualifying opex expenditure amount, calculated in accordance with paragraph 6.5;
- $PTOE_t$ means the pass through opex expenditure amount, calculated in accordance with paragraph 6.7;
- $DIPTOE_t$ means the demonstrably inefficient pass through opex expenditure amount, calculated in accordance with paragraph 6.11; and
- OI_t means the opex incentive amount in Regulatory Reporting Year t , calculated in accordance with paragraph 6.13.

6.2. The qualifying opex expenditure amount - QOE_t

6.3. For the purposes of this Annex, in each Regulatory Reporting Year t , the qualifying opex expenditure amount (QOE_t), shall:

- a) be the value of opex incurred by the Licensee (excluding $PTOE_t$) reasonably allocated or attributed to:
 - i. the Transmission Owner Business; and
 - ii. the Regulatory Reporting Year t ; and
- b) exclude any amounts reasonably allocated or attributed to any of the following:
 - i. pension deficit repair contributions;
 - ii. the net costs (or net contributions) relating to: activities or services subject to the Licensee's connection charges such that the exclusion is consistent with the Licensee's Connection Charging Statement; or any other activities or services that are treated as Excluded Services for the purpose of the restriction on the Licensee's Maximum Regulated Transmission Revenue;
 - iii. any costs recharged by the Licensee to associated businesses or related parties;
 - iv. any Related Party Margin that is charged to the Licensee by a Related Party;
 - v. any costs incurred by the Licensee as part of the PSO Agreement or otherwise recoverable under the restriction on the Licensee's PSO Charges;
 - vi. costs of external advisers incurred by the Licensee in relation to the Competition Commission inquiry which resulted in the Final Determination; and

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- vii. other costs of any description which the Authority may determine from time to time are manifestly unreasonable to include in the qualifying opex expenditure amount.

6.4. Demonstrably inefficient qualifying opex expenditure - $DIQOE_t$

6.5. For the purposes this Annex, in each Regulatory Reporting Year t , $DIQOE_t$ shall be the part (if any) of QOE_t that the Authority determines to be Demonstrably Inefficient or Wasteful Expenditure.

6.6. Pass through opex expenditure amount - $PTOE_t$

6.7. For the purposes of this Annex, in each Regulatory Reporting Year t , the pass through opex expenditure amount ($PTOE_t$) shall:

- a) be the value of opex incurred by the Licensee (excluding QOE_t) reasonably allocated or attributed to:
 - i. the Transmission Owner Business; and
 - ii. the Regulatory Reporting Year t ; and
- b) be calculated as follows:

$$PTOE_t = OLF_t + OLD_t + OC_t$$

Where:

OLF_t is the opex licence fee amount in Regulatory Reporting Year t , being the licence fee apportioned or allocated to or required from the Licensee under Condition 7 of this Licence;

OLD_t is the opex legacy D_t amount, calculated in accordance with paragraph 6.9; and

OC_t means the opex connections amount in Regulatory Reporting Year t , being the net costs (or net contributions) relating to activities or services subject to the Licensee's connection charges such that the inclusion is consistent with the Licensee's Connection Charging Statement as approved by the Authority, and where contributions from connecting parties are included on a cash basis. The opex connections amount shall exclude the cost of alterations to existing connections and shall only include costs of connections relating to approved generation cluster infrastructure.

6.8. The opex legacy D_t amount - OLD_t

6.9. For the purposes of this Annex, in each Regulatory Reporting Year t , OLD_t is the opex legacy D_t amount incurred by the Licensee that the Authority determines, insofar as the Licensee has

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incurred these costs in line with the original approval terms, for each of the items referenced in Table 8 below:

Table 8 - The Transmission Owner Business opex legacy Dt amounts (2010 prices)

Legacy Dt items	Approval reference date(s)	Total maximum RP5 spend
SONI pension deficit repair	30 June 2008	£4.3 million
North-South Interconnector	12 Jan 2012, 11 June 2012, and 20 September 2012	£4.1 million

6.10. Demonstrably inefficient pass through opex expenditure - $DIPTOE_t$

6.11. For the purposes this Annex, in each Regulatory Reporting Year t , $DIPTOE_t$ shall be the part (if any) of $PTOE_t$ that the Authority determines to be Demonstrably Inefficient or Wasteful Expenditure.

6.12. The opex incentive amount - OI_t

6.13. For the purposes of this Annex, in each Regulatory Reporting Year t , the opex incentive amount (OI_t) is a sum designed to share equally between the Licensee and customers the value of any outperformance or underperformance of the Licensee against its opex allowances and shall be calculated as follows:

$$OI_t = (AO_t + AOO_t - (QOE_t - DIQOE_t)) * 50\%$$

Where:

AO_t is the allowed opex amount calculated in accordance with paragraph 6.15;

AOO_t is the allowed opex other amount calculated in accordance with paragraph 6.17;

QOE_t is the qualifying opex expenditure amount calculated in accordance with paragraph 6.3; and

$DIQOE_t$ is the demonstrably inefficient qualifying opex expenditure amount calculated in accordance with paragraph 6.5.

6.14. Allowed opex amount - AO_t

6.15. For the purposes of this Annex, in each Regulatory Reporting Year t , the allowed opex (AO_t) amounts shall be calculated as follows:

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$$AO_t = AO_{2010_t} * RPI_t / RPI_{2010}$$

Where:

AO_{2010_t} means the allowed opex amount, in a 2010 price base, for each Regulatory Reporting Year t, and shall be equal to the amounts specified in specified in Table 9 below:

Table 9 - The Transmission Owner Business allowed opex amount for each Regulatory Reporting Year t (£ million, 2010 prices)³

Year \ Term	t=2013	t=2014	t=2015	t=2016	t=2017	t=2018
Allowed opex amount (AO_{2010_t})	5.73	5.84	5.65	5.64	5.63	2.80 + 2.80 ^e

6.16. Allowed opex other amount - AOO_t

6.17. For the purposes of this Annex, in each Regulatory Reporting Year t, the allowed opex other amount (AOO_t), being the amounts for other opex items listed immediately below, shall be calculated as follows:

$$AOO_t = BD_t + IA_t + RR_t + COL_t$$

Where:

BD_t is the allowed opex (if any) amount in Regulatory Reporting Year t, for Uncollected Revenue, being the amount appropriate for the Licensee to recover in that Regulatory Reporting Year, in respect of Uncollected Revenue less any amount or part of an amount treated as Uncollected Revenue in respect of a preceding Relevant Reporting Year t that has been paid to the Licensee in Relevant Reporting Year t;

IA_t is the allowed opex (if any) amount in Regulatory Reporting Year t, for injurious affectation, being the amount that the Authority determines to be appropriate for the Licensee to recover in respect of injurious affectation claims in that Regulatory Reporting Year;

RR_t is the allowed opex (if any) amount in Regulatory Reporting Year t, for regulatory reporting, being the additional amount that the Authority determines to be appropriate for the Licensee to recover in that Regulatory Reporting Year, in respect of regulatory reporting costs; and

COL_t is the allowed opex (if any) amount for changes of law, in an amount determined by the Authority to be appropriate in accordance with paragraph 6.18.

³ See paragraph 2.3 regarding figures in this table marked with an estimation symbol (e).

- 6.18. The allowed opex amount for changes of law - COL_t
- 6.19. For the purposes of this Annex, in each Regulatory Reporting Year t , the allowed opex amount for changes of law (COL_t), being the Relevant Change of Law opex amount (being a positive or negative figure) determined by the Authority, for the purposes of this paragraph, in accordance with paragraphs 6.20 to 6.23.
- 6.20. For the purposes of paragraph 6.19, the calculation of COL_t shall occur when the Authority has determined that:
- a) there has been or will be a Relevant Change of Law;
 - b) there has been or will be an amount (whether a positive or negative figure) that is directly attributable to the Relevant Change of Law; and
 - c) having regard to all the circumstances, it is appropriate to include the amount within the calculation of COL_t in order to ensure that the financial position and performance of an efficient Licensee will be, so far as is reasonably practicable, the same as if the Relevant Change of Law had not taken place.
- 6.21. The Authority may make a determination in accordance with paragraph 6.20:
- a) on an application made to it by the Licensee; or
 - b) otherwise, following consultation with the Licensee.
- 6.22. An application made to the Authority by the Licensee pursuant to paragraph 6.20 shall contain or be accompanied by all relevant details of the anticipated cost or revenue, and such other information as the Authority may require and, unless the Authority otherwise consents, may not be given later than the first day of April in the year immediately preceding the first of the Regulatory Reporting Years in respect of which the Licensee wishes that cost or revenue to be included in the calculation of COL_t .
- 6.23. Where the Authority determines that an anticipated cost or revenue is appropriate for inclusion in the calculation of COL_t in one or more Regulatory Reporting Years, it shall specify the value to be attributed to that cost or revenue in respect of each Regulatory Reporting Year.

7. The pension deficit amount - P_t

7.1. For the purposes of this Annex, in each Regulatory Reporting Year t , P_t means the pension deficit amount, including the ERDC amount in Regulatory Reporting Year t , and shall be calculated as follows:

$$P_t = P_{2010_t} * RPI_t / RPI_{2010}$$

Where:

P_{2010_t} means the pension deficit amount, in a 2010 price base, for each Regulatory Reporting Year t , and shall be equal to the amounts specified in specified in Table 10 below:

Table 10 - The Transmission Owner Business pension deficit amount for each Regulatory Reporting Year t (£ million, 2010 prices)⁴

Period / Term	t=2013	t=2014	t=2015	t=2016	t=2017	t=2018
Historic Deficit Repair	1.10	1.10	1.10	1.10	1.10	0.55 + 0.55e
ERDC Disallowance	(0.31)	(0.31)	(0.31)	(0.31)	(0.31)	(0.16) + (0.16)e
Pension deficit amount (P_{2010_t})	0.78	0.78	0.78	0.78	0.78	0.39 + 0.39e

⁴ See paragraph 2.3 regarding figures in this table marked with an estimation symbol (e).

8. The costs of the investigation amount (COI_t)

- 8.1. For the purposes of paragraph 3.5, in each Regulatory Reporting Year t , the costs of the investigation amount (COI_t), shall be calculated as follows:

$$COI_t = COI_{2010_t} * RPI_t / RPI_{2010}$$

Where:

COI_{2010_t} means the costs of the investigation amount, in a 2010 price base, and shall be equal to zero in every Regulatory Reporting Year t except for Regulatory Reporting Year $t = 2014$ where it shall be equal to £0.181 million.

9. The Tax Amount - TAX_t

9.1. For the purposes of paragraph 3.5, in Regulatory Reporting Year t, the tax amount (TAX_t) is calculated as follows in nominal prices:

$$TAX_t = TR_t / (1 - TR_t) * (RET_t + DEP_t - INT_t - CA_t)$$

Where:

- TR_t** means the corporation Tax Rate applicable in Northern Ireland in Regulatory Reporting Year t, as specified from time to time by HMRC;
- RET_t** means the return amount in Regulatory Reporting Year t, calculated in accordance with paragraph 5.1;
- DEP_t** means the depreciation amount in Regulatory Reporting Year t, calculated in accordance with paragraph 4.38;
- INT_t** means an amount equal to the Interest on the value of the average of all Regulatory Asset Bases, in Regulatory Reporting Year t and shall be calculated as follows:

$$INT_t = \frac{\left(\sum_{AllRAB_X} (ORAB_X_t + CRAB_X_t) \right)}{2} * G * NCOD$$

Where:

- \sum_{AllRAB_X} means the summation of the values for all Regulatory Asset Bases;
- ORAB_X_t** is the value of the opening Regulatory Asset Base for each RAB_X in Regulatory Reporting Year t, calculated in accordance with paragraph 4.4;
- CRAB_X_t** is the value of the closing Regulatory Asset Base for each RAB_X in Regulatory Reporting Year t, calculated in accordance with paragraph 5.1;
- G** means notional gearing and has the value of 45%;
- NCOD** means the notional nominal cost of debt and has the value of 6.45%; and
- CA_t** means, in each Regulatory Reporting Year t, an amount equal to the value of regulatory capital allowances in accordance with guidelines published by HMRC considered appropriate by the Authority for the purposes of calculating Maximum Regulated Transmission Revenue in respect of that Regulatory Reporting Year, calculated on a notional basis, under the hypothetical assumptions that:
- i. capital additions, while considering ii, iii, and iv immediately below, are calculated as follows:

$$\sum_{AIRAB_X} (QCE_{X_t} - DIQCE_{X_t} + PTCE_{X_t} - DIPTCE_{X_t} - CD_{X_t} + CI_{X_t})$$

Where:

- \sum_{AIRAB_X} means the summation of the values for all Regulatory Asset Bases;
- QCE_{X_t} means the qualifying capex expenditure amount, calculated in accordance with paragraph 4.17;
- $DIQCE_{X_t}$ means the demonstrably inefficient qualifying capex expenditure amount, calculated in accordance with paragraph 4.19;
- $PTCE_{X_t}$ means the pass through capex expenditure amount, calculated in accordance with paragraph 4.21;
- $DIPTCE_{X_t}$ means the demonstrably inefficient pass through capex expenditure amount, calculated in accordance with paragraph 4.24;
- CD_{X_t} means the capex disposal amount, calculated in accordance with paragraph 4.30; and
- CI_{X_t} means the capex incentive amount, calculated in accordance with paragraph 4.32; and
- ii. the regulatory capital allowances are the maximum capital allowance available to the Licensee, irrespective of whether or not the Licensee chooses to utilise such allowances in full;
 - iii. if the Licensee opts to defer capital allowance claims in respect of any capital allowance in any given year, the amount of capital allowance available in any subsequent year excludes any amounts for which claims were so deferred (to avoid double counting any capital allowance);
 - iv. the regulatory capital allowances include amortization of Deferred Revenue Expenditure; and
 - v. the opening written down values are as specified in Table 11 below:

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Table 11 - The Transmission Owner Business opening tax capital allowance values (£ million, nominal prices)

Category	Opening RP5 written down value
General Pool	0.00
Long life asset pool	65.05
Deferred revenue	24.50 ⁵

⁵ The gross value of capital additions before RP5 was £27.18million

10. Not Used

11. The correction factor amount - K_t

11.1. For the purposes of paragraph 3.5 and for the closure of the RP5 period, the correction factor amount (K_t) shall be calculated as follows:

a) in Regulatory Reporting Year $t = 2013$:

$$K_t = KRP4$$

Where:

KRP4 means the closing K factor for the RP4 price control at 31st March 2012 and has the value of £13.087 million.

b) in Regulatory Reporting Years $t = 2014$, $t = 2015$, $t = 2016$ and $t = 2017$:

$$K_t = (RP5R_{t-1} - ARP5_{t-1}) * (1 + I_t) + RP4CI_t$$

Where:

RP5R_{t-1} means the Maximum Regulated Transmission Revenue, in Regulatory Reporting Year $t-1$;

ARP5_{t-1} means the actual Regulated Transmission Revenue recovered through Transmission Charges in Regulatory Reporting Year $t-1$; and

I_t means the Average Specified Rate; and

RP4CI_t means the amounts due to the Licensee under the capex efficiency incentive that applied under the RP4 price control.

c) for the closure of the RP5 period (the 6 months ending 30 September 2017):

$$K_t = (RP5R_{SEP17} - ARP5_{SEP17}) * (1 + I_t)$$

Where:

RP5R_{SEP17} means the Maximum Regulated Transmission Revenue for the 6 months ending 30 September 2017;

ARP5_{SEP17} means the actual Regulated Transmission Revenue recovered through Transmission Charges for the 6 months ending 30 September 2017; and

I_t means the Average Specified Rate.

12. Information to be provided to the Authority in connection with the Transmission Charge Restriction Conditions

12.1. Introduction

12.2. In addition to, and without prejudice to, the provisions of Condition 8 of the Licence, the Licensee shall, in relation to the Transmission Charge Restriction Conditions, furnish the Authority with Specified Information as set out in this paragraph 12.

12.3. Specified Information

12.4. The Licensee shall, subject to other provisions set out in the Licence and in this paragraph 12, provide to the Authority the following Specified Information:

- a) forecasts and/or estimates in accordance with paragraph 12.6, with regards to the setting of Transmission Charges;
- b) any explanation and/or statement as to whether or not the provisions at paragraph 12.11 are likely to be applicable, with regards to the restriction of Transmission Charges;
- c) information to comply with the Authority's Regulatory Instructions and Guidance (RIGs) in accordance with paragraph 12.15;
- d) information which provides a reconciliation of the values published in the accounting statements (referred to at Condition 2 of the Licence) for opex and capex with:
 - i. the qualifying opex expenditure amount (QOE_t) and the pass through opex expenditure amount ($PTOE_t$);
 - ii. the qualifying capex expenditure amount (QCE_{X_t}) for each RAB_X and the pass through capex expenditure amount ($PTCE_{X_t}$) for each RAB_X; and
 - iii. the cost information provided to comply with the Authority's RIGs in accordance with paragraph 12.15;
- e) information regarding pension deficits, in accordance with paragraph 12.20;
- f) information on historical revenues, including:
 - i. all data used in the calculation of the Licensee's Maximum Regulated Transmission Revenue, in accordance with paragraph 12.21;
 - ii. the revenue derived from Excluded Services (showing separately the revenue from each category of excluded service) in accordance with paragraph 13.6;
- g) information on network investment projects and volumes, including:
 - i. a forecast of the network investment for the RP6 price control period, in accordance with paragraph 12.25; and
 - ii. information on pre-funded costs, in accordance with paragraph 12.26;

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- iii. information on outturn RP5 projects and volumes, and planned RP5 projects and volumes in accordance with paragraph 12.29; and
 - h) information on the Licensee's ESQCR compliance, in accordance with paragraph 12.32;
 - i) information on tax, in accordance with paragraph 12.34; and
 - j) the statutory accounts of any Related Party, in accordance with paragraph 12.37.
- 12.5. Unless otherwise specified in this Annex or the Licence, the Specified Information listed at paragraph 12.4 shall be submitted:
- a) for the time period as the Authority may reasonably require and as may be specified in directions issued by the Authority;
 - b) by a date as the Authority may reasonably require and as may be specified in directions issued by the Authority;
 - c) in a format as the Authority may reasonably require and as may be specified in directions issued by the Authority; and
 - d) to the relevant employees of the Authority and to the electricity_network_reporting@uregni.gov.uk mailbox or subsequent equivalent mailbox.
- 12.6. **Forecasts / estimates with regards to setting Transmission Charges**
- 12.7. Where any change is intended to be made in Transmission Charges regulated under paragraph 3, the Licensee shall not later than 14 days prior to the time of publication of such change, provide the Authority with:
- a) a written forecast of the Maximum Regulated Transmission Revenue, together with its components, in respect of each Regulatory Reporting Year t upon which the intended change would affect;
 - b) a written estimate of the Maximum Regulated Transmission Revenue, together with its components, in respect of each Regulatory Reporting Year prior to the first Regulatory Reporting Year t upon which the intended change would affect; and
 - c) a written forecast of the over- or under-recovery in all future Regulatory Tariff Years for which the Licensee forecasts an over- or under- recovery.
- 12.8. If within 3 months of the commencement of any Regulatory Tariff Year t the Licensee has not made any such change in charges as is referred to in paragraph 12.7, the Licensee shall provide the Authority with:
- a) a written forecast of the Maximum Regulated Transmission Revenue, together with its components, in respect of each Regulatory Reporting Year upon which Regulatory Tariff Year t has an effect; and
 - b) a written forecast of the over- or under-recovery in all future Regulatory Tariff Years for which the Licensee forecasts an over- or under- recovery.

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- 12.9. Any forecast or estimate provided in accordance with paragraph 12.7 or 12.8 shall be accompanied by such information as regards the assumptions underlying the forecast or estimate as may be necessary to enable the Authority to be satisfied that the forecast or estimate has been properly prepared on a consistent basis.
- 12.10. In addition, any forecast or estimate provided in accordance with paragraph 12.7 or 12.8 shall be published by the Licensee on the Licensee's website.
- 12.11. **Restriction of Transmission Charges**
- 12.12. If, in respect of any Regulatory Tariff Year, the Regulated Transmission Revenue exceeds the Maximum Regulated Transmission Revenue by more than the Permitted One-Year Percentage, the Licensee shall furnish an explanation to the Authority, and in the next following Regulatory Tariff Year, the Licensee shall not effect any increase in Transmission Charges unless it has demonstrated to the reasonable satisfaction of the Authority that the Regulated Transmission Revenue would not be likely to exceed the Maximum Regulated Transmission Revenue in that following Regulatory Tariff Year.
- 12.13. If, in respect of any three successive Regulatory Tariff Years, the sum of the amounts by which the Regulated Transmission Revenue has exceeded the Maximum Regulated Transmission Revenue, is more than the Permitted Three-Year Percentage, then in the next following Regulatory Tariff Year the Licensee shall, if required by the Authority, adjust its Transmission Charges such that the Regulated Transmission Revenue would not be likely, in the judgement of the Authority, to exceed the Maximum Regulatory Transmission Revenue in that next following Regulatory Tariff Year.
- 12.14. Not later than six weeks after the commencement of each Regulatory Tariff Year, the Licensee shall send to the Authority a statement as to:
- a) whether or not the provisions of:
 - i. paragraph 12.12 are likely to be applicable in consequence of the Regulated Transmission Revenue in the preceding Regulatory Tariff Year; and/ or
 - ii. paragraph 12.13 are likely to be applicable in consequence of the Regulated Transmission Revenue in the preceding 3 Regulatory Tariff Years; and
 - b) the Licensee's best estimate as to the cumulative over- or under- recovery at the last day of the most recently ended Regulatory Tariff Year.
- 12.15. **Information to comply with Authority's Regulatory Instructions and Guidance (RIGs)**
- 12.16. The Licensee shall, furnish the Authority with any information required to comply with the Authority's RIGs, as may change from time to time.

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- 12.17. The Licensee shall ensure that the RIGs information referred to at paragraph 12.16 includes estimations of the Licensee's confidence in that information and is certified by a relevant director.
- 12.18. The Licensee shall, publish on the Licensee's website, the information supplied in accordance with paragraph 12.16, subject to the minimum redactions considered necessary by the Authority to protect commercially sensitive information.
- 12.19. **Pension deficits**
- 12.20. The Licensee shall, furnish the Authority with relevant information regarding any pension deficits, splitting accordingly the historic deficit (assuming a cut-off date of 31 March 2012) and incremental deficit.
- 12.21. **Historical data used in the calculation of the Licensee's Maximum Regulated Transmission Revenue**
- 12.22. The Licensee shall, furnish the Authority with all historical data used to calculate the Maximum Regulated Transmission Revenue as set out in the formulas in this Annex.
- 12.23. The Licensee shall, for the period from 1 April 2012, publish, on the Licensee's website and in the Licensee's accounting statements referred to in Condition 2 of the Licence, the data referred to at 12.22.
- 12.24. **Forecast network investment in the RP6 price control period**
- 12.25. The Licensee shall, on an annual basis submit to the Authority the Licensee's estimate of the expected investments, volumes and projects for the RP6 price control period.
- 12.26. **Information on pre-funded costs**
- 12.27. The Licensee shall, on an annual basis submit to the Authority an estimate of the pre-funded costs, being the network investments, volumes and projects required in periods after RP5 which can be attributed to the cancellation, reduction or deferral of any investments, volumes or projects that the Competition Commission assumed as part of the cost assessment underpinning its Final Determination (the planned investments, volumes and projects).
- 12.28. The Licensee shall submit to the Authority, on an annual basis, to supplement the information referred to at paragraph 12.27, reconciliations of the information referred to at paragraph 12.27 to the planned investments, volumes and projects specified at Appendix 1 and Appendix 2 below.
- 12.29. **Information on the outturn RP5 investments, projects and volumes, and planned RP5 investments, projects and volumes**

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- 12.30. The Licensee shall, on an annual basis, for the RP5 period, submit to the Authority:
- a) information on outturn investments, volumes and projects; and
 - b) information on planned investments, volumes and projects.
- 12.31. The Licensee shall submit to the Authority, on an annual basis, to supplement the information referred to at paragraph 12.30, reconciliations of the information referred to at paragraph 12.30 to the planned investments, volumes and projects, specified at Appendix 1 and Appendix 2 below.
- 12.32. **Reporting on the Licensee's ESQCR compliance**
- 12.33. The Licensee shall, report on the Licensee's ESQCR compliance, with additional details on the Licensee's patrolling activity, including a split of low voltage work into low voltage undereaves and low voltage overhead lines.
- 12.34. **Information on tax**
- 12.35. The Licensee shall, no later than 12 months after the end of each Regulatory Reporting Year, prepare and submit to the Authority an annual report, in a form to be approved by the Authority, setting out:
- a) audited tax reports that enable a full reconciliation between:
 - i. information submitted to HMRC on the Licensee's tax affairs; and
 - ii. information used for the calculation of the tax element of the Licensee's Maximum Regulated Transmission Revenue, as calculated at paragraph 9 of this Annex;
 - b) information submitted to HMRC on the Licensee's tax affairs;
 - c) information used for the calculation of the tax element of the Licensee's Maximum Regulated Transmission Revenue, as calculated at paragraph 9 of this Annex; and
 - d) any retrospective adjustments in respect of previous years together with any restatement of 12.35.a), 12.35.b) and 12.35.c).
- 12.36. The Licensee shall, on an annual basis, publish on the Licensee's website the information supplied under 12.35 subject to the minimum redactions, considered necessary by the Authority, to protect commercially sensitive information.
- 12.37. **The statutory accounts of any Related Party**
- 12.38. The Licensee shall, no later than 10 months after the end of each Regulatory Reporting Year, prepare and submit to the Authority the financial statements of any Related Party, for the Regulatory Reporting Year, with whom the Licensee has had a transaction in that Regulatory Reporting Year.

13. Excluded Services for purposes of Transmission Owner Business

- 13.1. There may be treated as Excluded Services provided by the Transmission Owner Business such services in respect of which charges are made which:
- a) do not fall within paragraph 13.2; and
 - b) may (subject to paragraph 13.7) be determined by the Licensee as falling under one of the principles set out in paragraphs 13.3 to 13.5.
- 13.2. No service provided as part of the Transmission Owner Business shall be treated as an excluded service insofar as it relates to the provision of services remunerated under charges in accordance with Condition 22 including (without prejudice to the foregoing):
- a) the transport of electricity;
 - b) the carrying out of works for the installation of electric lines or electrical plant (not otherwise payable in the form of connection charges) for the purpose of maintaining or upgrading the Licensee's transmission system;
 - c) the carrying out of works or the provision of maintenance or repair or other services for the purpose of enabling the Licensee to comply with Conditions 19 and 26, the Electricity Supply Regulations (Northern Ireland) 1991 as amended by the Electricity Supply (Amendment) Regulations (Northern Ireland) 1993 or any regulations made under Article 32 of the Order or any other enactment relating to safety or standards applicable in respect of the Transmission Owner Business;
 - d) the provision, installation and maintenance of any meters, switchgear or other electrical plant ancillary to the grant of use of system.
- 13.3. The whole or an appropriate proportion (as the case may be) of the charges of the type described in paragraph 3 of Condition 22 and borne by any person as connection charges in respect of connections made after the grant of this Licence may be treated as Excluded Services.
- 13.4. There may be treated as an excluded service charge for the relocation of electric lines or electrical plant and the carrying out of works associated therewith pursuant to a statutory obligation (other than under Article 12(2) of the Order) imposed on the Licensee.
- 13.5. There may be treated as an excluded service any service of a type not referred to above which:
- a) consists in the provision of services for the specific benefit of a third party requesting the same; and
 - b) is not made available as a normal part of the Transmission Owner Business remunerated by Transmission Charges, including (without prejudice to the foregoing):

NIE Transmission Licence - (extract to show proposed new Annex 2)

- i. special metering (including “time of day” metering) to facilitate energy saving programmes for the benefit of customers requesting the same;
 - ii. prepayment metering equipment;
 - iii. charges for moving mains, services or meters forming part of the Licensee’s transmission system to accommodate extension, re-design or re-development of any premises on which the same are located or to which they are connected; and
 - iv. the provision of electric lines and electrical plant (a) insofar as the same are required for the specific purpose of enabling the provision of top-up or standby or (b) to provide a higher degree of security than is required for the purposes of complying with Condition 19.
- 13.6. The Licensee shall following the end of each Regulatory Reporting Year furnish to the Authority, as being one of the items of Specified Information referred to in paragraph 12.3, details specifying separately the nature of all services provided as part of the Transmission Owner Business and treated as Excluded Services by the Licensee during the course of such year and stating the revenues derived in respect of each such service so treated.
- 13.7. Where the Authority is satisfied that it is reasonable in all the circumstances that any service treated by the Licensee as being or not being an excluded service should not be so treated, the Authority shall issue directions to that effect. Any such directions may, where a service is directed to be treated as an excluded service, contain such conditions as the Authority shall see fit in relation to the charges which the Licensee may make for such excluded service and the other terms and conditions upon which the Licensee may provide such excluded service. In accordance with the terms of such directions, such service shall cease to be treated as an excluded service with effect from the date of issue of such directions or such earlier date as may be specified in the directions.

14. Allowances in respect of security costs

14.1. At any time during a Fuel Security Event, the Authority may (having regard to its duties under the Energy Order) by means of directions:

- a) suspend or modify for the unexpired term of the Fuel Security Event the Transmission Charge Restriction Conditions or any part or parts thereof; or
- b) introduce for the unexpired term of the Fuel Security Event new Transmission Charge Restriction Conditions,

in either case, so as to make such provision as in the opinion or estimation of the Authority is requisite or appropriate to enable the Licensee to recover by means of appropriate equitable increases in the charges made in the course of the Transmission Owner Business an amount estimated as being equal to the Licensee's allowed transmission related security costs during such event, and the Licensee shall comply with the terms of any directions so issued.

14.2. Subject to paragraphs 14.3 and 14.5, the Licensee shall in any Regulatory Reporting Year be entitled to recover an aggregate amount equal to the Licensee's allowed transmission related security costs in that year or (insofar as not previously recovered) any previous year, by means of appropriate equitable increases in the charges made by the Licensee in the course of the Transmission Owner Business.

14.3. Paragraph 14.2 shall not apply insofar as such Licensee's allowed transmission related security costs:

- a) were otherwise recovered by the Licensee; or
- b) were taken into account by the Authority in setting charge restriction conditions by means of directions issued under paragraph 14.1.

14.4. The Licensee shall following the end of each Regulatory Reporting Year provide to the Authority details in respect of that Regulatory Reporting Year of:

- a) the aggregate amounts charged under paragraph 14.2 on account of the Licensee's allowed transmission related security costs; and
- b) the bases and calculations underlying the increases in charges made by the Licensee in the course of the Transmission Owner Business under paragraph 14.2.

14.5. Where the Authority is satisfied that the Licensee has recovered amounts in excess of the Licensee's allowed transmission related security costs, the Authority may issue directions requiring the Licensee to take such steps as may be specified to reimburse customers of the Transmission Owner Business for the excess amounts charged to them, and the Licensee shall comply with any directions so issued.

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- 14.6. No amounts charged by the Licensee under this paragraph 14 (whether or not subsequently required to be reimbursed) shall be taken into account for the purpose of applying the transmission charge restriction provisions of paragraph 3.

15. Duration of the charge restriction conditions

- 15.1. Subject to the following paragraphs of this Annex, the Transmission Charge Restriction Conditions shall apply so long as the Licence continues in force.
- 15.2. The Transmission Charge Restriction Conditions outlined in paragraph 3.2 do not apply to tariff years from 1 October 2017 onwards. In the absence of modifications to those provisions, the licensee shall not be able to increase (in nominal terms) any of the tariffs or charges contributing to its Regulated Transmission Revenue above the levels applicable on 1 October 2016.
- 15.3. **Disapplication**
- 15.4. The Transmission Charge Restriction Conditions shall cease to have effect (in whole or in part, as the case may be) if the Licensee delivers to the Authority a request (a “Disapplication Request”) made in accordance with paragraph 15.6 and:
- a) the Authority agrees in writing to the request; or
 - b) the application of this Annex (or any part of it) is terminated by a notice (a “Disapplication Notice”) given by the Licensee in accordance with paragraph 15.7 and not withdrawn.
- 15.5. Save where the Authority agrees otherwise, no disapplication following delivery of a Disapplication Request pursuant to paragraphs 15.4 to 15.10 shall have effect earlier than the date (the “Disapplication Date”) which is the later of:
- a) the date occurring 18 months after delivery of the Disapplication Request; and
 - b) 30 September 2017.
- 15.6. A Disapplication Request pursuant to paragraphs 15.4 to 15.10 shall:
- a) be in writing addressed to the Authority;
 - b) specify this Annex or any part of it to which the request relates (excluding in either case paragraphs 15.4 to 15.10); and
- 15.7. state the date from which the Licensee wishes the Authority to agree that the Annex or specified part of it shall cease to have effect. A Disapplication Notice pursuant to paragraphs 15.4 to 15.10:
- a) may be given in the circumstances described in either paragraph 15.8 or 15.9;
 - b) may be withdrawn at any time prior to the Disapplication Date; and
 - c) where it is given, shall:
 - i. be in writing addressed to the Authority;

NIE Transmission Licence - (extract to show proposed new Annex 2)

- ii. specify this Annex or any part of it (which shall comprise only such part as was specified in the Disapplication Request) to which the notice relates;
 - iii. state the date from which the Licensee wishes the notice to take effect, which shall not be earlier than the Disapplication Date.
- 15.8. The circumstances described in this paragraph are that, by the beginning of the period of six months which will end with the Disapplication Date, the Authority has not in response to the Disapplication Request published a decision under Article 14(8) of the Order to modify:
 - a) this Annex (or any part of it) to which the request relates; or
 - b) paragraphs 15.4 to 15.10, so as to remove the right of the Licensee to give to the Authority a Disapplication Notice in respect of the relevant Disapplication Request.
- 15.9. The circumstances described in this paragraph are that:
 - a) by no later than the beginning of the period of six months which will end with the Disapplication Date, the Authority has in response to the Disapplication Request published a decision of a type referred to in paragraph 15.8 above;
 - b) the Licensee has exercised its right to appeal to the CMA against that decision in accordance with Article 14B of the Order;
 - c) the CMA has, in respect of the provisions to which the Disapplication Request relates:
 - i. quashed the decision of the Authority under Article 14E(2)(a) of the Order;
 - ii. neither remitted the matter back to the Authority under Article 14E(2)(b) of the Order nor substituted its own decision for that of the Authority under Article 14E(2)(c) of the Order; and
 - d) no more than 30 days has elapsed since the date on which the CMA quashed the decision of the Authority.
- 15.10. A Disapplication Request or Disapplication Notice served under paragraphs 15.4 to 15.10 may be served in respect of a specified geographic area.

NIE Transmission Licence - (extract to show proposed new Annex 2)

Appendix 1 - The Transmission Owner Business: planned investments, volumes and projects capitalised to RAB (2010 prices)

<i>Project ID</i>	<i>Project name</i>	<i>Asset name / further information</i>	<i>Predefined output</i>	<i>Direct</i>	<i>Indirect</i>	<i>Allowed capex</i>
T06	Transmission Plant Switch Houses	Refurbish two 275kV substation buildings and associated works	Specified improvement at specified location(s), as per BPQ	£2.22 million	£0.11 million	£2.33 million
T07	Kells 110kV substation	Increase fault rating of SWGR to 40kA	Specified improvement at specified location(s), as per BPQ	£7.23 million	£0.37 million	£7.60 million
T08	Tandragee 110kV Substation	Increase fault rating of SWGR to 40kA	Specified improvement at specified location(s), as per BPQ	£2.84 million	£0.15 million	£2.99 million
T09	Castlereagh 110kV Substation	Increase fault rating of SWGR to 40kA	Specified improvement at specified location(s), as per BPQ	£2.70 million	£0.14 million	£2.84 million
T10	110kV swithgear at 3 substations	Replacement SWGR at 3 substations (Ballyvallah, Dungannon, Lisburn) Associated cable replacement	Specified number of units Linked to associated deliverable	£5.63 million	£0.29 million	£5.92 million
T11	275kV Plant Ancillaries	Replacement 275kV switchgear and other equipment Catenaries Cladding replacement Protection Asbestos removal Concrete structure refurbishment Transformer Bunding Holthum	As per BPQ N/A Specified improvement at specified location(s) Specified improvement at specified location(s) Specified improvement at specified location(s) N/A Specified improvement at specified location(s) N/A	£4.94 million	£0.26 million	£5.19 million

NIE Transmission Licence - (extract to show proposed new Annex 2)

		Security systems	Specified improvement at specified location(s)			
		Generator	Replace 5 standby generators			
		DC Standby systems	Specified improvement at specified location(s)			
		FMJL & Reyrolle Hairpin CTs	N/A			
		Earthing	Specified improvement at specified location(s)			
		AC rewire	Specified improvement at specified location(s)			
		Control room refurb	Specified improvement at specified location(s)			
		Drainage	N/A			
T12	110kV Plant ancillaries	Replacement 110kV switchgear and other equipment.	As per BPQ	£6.22 million	£0.32 million	£6.55 million
		Protection	Specified improvement at specified location(s)			
		Cable ducts	N/A			
		Structure refurb	N/A			
		Tx Bunding	Specified improvement at specified location(s)			
		Holthum Generator	N/A Replace 2 standby generators			
		External lighting	N/A			
		DC standby systems	Specified improvement at specified location(s)			
		AC system rewire	Specified improvement at specified location(s)			
		Busbars, isolators and VTs	N/A			
		Security	Specified improvement at specified location(s)			
		CO2 refurb	N/A			
		Eathing	N/A			
		Civil	N/A			
		Strabane Main transformer refurbishment	Specified improvement at specified location(s)			
T13	275kV/110kV Transformer Replacement	Transformers (275/110kV)	Specified number of units	£6.92 million	£0.36 million	£7.28 million

NIE Transmission Licence - (extract to show proposed new Annex 2)

T14	110/33kV Transformer Replacement	Procurement of transformers Installation of transformers Associated cable replacement	Specified number of units Linked to associated deliverable Linked to associated deliverable	£6.16 million	£0.32 million	£6.48 million
T15	22kV Reactor replacement	Procurement of reactors Installation of reactors	Specified number of units Linked to associated deliverable	£1.25 million	£0.06 million	£1.31 million
T16	Transmission Transformer Refurbishment	275kV Bushing Refurbishment 275kV Plant Painting 275kV disconnector Refurbishment and spares 275/110kV TX Tap changer refurbishment 110kV Cooler replacements 110kV Bushings replacements 110kV Plant Painting 110kV Disconnector Refurbishment 110/33kV TX Tap changer refurbishment	Specified number of units Specified number of units Specified improvement at specified location(s) Specified number of units Specified number of units Specified number of units Specified number of units Specified improvement at specified location(s) Specified number of units	£1.02 million	£0.05 million	£1.07 million
T17	275kV Overhead Line Asset Replacement	Replace colour and number plates Spacers Replace suspension insulator Replace tension insulator Tower Painting Foundation assessment (towers) Condition assessment Vegetation	Specified number of units Specified number of units Specified number of units Specified number of units Specified number of units N/A N/A N/A	£6.03 million	£2.39 million	£8.42 million
T19	110kV Overhead Line Asset Replacement	Replace conductors	Specified number of units	£6.33 million	£2.51 million	£8.85 million

NIE Transmission Licence - (extract to show proposed new Annex 2)

		Replace colour and number plates	Specified number of units			
		Replace suspension insulator	Specified number of units			
		Replace damper	Specified number of units			
		Replace tension insulator	Specified number of units			
		Tower painting	Specified number of units			
		Replace wood poles	Specified number of units			
		Foundation assessment	N/A			
		Condition assessment	N/A			
		Vegetation Management	N/A			
T20	Transmission Cables	Refurbishment of cable tunnels & installation of permanent pumps	Specified improvement at specified location(s)	£4.17 million	£0.22 million	£4.39 million
		Replacement of 110kV double circuit (2.6km)	Specified number of units			
		Replacement of Sheath Voltage Limiters	Specified improvement at specified location(s)			
		Refurbishment cost of double circuit Donegal Main - Whitla Street	Specified improvement at specified location(s)			
		Replacement of existing mineral oil with modern DDB fluid	Specified number of units			
		Refurbishment of 110kV sealing ends	N/A			
		Refurbishment of hydraulic ancillary systems	Specified improvement at specified location(s)			
		Sheath testing programme and refurbishment	N/A			
T21	Fault and emergency ⁶	N/A	N/A			£2.77 million
T22	Transmission reactive ⁷	N/A	N/A			£0.50 million
T23	Design & Consultancy	N/A	N/A			£3.30 million
T36	Belfast North Main 110/33kV Bulk Supply Substation	Replace 90MVA transformer	Specified number of units	£1.43 million	£0.07 million	£1.51 million

⁶ This category of expenditure shall not be included in the calculation of pre-funded costs for price controls subsequent to RP5.

⁷ This category of expenditure shall not be included in the calculation of pre-funded costs for price controls subsequent to RP5.

NIE Transmission Licence - (extract to show proposed new Annex 2)

T40	ESQCR	Full survey and asset register	A full ESQCR asset register and associated reporting	£0.77 million	£0.00 million	£0.77 million
T42	Substation Flooding Enforcement	Permanent protection to at risk substations	Specified improvement at specified location(s)	£0.55 million	£0.03 million	£0.58 million
N/A	Non-network capex: ICT	IT infrastructure, telecoms infrastructure and business applications	As per BPQ but after FD adjustments			£2.58 million
N/A	NIE Powerteam assets used for capex	N/A	N/A			£0.88 million
N/A	NIE Powerteam tools and equipment used for capex, plus non-network capex: premises	N/A	N/A			£0.26 million
N/A	Network investment embedded in managed service charge	N/A	N/A			£1.40 million
N/A	Capitalised Tree Cutting	N/A	N/A			£0.74 million
N/A	Other costs apportioned to Transmission RAB	N/A	N/A			£12.35 million
Total transmission investments capitalised to RAB ⁸						<u>£98.86 million</u>

⁸ The total of £98.86million equals the allowed capex in Table 6 for the RP5 period (subject to rounding).

NIE Transmission Licence - (extract to show proposed new Annex 2)

Appendix 2 - The Transmission Owner Business: planned investments allowed as opex for each Regulatory Reporting Year t (2010 prices)⁹

<i>Year</i>	t=2013	t=2014	t=2015	t=2016	t=2017	t=2018
Category						
Benchmarked indirect, Inspections, Maintenance, Faults & Tree cutting costs (excl connections) allocated to opex	£3.94 million	£3.89 million	£3.85 million	£3.82 million	£3.80 million	£1.89 million + £1.89e million
Business Rates	£1.89 million	£1.91 million	£1.91 million	£1.92 million	£1.94 million	£0.97 million + £0.97e million
Other cost allowances	£0.15 million	£0.30 million	£0.15 million	£0.15 million	£0.15 million	£0.07 million + £0.07e million
Other income allowances	-£0.25 million	-£0.25 million	-£0.25 million	-£0.25 million	-£0.25 million	-£0.13 million - £0.13e million
Total ¹⁰	£5.73 million	£5.84 million	£5.65 million	£5.64 million	£5.63 million	£2.80 million + £2.80e million

⁹ See paragraph 2.3 regarding figures in this table marked with an estimation symbol (e).

¹⁰ The totals in this row match the allowed opex amounts in Table 9.

Schedule 1 Authorised Transmission Area

1. The authorised transmission area shall comprise Northern Ireland.

Schedule 2 Terms as to Revocation

- 1 The Authority may at any time revoke the Licence by not less than 30 days' notice in writing to the Licensee:
- (a) if the Licensee agrees in writing with the Authority that the Licence should be revoked;
 - (b) if any licence fee required to be paid under the Licence is unpaid 30 days after it has become due and remains unpaid for a period of 14 days after the Authority has given the Licensee notice that the payment is overdue provided that no such notice shall be given earlier than the sixteenth day after the day on which the amount payable became due;
 - (c) if the Licensee fails to comply with a final order (within the meaning of Article 42 of the Energy Order) or with a provisional order (within the meaning of Article 42 of the Energy Order) which has been confirmed under Article 42 of the Energy Order and which (in either case) has been made in respect of a contravention or apprehended contravention of a Condition or of a relevant requirement as defined in Article 41(2)(a) of the Energy Order imposed on the Licensee in its capacity as holder of the Licence and (in either case) such failure is not rectified to the satisfaction of the Authority within three months after the Authority has given notice of such failure to the Licensee, provided that no such notice shall be given by the Authority before the expiration of the period within which an application under Article 44 of the Energy Order could be made questioning the validity of the final or provisional order or before the proceedings relating to any such application are finally determined;
 - (d) if the Licensee fails to comply with an order made by a court under section 34 of the Competition Act 1998; or fails to comply with an order made under section 72, 75, 76, 81, 83, 84, 158, 160 or 161 of, or under paragraph 2, 5, 6, 10 or 11 of schedule 7 to, the Enterprise Act 2002; or any partner, director, member, secretary or manager of the Licensee is found guilty of an offence under section 188 or 201 of the Enterprise Act 2002;
 - (e) if the Licensee:
 - (i) is unable to pay its debts (within the meaning of Article 103(1) or (2) of the Insolvency (Northern Ireland) Order 1989, but subject to paragraph 3 of this Schedule) or if any voluntary arrangement is proposed in relation to it under Article 14 of that Order, or if it enters into any scheme of arrangement (other than for the purpose of reconstruction or amalgamation upon terms

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- and within such period as may previously have been approved in writing by the Authority);
- (ii) has a receiver (which expression shall include an administrative receiver within the meaning of Article 5(1) of the Insolvency (Northern Ireland) Order 1989) of the whole or any material part of its assets or undertaking appointed;
 - (iii) has an administration order under Article 21 of the Insolvency (Northern Ireland) Order 1989 made in relation to it;
 - (iv) passes any resolution for winding-up other than a resolution previously approved in writing by the Authority; or
 - (v) becomes subject to an order for winding-up by a court of competent jurisdiction;
- (f) if the Licensee is convicted of having committed an offence under Article 63 of the Order or under Article 46 of the Gas (Northern Ireland) Order 1996;
- (g) if the Licensee fails to pay any financial penalty (within the meaning of Article 45 of the Energy Order) imposed in respect of a contravention or apprehended contravention of a Condition or of a “relevant requirement” as defined in Article 41(2)(a) of the Energy Order by the due date for such payment and such payment is not made to the Authority within three months after the Authority has given notice in writing of such failure to the Licensee, provided that no such notice shall be given by the Authority before the expiration of the period within which an application under Article 49 of the Energy Order could be made questioning the validity or effect of the financial penalty or before the proceedings relating to any such application are finally determined; or
- (h) if the Licensee ceases to carry on the Transmission Owner Business other than with the consent of the Authority.
- 2 For the purposes of paragraph 1(e)(i) of this Schedule, Article 103(1)(a) of the Insolvency (Northern Ireland) Order 1989 shall have effect as if for “£750” there was substituted “£250,000” or such higher figure as the Authority may from time to time determine by notice in writing to the Authority and the Licensee.
- 3 The Licensee shall not be deemed to be unable to pay its debts for the purposes of paragraph 1(e)(i) of this Schedule if any such demand as is mentioned in Article 103(1)(a) of the Insolvency (Northern Ireland) Order 1989 is being contested in good faith by the Licensee with recourse to all appropriate measures and procedures or if any such demand is

satisfied before the expiration of such period as may be stated in any notice given by the Authority under paragraph 1 of this Schedule.

Schedule 6 – Proposed Article 14 modifications to the main body of the Distribution Licence

Condition 23. Land Bank

- 1 The Licensee shall deal with the land bank and any rights which it may have in relation to the whole or any part of it in accordance with such directions as the Authority shall from time to time issue to it. Such directions may:
 - (a) provide that the Licensee shall not dispose of the whole or any part of the land bank except with the prior written consent of the Authority and in accordance with the conditions (if any) of the consent;
 - (b) provide that the Licensee shall not agree to any assignment or amendment of, or terminate otherwise than in accordance with its terms, any relevant lease without the prior written consent of the Authority and in accordance with the conditions (if any) of the consent;
 - (c) specify:
 - (i) the conditions upon which the Licensee shall deal with any application from any person concerning the unlet land;
 - (ii) the obligations of the Licensee in relation to the maintenance, replacement or repair of any structure on the unlet land;
 - (iii) the steps the Licensee must take in relation to access to and the security of the unlet land; and
 - (iv) the length and other terms and conditions of any subsequent lease;
 - (d) provide that the Licensee shall not appropriate any part of the land bank for its own purposes or the purposes of any affiliate or related undertaking of the Licensee without the prior written consent of the Authority and in accordance with the conditions (if any) of the consent; and
 - (e) contain such other conditions in relation to the way in which the Licensee shall deal with the land bank or any such rights as the Authority shall think fit.
- 2 Any directions of the kind referred to in paragraph 1 shall be framed so as to ensure that in implementing them in accordance with their terms the Licensee shall neither suffer any financial loss nor secure any financial benefit by reason only of such implementation.
- 3 Where the amount calculated in accordance with paragraph 4 (the “**Land Bank Amount**”) is positive, the Distribution Business shall account to the Land Bank Business for a sum equal

to that amount. Where the Land Bank Amount is negative, the Land Bank Business shall account to the Distribution Business for a sum equal to the absolute value of that amount.

4 The Land Bank Amount shall be calculated, in respect of each ~~relevant year~~ Regulatory Reporting Year, as follows:

- (a) an amount equal to the costs of the Land Bank Business:
 - (i) in dealing with the land bank in accordance with the directions issued to it by the Authority pursuant to paragraph 1; and
 - (ii) if and to the extent that no such directions have been issued in relation to any part of the land bank, in dealing with any such part;
- (b) less any amount which the Land Bank Business has received (or is entitled to receive) from any person in connection with the land bank, including any amount in consideration of the grant, or consent to the assignment, of any relevant lease or the disposal of any part of the land bank.

5 In this Condition:

“disposal”	includes any sale, assignment, gift, lease, licence, the grant of any right of possession, loan, security, mortgage, charge or the grant of any other encumbrance or the permitting of any encumbrance to subsist or any other disposition to any third party and “dispose” shall be construed accordingly;
“Land Bank Amount”	has the meaning given to that expression in paragraph 3;
“initial lease”	means a designated lease granted to one of Ballylumford Power Limited, Belfast West Power Limited, Coolkeeragh Power Limited or Kilroot Power Limited;
“ relevant year <u>Regulatory Reporting Year</u> ”	has the meaning given to that expression in Annex 1;
“subsequent lease”	means a lease of any land forming part of the land bank other than an initial lease; and
“unlet land”	means any land forming part of the land bank and which is not subject to a relevant lease.

Condition 24. Payment Security Policy

- 1 The Licensee shall develop, and may from time to time amend, a payment security policy describing its security cover and debt recovery procedures in respect of each of the regulated distribution revenue and the PSO Charges (including details of what is to be considered reasonable recovery costs and reasonable interest for the purposes of calculating uncollected revenue).
- 2 The Licensee shall submit the payment security policy, and any amendments thereto, to the Authority for its approval. No policy or amendment shall be effective until approved by the Authority.
- 3 In this Condition:

“regulated distribution revenue”

means the transmission and distribution revenue (as defined in Annex 2) but excluding any revenue to be collected from the Transmission System Operator.

“PSO Charges”

has the meaning given to that expression in Condition 24A.

Condition 24A. PSO Agreement

- 1 The Licensee shall (as part of the Distribution Business and in respect of each ~~relevant~~ Relevant person) enter into, at all times remain a party to, and comply with the provisions of, an agreement in the form described in paragraph 2 (each a “PSO Agreement”).
- 2 Each PSO Agreement shall be in the form approved from time to time by the Authority and designed to secure that the Licensee is entitled to recover (or, to pay, in cases where the Maximum Regulated PSO Amount is negative) the PSO Charges (as from time to time modified) from the ~~relevant~~ Relevant persons.

Setting the PSO Charges

- 3 The PSO Charges applying from time to time shall be set in accordance with Annex 1.

PSO Charge Schedule

- 4 The Licensee shall, as soon as practicable after this Condition shall have come into force and, in any event, not later than such date as the Authority shall specify in directions issued to the Licensee for the purposes of this Condition, and from time to time thereafter, draw up a schedule of the PSO Charges to be payable by (or, payable to, in cases where the Maximum Regulated PSO Amount is negative) ~~relevant~~ Relevant persons in accordance with the PSO Agreement from time to time.
- 5 Without prejudice to Annex 1, the schedule of PSO Charges shall:
 - (a) be in a form which shall require to be approved by the Authority; and
 - (b) contain such detail as shall be necessary to enable any ~~relevant~~ Relevant person Person to make a reasonable estimate of the charges to which it would become liable.

Miscellaneous

- 6 In recovering PSO Charges (or, paying, in cases where the Maximum Regulated PSO Amount is negative) and developing the schedule of PSO Charges, the Licensee shall not discriminate as between any ~~relevant~~ Relevant persons Persons or class or classes of ~~relevant~~ Relevant persons Persons.
- 7 The Licensee shall give or send a copy of the schedule of PSO Charges (as from time to time revised) to the Authority not later than 14 days before it is to be made available to any

NIE Distribution Licence - (extract to display Condition 23, Condition 24A and Condition 43 modifications)

other person. The Licensee shall give or send a copy of the schedule of PSO Charges (as from time to time revised) to any person requesting the same.

- 8 The Licensee shall comply with any directions made by the Authority requiring the Licensee to alter the form of the schedule of PSO Charges in such manner as shall be specified in the directions, or so as to attain such objectives as may be specified in the directions.

~~9~~

~~No such directions may:~~

~~prevent the Licensee from recovering, in each month, an amount equal to the aggregate of the monthly instalments that the Licensee is obliged to pay to NIE Energy (Supply) and NIE Energy (PPB) in respect of the NIE Energy Supply Amount and the PPB Amount in that month; or~~

~~be designed to reduce the aggregate revenue likely to be received under the PSO Agreement in respect of any relevant year, below the maximum allowed amount referred to in Annex 1 for that relevant year.~~

Obligations in Respect of the NIE Energy Supply Amount and the PPB Amount

409 The Licensee shall enter into, and at all times remain party to, an agreement with NIE Energy (Supply) which provides for:

- (a) notification by NIE Energy (Supply) of its schedule of monthly charges in relation to the NIE Energy Supply Amount for each ~~relevant year~~ Regulatory Tariff Year, in such amounts each month as NIE Energy (Supply) reasonably considers appropriate, and any mid-year adjustments that may from time to time be agreed with the Authority; and
- (b) an obligation on the Licensee to make payments each month to NIE Energy (Supply) of the monthly charge relating to the NIE Energy Supply Amount (or, where the NIE Energy Supply Amount is a negative number, for payment in the relevant month of the monthly charge by NIE Energy (Supply) to the Licensee).

410 The Licensee shall enter into, and at all times remain party to, an agreement with NIE Energy (PPB) which provides for:

- (a) notification by NIE Energy (PPB) of its schedule of monthly charges in relation to the PPB Amount for each Regulatory Reporting Year ~~relevant year~~, in such amounts each month as NIE Energy (PPB) reasonably considers appropriate, and any mid-year adjustments that may from time to time be agreed with the Authority; and
- (b) an obligation on the Licensee to make payments each month to NIE Energy (PPB) of the monthly charges in relation to the PPB Amount (or, where the PPB Amount is a negative number, for payment in the relevant month of the monthly charge by NIE Energy (PPB) to the Licensee).

411 Where the relevant monthly payment in respect of the NIE Energy Supply Amount or the PPB Amount is a positive number, the Licensee shall pay the relevant amount to NIE Energy (Supply) or NIE Energy (PPB) (as appropriate) in accordance with the agreement referred to in paragraph 9 or 10 (as appropriate).

1412 The agreements referred to in paragraphs 9 and 10, and any amendment to them, shall require to be approved by the Authority.

Definitions

1413 In this Condition, unless the context otherwise requires:

“Maximum Regulated PSO Amount”

has the meaning given to that expression in Annex 1.

“NIE Energy Supply Amount”

means the amount determined as such in accordance with annex 1 of the NIE Energy Supply Licence.

“NIE Energy (Supply)”

means the person authorised, from time to time, under the NIE Energy Supply Licence in its capacity as the holder of that licence, but excluding where it is acting in its capacity as the Power Procurement Business.

“NIE Energy (PPB)”

means the person authorised, from time to time, under the NIE Energy Supply Licence in its capacity as the holder of that licence, but excluding where it is acting otherwise than in its capacity as the Power Procurement Business.

“PPB Amount”

means the amount determined as such in accordance with annex 3 of the NIE Energy Supply Licence.

“PSO Charges”

means the charges set as such in accordance with paragraph 32.1 of Annex 1.

“Regulatory Reporting Year”

has the meaning given to that expression in Annex 1.

“relevant Relevant persons”

means relevant licensed suppliers and, where directed by the Authority, persons exempt from the requirement to hold a licence under Article 10(1)(c) of the Order.

“relevant year”

has the meaning given to that expression in Annex 1.

Condition 43. Energy Efficiency and The Northern Ireland Sustainable Energy Programme

- 1 The Licensee shall establish a fund (for such period and amount as may be specified in the Framework Document) (the “Fund”) for the purpose of subsidising the operation and delivery of improvement measures in accordance with an energy efficiency programme to be known as the Northern Ireland Sustainable Energy Programme (NISEP).
- 2 The Licensee shall establish and operate procedures for the making of payments from the Fund to any Participating Party or Programme Administrator in such manner and at such times as may be specified in accordance with any Payment Notice, provided that in any ~~relevant year~~ Regulatory Reporting Year the Licensee shall not be required to make payments from the Fund which exceed the NISEP Total Amount for such year.
- 3 The Licensee shall fund its obligations under this Condition in accordance with the provisions of Annex 1.
- 4 The Licensee shall comply with any reasonable request for information made by the Authority in connection with this Condition.
- 5 The Licensee shall maintain at all times accurate and up to date records as to:
 - (a) the amount of money held within the Fund at any particular point in time;
 - (b) any amounts paid to Participating Parties and Programme Administrators in each year (including the particular amounts paid as incentive payments as the same are provided pursuant to the Framework Document); and
 - (c) any other reasonable and necessary costs incurred by the Licensee arising from the administration of the Fund.

6 In this Condition:

“Framework Document” means the document entitled the Framework for Northern Ireland’s Energy Efficiency Levy Programme prepared by the Energy Saving Trust on behalf of the Authority dated September 2008 or any document which supersedes such document.

“Fund” has the meaning given to it in paragraph 1.

“NISEP” means the energy efficiency programme known as the Northern Ireland Sustainable Energy Programme which

is designed to promote energy efficiency measures and/or the use of renewable technologies and is approved for the purposes of this Condition by the Authority (or any successor or alternative energy efficiency programme which the Authority may from time to time approve for the purposes of this Condition).

“NISEP Total Amount”

means the total amount of NISEP funding to be made available in any year as may be determined by the Authority in consultation with the Licensee.

“Participating Party”

means a supplier or other person who has the Authority’s approval to participate in, and receive funding from, the NISEP.

“Payment Notice”

means a notice or notices given by the Authority to the Licensee authorising the Licensee to either pay to one or more Participating Parties or the Programme Administrator a sum specified (or otherwise referred to) therein. Such notice shall take the form –of, and contain the kinds of matters referred to in, the notice set out in the appendix to Annex 1.

“Programme Administrator”

means any legal or natural person who has been appointed by the Authority for the purposes of administering on the Authority’s behalf part or all of the NISEP in the terms expressed in the Framework Document or any other contract or agreement concluded with that person.

“Regulatory Reporting Year”

has the meaning given to that expression in Annex 1.

Schedule 7 – Proposed Article 14 modifications to Annex 1 of the Distribution Licence

Annex 1 - PSO Charge Restriction Conditions

1. Definitions

1.1. In this Annex:

“Average Specified Rate”	means the arithmetic mean of the daily base rates of Danske Bank Limited (or such other bank as the Authority shall specify from time to time) current from time to time during the period in respect of which the calculation falls to be made.
“Fund”	has the meaning given to that term in paragraph 4.1.a).
“Land Bank Amount”	has the meaning given to that expression in Condition 23.
“Maximum Regulated PSO Amount”	means the maximum Regulated PSO Amount that the Licensee is entitled to recover, or pay, in: a) the Regulatory Tariff Year (as calculated in accordance with the formula at paragraph 3.2); or b) the Regulatory Reporting Year (as calculated in accordance with the formula at paragraph 3.4).
“NIE Energy Supply Amount”	means the amount determined as such in accordance with annex 1 of the NIE Energy Supply Licence.
“NISEP”	has the meaning given to that expression in Condition 43.
“Payment Notice”	has the meaning given to that expression in Condition 43.
“Participating Party”	has the meaning given to that expression in Condition 43.
“Permitted One-Year Percentage”	means 4% of the Maximum Regulated PSO Amount.
“Permitted Three-Year Percentage”	means 5% of the Maximum Regulated PSO Amount in

	the second of the Regulatory Tariff years.
“PPB Amount”	means the amount determined as such in accordance with annex 3 of the NIE Energy Supply Licence.
“Programme Administrator”	has the meaning given to that expression in Condition 43.
“PSO Agreements”	means the agreements of that name established pursuant to Condition 24A.
“PSO Charge Restriction Conditions”	means the paragraphs set out in this Annex 1 as from time to time modified or replaced in accordance with their own terms or pursuant to any enactment.
“PSO Charges”	means the charges set as such in accordance with paragraph 2.1.
“Regulated PSO Amount”	means the monetary inflow or outflow (each measured on an accruals basis) that is derived by the Licensee, or paid to Relevant Persons, under the PSO Agreements after deduction of value added tax (if any) and any other taxes based directly on the amount of the PSO Charges.
“Regulatory Reporting Year”	means a period of twelve months commencing on 1 April in any year and ending on 31 March in the year following its commencement.
“Regulatory Reporting Year t”	means the Regulatory Reporting Year which ends in year t, and is therefore to be read such that: a reference to ‘ Regulatory Reporting year t = 2013 ’ is to the Regulatory Reporting Year ending on 31 March 2013; a reference to ‘ Regulatory Reporting Year t-1 ’ means the Regulatory Reporting Year immediately preceding Regulatory Reporting Year t; and similar expressions are to be construed accordingly.
“Regulatory Tariff Year”	means a period of twelve months commencing on 1 October in any year and ending on 30 September in

the immediately following year.

“Regulatory Tariff Year t”

means the Regulatory Tariff Year which ends in year t, and is therefore to be read such that: a reference to ‘**Regulatory Tariff Year t = 2013**’ is to the Regulatory Tariff Year ending on 30 September 2013.

“Related Party”

means both Affiliates and Related Undertakings of the Licensee as defined in Condition 1 of this licence. An Affiliate or Related Undertaking shall remain as a Related Party for the whole of the price control period even if it is no longer part of the group due to restructuring.

“Related Party Margin”

The profit or loss recorded on a transaction with an affiliate being the excess or deficit on actual direct costs and indirect costs (excluding financing costs) fairly attributable to the transaction or the charge and the cost of providing that transaction.

For the avoidance of doubt this does not include exceptional items, tax, fines, penalties or the gain or loss on the disposal of assets or investments (of any sort), i.e. it should be the net operating costs level.

Further, the Related Party Margin does not include any transparently calculated element of such a charge that provides for a reasonable allowance for depreciation and return on capital in relation to assets to the extent that these are employed by the Related Party in the provision of services to the Licensee, and is not otherwise reflected in the Licensee’s Maximum Regulated PSO Amount, or recoverable through the Licensee’s connection charges.

For Captive Insurance businesses the margin is to be computed based on the captive’s premium income less reinsurance premiums, claims paid out and movements on technical and IBNR reserves attributable to the Licensee’s business only, i.e. usually reported as the profits/loss on the Technical

	<p>account. Where a captive insures more than the Licensee, then its profit/loss should be computed pro rata to the premiums paid by the Licensee to total premium income in the captive for the year and the movements on technical and IBNR reserves not attributable to the Licensee's business must first be removed.</p>
“Relevant Persons”	<p>has the meaning given to that expression in Condition 24A.</p>
“RPI_t”	<p>means the Retail Prices Index (CHAW: 1987 = 100) published by the Office for National Statistics (or successor body) for the October month in each Regulatory Reporting Year t.</p>
“Specified Information”	<p>means information (or a category of information) that is so described or defined at paragraph 6.</p>
“Supplier”	<p>means the holder of an electricity supply licence granted pursuant to Article 10(1)(c) of the Electricity (Northern Ireland) Order 1992; or the holder of a gas licence pursuant to Article 8(1)(c) of the Gas (Northern Ireland) Order 1996.</p>
“Uncollected Revenue”	<p>means any amount owed to the Licensee under the PSO Agreements, which amount remains unpaid six months after the date it first fell due for payment or which amount the Licensee deems (in accordance with its payment security policy) to be unrecoverable before the expiry of that six-month period; plus the reasonable recovery costs incurred by the Licensee in respect of such amount and the reasonable interest attributed to such amount (calculated, in both cases, in accordance with such payment security policy).</p>
“Unit”	<p>means a kilowatt hour.</p>
“Wheeled Unit”	<p>means a unit (whether generated inside or outside Northern Ireland) which enters the total system at any point and is delivered to a place outside</p>

Northern Ireland.

“Wheeling”

means the transportation of Wheeled Units on any part of the total system.

2. Introductory Provisions

- 2.1. Where, for the purposes of complying with its obligation at paragraph 3.1 in relation to the setting of PSO Charges, the Licensee forecasts the Maximum Regulated PSO Amount for any Regulatory Tariff Year t (or any data relevant to its calculation), it shall:
- a) have regard to any information notified to it by the Authority;
 - b) where directed to do so by the Authority, base its forecast on any such information or make it in accordance with such methodology as the Authority may specify in the direction;
 - c) have regard to any relevant decision from the Authority regarding which units the Maximum Regulated PSO Amount (or certain parts of the Maximum Regulated PSO Amount) will be recovered from (“unit coverage”); and
 - d) draw up the schedule of PSO Charges in accordance with Condition 24A in a manner which is consistent with the decision of the Authority regarding unit coverage.
- 2.2. Unless the contrary is expressly stated:
- a) all monetary figures in this Annex are stated in nominal prices
 - b) all calculations for which provision is made in this Annex are to be carried out in nominal prices.
- 2.3. For the purposes of this Annex, the provisions of paragraph 3 shall be deemed to apply with effect from the 1 April 2012, so that the Maximum Regulated PSO Amount shall be calculated from 1 April 2012 onwards, notwithstanding paragraph 7.
- 2.4. No cost incurred or revenues received by the Licensee shall be included in more than one of the categories referred to in paragraph 3.5, or under both this Annex 1 and Annex 2, and no amounts shall be included in paragraph 3.5 to the extent that such amounts are recovered under the NIE Energy Supply Licence or otherwise under the Licence or any other licence held by any Related Party or to the extent that the amounts relate to a Related Party Margin.

3. The Maximum Regulated PSO Amount

3.1. Without prejudice to paragraph 7, the Licensee shall with effect from 1 October 2014 use its best endeavours to set its PSO Charges so as to ensure that, in each Regulatory Tariff Year t , the Regulated PSO Amount shall be equal to the Maximum Regulated PSO Amount for that Regulatory Tariff Year calculated in accordance with paragraph 3.2.

3.2. **The Maximum Regulated PSO Amount for the Regulatory Tariff Year - $MPSOT_t$**

3.3. For the purposes of setting tariffs as referred to in paragraph 3.1, the following calculation shall be performed:

$$MPSOT_t = (MPSOR_t + MPSOR_{t+1}) * 0.5$$

Where:

“ $MPSOT_t$ ” means the Maximum Regulated PSO Amount for the Regulatory Tariff Year t ;

“ $MPSOR_t$ ” means the Maximum Regulated PSO Amount for the Regulatory Reporting Year t , calculated in accordance with paragraph 3.4.

- 3.4. The Maximum Regulated PSO Amount for the Regulatory Reporting Year - $MPSOR_t$
- 3.5. For the purposes of paragraph 3.3 and for the purposes of paragraph 5.1.b), the Maximum Regulated PSO Amount for the Regulatory Reporting Year t shall be calculated as follows:

$$MPSOR_t = PPB_t + Supply_t + LB_t + D_t + K_t$$

Where:

- PPB_t means the PPB Amount (whether a positive or negative number) in Regulatory Reporting Year t;
- $Supply_t$ means the NIE Energy Supply Amount (whether a positive or negative number) in Regulatory Reporting Year t;
- LB_t means the Land Bank Amount (whether a positive or negative number) in Regulatory Reporting Year t;
- D_t means the excluded PSO amount in Regulatory Reporting Year t, calculated in accordance with paragraph 4; and
- K_t means the correction factor amount (whether a positive or negative number) calculated in accordance with paragraph 5.

4. The excluded PSO amount - D_t

4.1. For the purposes of this Annex, in each Regulatory Reporting Year t , D_t means the excluded PSO amount, and shall be calculated as follows:

$$D_t = \text{NISEPC}_t + \text{NISEPP}_t + \text{LC}_t + \text{BD}_t + \text{O}_t$$

Where:

- “NISEPC _{t} ” means the reasonable and necessary costs of the energy efficiency programme, in Regulatory Reporting Year t , incurred by the Licensee in;
- a) establishing the arrangements to implement any fund which the Licensee must establish and maintain in accordance with Condition 43 (the “Fund”) for the purpose of subsidising the operation and delivery of improvement measures in accordance with an energy efficiency programme to be known as the NISEP (including, without limitation, the maintenance of all appropriate records of monies held and paid out); and
 - b) the making of payments from the Fund to any Participating Party or Programme Administrator as provided for in any Payment Notice, in accordance with operating procedures which it must also establish and maintain in order to facilitate the prompt payment from the Fund to a Participating Party or Programme Administrator;
- “NISEPP _{t} ” means the energy efficiency programme payments, for the Regulatory Reporting Year t , being equal to the sum of all amounts paid by the Licensee pursuant to Payment Notices for the Regulatory Reporting Year t
- “LC _{t} ” means the reasonable costs incurred by the Licensee, for the Regulatory Reporting Year t , in complying with the requirements imposed on the Licensee under legislation and other legal requirements through which the Directive (or Directive 2003/54/EC) is implemented to the extent such costs are approved by the Authority (whether such approval is given prior to or after the coming into effect of this Annex);
- “BD _{t} ” means any amount that comes to be treated as Uncollected Revenue, in the Regulatory Reporting Year t , less any amount that is paid to the Licensee in that Regulatory Reporting Year t in respect of an amount that was previously treated as Uncollected Revenue; and
- “O _{t} ” means any other amounts, in respect of the Regulatory Reporting Year t , requested by the Licensee and approved by the Authority (whether such approval is given prior to or after the coming into effect of this Annex).

5. The correction factor amount - K_t

5.1. For the purposes of paragraph 3.5, the correction factor amount (K_t) shall be calculated as follows:

a) in Regulatory Reporting Year $t = 2013$:

$$K_t = K_{\text{opening}}$$

Where:

K_{opening} means the closing K factor at 31st March 2012 and has the value of £4.466 million.

b) in all other Regulatory Reporting Years K_t shall be calculated as follows:

$$K_t = (MPSOR_{t-1} - APSOR_{t-1}) * (1 + I_t)$$

Where:

MPSOR_{t-1} means the Maximum Regulated PSO Amount, in Regulatory Reporting Year $t-1$ calculated in accordance with paragraph 3.5;

APSOR_{t-1} means the actual Regulated PSO Amount recovered through PSO Charges in Regulatory Reporting Year $t-1$, save that for each Regulatory Reporting Year $t=2013$ & $t=2014$ actual Regulated PSO Amount will be decreased by £12 million; and

I_t means the Average Specified Rate.

6. Information to be provided to the Authority in connection with the PSO Charge Restriction Conditions

6.1. Introduction

6.2. In addition to, and without prejudice to, the provisions of Condition 8 of the Licence, the Licensee shall, in relation to the PSO Charge Restriction Conditions, furnish the Authority with Specified Information as set out in this paragraph 6.

6.3. Specified Information

6.4. The Licensee shall, subject to other provisions set out in the Licence and in this paragraph 6, provide to the Authority the following Specified Information:

- a) forecasts and/or estimates in accordance with paragraph 6.6, with regards to the setting of PSO Charges;
- b) any explanation and/or statement as to whether or not the provisions at paragraph 6.11 are likely to be applicable, with regards to the restriction of PSO Charges;
- c) information which provides a reconciliation of the values published in the accounting statements (referred to at Condition 2 of the Licence) to the outturn values which take the place of the of the formula at 3.5;
- d) information on historical inflows and outflows, including all data used in the calculation of the Licensee's Maximum Regulated PSO Amount, in accordance with paragraph 6.15; and
- e) the statutory accounts of any Related Party, in accordance with paragraph 6.18.

6.5. Unless otherwise specified in this Annex or the Licence, the Specified Information listed at paragraph 6.4 shall be submitted:

- a) for the time period as the Authority may reasonably require and as may be specified in directions issued by the Authority;
- b) by a date as the Authority may reasonably require and as may be specified in directions issued by the Authority;
- c) in a format as the Authority may reasonably require and as may be specified in directions issued by the Authority; and
- d) to the relevant employees of the Authority and to the electricity_network_reporting@uregni.gov.uk mailbox or subsequent equivalent mailbox.

6.6. Forecasts / estimates with regards to setting PSO Charges

6.7. Where any change is intended to be made in PSO Charges regulated under paragraph 3, the Licensee shall not later than 14 days prior to the time of publication of such change, provide the Authority with:

NIE Distribution Licence - (extract to show proposed new Annex 1)

- a) a written forecast of the Maximum Regulated PSO Amount, together with its components, in respect of each Regulatory Reporting Year t upon which the intended change would affect;
 - b) a written estimate of the Maximum Regulated PSO Amount, together with its components, in respect of each Regulatory Reporting Year prior to the first Regulatory Reporting Year t upon which the intended change would affect; and
 - c) a written forecast of the over- or under-recovery in all future Regulatory Tariff Years for which the Licensee forecasts an over- or under- recovery.
- 6.8. If within 3 months of the commencement of any Regulatory Tariff Year t the Licensee has not made any such change in charges as is referred to in paragraph 6.7, the Licensee shall provide the Authority with:
- a) a written forecast of the Maximum Regulated PSO Amount, together with its components, in respect of each Regulatory Reporting Year upon which Regulatory Tariff Year t has an effect; and
 - b) a written forecast of the over- or under-recovery in all future Regulatory Tariff Years for which the Licensee forecasts an over- or under- recovery.
- 6.9. Any forecast or estimate provided in accordance with paragraph 6.7 or 6.8 shall be accompanied by such information as regards the assumptions underlying the forecast or estimate as may be necessary to enable the Authority to be satisfied that the forecast or estimate has been properly prepared on a consistent basis.
- 6.10. In addition, any forecast or estimate provided in accordance with paragraph 6.7 or 6.8 shall be published by the Licensee on the Licensee's website.
- 6.11. **Restriction of PSO Charges**
- 6.12. If, in respect of any Regulatory Tariff Year, the Regulated PSO Amount exceeds the Maximum Regulated PSO Amount by more than the Permitted One-Year Percentage, the Licensee shall furnish an explanation to the Authority, and in the next following Regulatory Tariff Year, the Licensee shall not effect any increase in PSO Charges unless it has demonstrated to the reasonable satisfaction of the Authority that the Regulated PSO Amount would not be likely to exceed the Maximum Regulated PSO Amount in that following Regulatory Tariff Year.
- 6.13. If, in respect of any three successive Regulatory Tariff Years, the sum of the amounts by which the Regulated PSO Amount has exceeded the Maximum Regulated PSO Amount, is more than the Permitted Three-Year Percentage, then in the next following Regulatory Tariff Year the Licensee shall, if required by the Authority, adjust its PSO Charges such that the Regulated PSO Amount would not be likely, in the judgement of the Authority, to exceed the Maximum Regulated PSO Amount in that next following Regulatory Tariff Year.

NIE Distribution Licence - (extract to show proposed new Annex 1)

- 6.14. Not later than six weeks after the commencement of each Regulatory Tariff Year, the Licensee shall send to the Authority a statement as to:
- a) whether or not the provisions of:
 - i. paragraph 6.12 are likely to be applicable in consequence of the Regulated PSO Amount in the preceding Regulatory Tariff Year; and/ or
 - ii. paragraph 6.13 are likely to be applicable in consequence of the Regulated PSO Amount in the preceding 3 Regulatory Tariff Years; and
 - b) the Licensee's best estimate as to the cumulative over- or under- recovery at the last day of the most recently ended Regulatory Tariff Year.
- 6.15. **Historical data used in the calculation of the Licensee's Maximum Regulated PSO Amount**
- 6.16. The Licensee shall, furnish the Authority with all historical data used to calculate the Maximum Regulated PSO Amount as set out in the formulas in this Annex.
- 6.17. The Licensee shall, for the period from 1 April 2012, publish, on the Licensee's website and in the Licensee's accounting statements referred to in Condition 2 of the Licence, the data referred to at 6.16.
- 6.18. **The statutory accounts of any Related Party**
- 6.19. The Licensee shall, no later than 10 months after the end of each Regulatory Reporting Year, prepare and submit to the Authority the financial statements of any Related Party, for the Regulatory Reporting Year, with whom the Licensee has had a transaction in that Regulatory Reporting Year.

7. Duration of the charge restriction conditions

- 7.1. Subject to the following paragraphs of this Annex, the PSO Charge Restriction Conditions shall apply so long as the Licence continues in force.
- 7.2. **Disapplication**
- 7.3. The PSO Charge Restriction Conditions shall cease to have effect (in whole or in part, as the case may be) if the Licensee delivers to the Authority a request (a “Disapplication Request”) made in accordance with paragraph 7.5 and:
- a) the Authority agrees in writing to the request; or
 - b) the application of this Annex (or any part of it) is terminated by a notice (a “Disapplication Notice”) given by the Licensee in accordance with paragraph 7.5.c) and not withdrawn.
- 7.4. Save where the Authority agrees otherwise, no disapplication following delivery of a Disapplication Request pursuant to paragraphs 7.3 to 7.9 shall have effect earlier than the date (the “Disapplication Date”) which is the later of:
- a) the date occurring 18 months after delivery of the Disapplication Request; and
 - b) 30 September 2017.
- 7.5. A Disapplication Request pursuant to this paragraphs 7.3 to 7.9 shall:
- a) be in writing addressed to the Authority;
 - b) specify this Annex or any part of it to which the request relates (excluding in either case paragraphs 7.3 to 7.9); and
 - c) state the date from which the Licensee wishes the Authority to agree that the Annex or the specified part of it shall cease to have effect.
- 7.6. A Disapplication Notice pursuant to paragraphs 7.3 to 7.9:
- a) may be given in the circumstances described in either paragraph 7.7 or 7.8;
 - b) may be withdrawn at any time prior to the Disapplication Date; and
 - c) where it is given, shall:
 - i. be in writing addressed to the Authority;
 - ii. specify this Annex or any part of it (which shall comprise only such part as was specified in the Disapplication Request) to which the notice relates;
 - iii. state the date from which the Licensee wishes the notice to take effect, which shall not be earlier than the Disapplication Date.
- 7.7. The circumstances described in this paragraph are that, by the beginning of the period of six months which will end with the Disapplication Date, the Authority has not in response to the Disapplication Request published a decision under Article 14(8) of the Order to modify:

NIE Distribution Licence - (extract to show proposed new Annex 1)

- a) this Annex (or any part of it) to which the request relates; or
- b) paragraphs 7.3 to 7.9, so as to remove the right of the Licensee to give to the Authority a Disapplication Notice in respect of the relevant Disapplication Request.

7.8. The circumstances described in this paragraph are that:

- a) by no later than the beginning of the period of six months which will end with the Disapplication Date, the Authority has in response to the Disapplication Request published a decision of a type referred to in paragraph 7.7 above;
- b) the Licensee has exercised its right to appeal to the CMA against that decision in accordance with Article 14B of the Order;
- c) the CMA has, in respect of the provisions to which the Disapplication Request relates:
 - i. quashed the decision of the Authority under Article 14E(2)(a) of the Order;
 - ii. neither remitted the matter back to the Authority under Article 14E(2)(b) of the Order nor substituted its own decision for that of the Authority under Article 14E(2)(c) of the Order; and
- d) no more than 30 days has elapsed since the date on which the CMA quashed the decision of the Authority.

7.9. A Disapplication Request or Disapplication Notice served under this paragraphs 7.3 to 7.9 may be served in respect of a specified geographic area.

Appendix to Annex 1

Form of Payment Notice

To: Northern Ireland Electricity plc
NISEP Fund Administrator
Fortwilliam House
Edgewater Office Park
Edgewater Road
Belfast
BT3 9JQ

For the attention of []

[Date]

Dear Sir/Madam

Payment Notice in respect of the Northern Ireland Sustainable Energy Programme (“NISEP”)

1 This Payment Notice is given by the Authority pursuant to Condition 43 of the licence to participate in transmission granted to Northern Ireland Electricity plc (“NIE”). Accordingly, a number of defined terms from that Condition are taken to have the same meaning as they have in that Condition for the purpose of this Payment Notice.

2 In this Payment Notice:

“Adjustment” means any change to a previous payment notice including instructions to increase or reduce amounts paid or in respect of refunds made by participating parties to the programme

“Applicable Year” means the year ending [INSERT]

“NISEP Projects” means projects approved by the Authority and designed to promote energy efficiency measures and/or the use of renewable technologies pursuant to NISEP

NIE Distribution Licence - (extract to show proposed new Annex 1)

- 3 The Authority hereby gives notice to NIE to pay [insert name] as [a Participating Party]/[Programme Administrator]* [a sum] / [an Adjustment]* in the amount of £[insert amount] for the purpose of NISEP Projects in the Applicable Year (such amount shall relate to project/scheme costs/incentive payments/programme administrator costs/.
- 4 Payment to the [Participating Party]/[Programme Administrator] identified in paragraph 3 of this Payment Notice shall be made [in advance] / [in arrears]* by [single lump sum payment]/[by way of separate instalments to be paid in accordance with the following paymentschedule]:

Month/Date	£
[]	[]
[]	[]
[]	[]
[]	[]

- 5 NIE is hereby authorised to treat the payments made pursuant to this Payment Notice as excluded PSO costs for the purposes of Annex 1 of its licence.

.....
[Regulatory Manager/ Director /CEO of NIAUR...insert name]
The Northern Ireland Authority for Utility Regulation

* Delete as applicable

Schedule 8 – Proposed Article 14 modifications to Annex 2 of the Distribution Licence

Annex 2 - Distribution Charge Restriction Conditions

1. Definitions

1.1. In this Annex:

- “Average Specified Rate”** means the arithmetic mean of the daily base rates of Danske Bank Limited (or such other bank as the Authority shall specify from time to time) current from time to time during the period in respect of which the calculation falls to be made;
- “Connection Charging Statement”** means the statement of charges for connection to the Licensee’s distribution system as prepared by the Licensee and approved by the Authority under Condition 32 hereof which is effective for the relevant period. See distribution statement effective from 13th October 2014 here: <http://www.nie.co.uk/documents/Connections/NIE-Distribution-Connection-Charging-Statement-Oct.aspx>
- “Deferred Revenue Expenditure”** means expenditure which is classified as capital expenditure for accounting purposes (because it gives rise to economic benefits over more than one year) but is not capital expenditure for tax purposes (because it does not create a sufficiently identifiable asset). For example, Deferred Revenue Expenditure may include the replacement of age-expired network components when (for tax purposes) the network as a whole is seen as a single asset.
- “Demonstrably Inefficient or Wasteful Expenditure”** means expenditure which the Authority has (giving the reasons for its decision) determined to be demonstrably inefficient and/or wasteful, given the information reasonably available to the Licensee at the time that the Licensee made the relevant decision about that expenditure. For the avoidance of doubt, no expenditure is Demonstrably Inefficient

	<p>or Wasteful Expenditure simply by virtue of a statistical or quantitative analysis that compares very aggregated measures of the Licensee's costs with the costs of other companies.</p>
<p>“Distribution Charge Restriction Conditions”</p>	<p>means the paragraphs set out in this Annex 2 as from time to time modified or replaced in accordance therewith or pursuant to Article 14, 14A, 14E or 18 of the Order, under the Energy Order, under the SEM Order or under the Directive Regulations.</p>
<p>“Distribution Charges”</p>	<p>means all charges for the provision of Distribution Services and for Wheeling, but excluding charges levied under the PSO Agreements (as defined in Condition 24A).</p>
<p>“Distribution Services”</p>	<p>means all services provided as part of the Distribution Business other than Excluded Services.</p>
<p>“Enduring Solution”</p>	<p>means the IT system introduced to support competition in the electricity retail market in Northern Ireland, intended to aid complete separation of the customer billing processes and legacy IT systems previously shared by the Licensee and Power NI (in its capacity as an electricity supplier), and to provide a level playing field for all suppliers, unrestricted switching capability for customers and support of global aggregation for settlement of the all-island wholesale market.</p>
<p>“ERDC”</p>	<p>means early retirement deficit contributions.</p>
<p>“Excluded Services”</p>	<p>means those services provided as part of the Distribution Business which in accordance with the principles set out in paragraph 13 fall to be treated as Excluded Services.</p>
<p>“Final Determination”</p>	<p>means the report of the Competition Commission (the statutory predecessor to the Competition and Markets Authority) in relation to the Licensee's</p>

Distribution Charge Restriction Conditions, as presented to the Authority on 26 March 2014, taken together with its supporting documentation.

“Fuel Security Event”

means a Fuel Security Event as defined in the Northern Ireland Fuel Security Code, published by the Department of Enterprise, Trade and Investment.

“HMRC”

means HM Revenues and Customs or, in relation to any function of that body referred to in this Annex, such other person as may (whether in relation to the United Kingdom as a whole or Northern Ireland) be allocated the role of performing that function after the commencement of RP5.

“Licensee’s Allowed Distribution Related Security Costs”

means any cost incurred by the Distribution Business and approved by the Authority as being an allowed security cost in accordance with the Northern Ireland Fuel Security Code (as that term is therein defined), but excluding any cost which forms part of:

- a) the allowed power procurement business related security costs; or
- b) the payments to generators in relation to services provided to the power procurement business during Fuel Security Events.

“Maximum Regulated Distribution Revenue”

means the maximum Regulated Distribution Revenue that the Licensee is entitled to recover in:

- a) the Regulatory Tariff Year (as calculated in accordance with the formula at paragraph 3.2);
- b) the Regulatory Reporting Year (as calculated in accordance with the formula at paragraph 3.4); or

- c) the 6 months ending 30 September 2017.

“Metering”	means in relation to any quantity distributed, Metering equipment required pursuant to and as defined in the Grid Code, and ‘Meter’ shall be construed accordingly.
“Permitted One-Year Percentage”	means 4% of the Maximum Regulated Distribution Revenue.
“Permitted Three-Year Percentage”	means 5% of the Maximum Regulated Distribution Revenue in the second of the Regulatory Tariff years.
“Provision of Law”	means the following, to the extent that it applies to or is binding on the Licensee: <ul style="list-style-type: none">a) any enactment;b) any regulation made by the Council or the Commission of the European Union or any decision taken by the Commission;c) any interpretation of law, or finding, contained in any judgment given by a court or tribunal of competent jurisdiction in respect of which:<ul style="list-style-type: none">i. the period for making an appeal has expired and;ii. no superior court or tribunal has reached a contrary interpretation or finding; andd) any direction of a competent authority other than the Authority or the Department.
“Regulatory Asset Base”	means one of the regulatory asset bases identified at paragraph 4.1.
“Regulatory Instructions and	means the Regulatory Instructions and Guidance provided by the Authority, including guidance notes,

Guidance (RIGs)”	reporting workbooks, commentary templates and assurance templates, as set out by the Authority, to capture various different types of information and data.
“Regulatory Reporting Year”	means a period of twelve months commencing on 1 April in any year and ending on 31 March in the year following its commencement.
“Regulatory Reporting Year t”	means the Regulatory Reporting Year which ends in year t, and is therefore to be read such that: a reference to ‘ Regulatory Reporting year t = 2013 ’ is to the Regulatory Reporting Year ending on 31 March 2013; a reference to ‘ Regulatory Reporting Year t-1 ’ means the Regulatory Reporting Year immediately preceding Regulatory Reporting Year t; and similar expressions are to be construed accordingly.
“Regulatory Tariff Year”	means a period of twelve months commencing on 1 October in any year and ending on 30 September in the immediately following year.
“Regulatory Tariff Year t”	means the Regulatory Tariff Year which ends in year t, and is therefore to be read such that: a reference to ‘ Regulatory Tariff Year t = 2013 ’ is to the Regulatory Tariff Year ending on 30 September 2013.
“Regulated Distribution Revenue”	means the revenue (measured on an accruals basis) that is derived by the Licensee from Distribution Charges after deduction of value added tax (if any) and any other taxes based directly on the amount of the Distribution Charges.
“Related Party”	means both Affiliates and Related Undertakings of the Licensee as defined in Condition 1 of this licence. An Affiliate or Related Undertaking shall remain as a Related Party for the whole of the price control period even if it is no longer part of the

group due to restructuring.

“Related Party Margin”

The profit or loss recorded on a transaction with an affiliate being the excess or deficit on actual direct costs and indirect costs (excluding financing costs) fairly attributable to the transaction or the charge and the cost of providing that transaction.

For the avoidance of doubt this does not include exceptional items, tax, fines, penalties or the gain or loss on the disposal of assets or investments (of any sort), i.e. it should be the net operating costs level.

Further, the Related Party Margin does not include any transparently calculated element of such a charge that provides for a reasonable allowance for depreciation and return on capital in relation to assets to the extent that these are employed by the Related Party in the provision of services to the Licensee, and is not otherwise reflected in the Licensee’s Maximum Regulated Distribution Revenue, or recoverable through the Licensee’s connection charges.

For Captive Insurance businesses the margin is to be computed based on the captive’s premium income less reinsurance premiums, claims paid out and movements on technical and IBNR reserves attributable to the Licensee’s business only, i.e. usually reported as the profits/loss on the Technical account. Where a captive insures more than the Licensee, then it’s profit/loss should be computed pro rata to the premiums paid by the Licensee to total premium income in the captive for the year and the movements on technical and IBNR reserves not attributable to the Licensee’s business must first be removed.

“Relevant Change of Law”

means any of the following, to the extent that it applies to or is binding on the Licensee:

- a) the application of any Provision of Law

	<p>that did not previously have effect;</p> <p>b) the amendment of or change to any Provision of Law that did previously have effect; and</p> <p>c) the revocation or cessation of any Provision of Law that did previously have effect.</p>
“RP4”	means the period commencing on 1 April 2007 and ending on 31 March 2012.
“RP5”	means the period commencing on 1 April 2012 and ending on 30 September 2017.
“RP6”	means the period commencing on 1 October 2017 and ending on 30 September 2022.
“RPI_t”	means the Retail Prices Index (CHAW: 1987 = 100) published by the Office for National Statistics (or successor body) for the October month in each Regulatory Reporting Year t and is therefore to be read such that: a reference to ‘RPI t = 2010’ is to the RPI figure for October 2009.
“Specified Information”	means information (or a category of information) that is so described or defined at paragraph 12.
“Uncollected Revenue”	means
	<p>a) any amount owed to the Licensee in respect of Regulated Distribution Revenue (other than an amount owed to the Licensee by a system operator, such as SONI Limited), which amount remains unpaid for six months after the date it first fell due for payment or which amount the Licensee deems (in accordance with the payment security policy) to be unrecoverable before the expiry of that six months period; plus the reasonable interest</p>

attributable to such amount calculated in accordance with the payment security policy; and

- b) where the Licensee is not an affiliate of the system operator (such as SONI Limited, a body corporate registered in Northern Ireland under company number NI038715), any amount owed to the Licensee by that system operator in respect of Regulated Distribution Revenue which is to be included in the uncollected revenue amount in accordance with the payment security policy; plus the reasonable interest attributable to such amount, calculated in accordance with the payment security policy.

“Unit”

means a kilowatt hour.

“Wheeled Unit”

means a unit (whether generated inside or outside Northern Ireland) which enters the total system at any point and is delivered to a place outside Northern Ireland.

“Wheeling”

means the transportation of Wheeled Units on any part of the total system.

2. Introductory Provisions

- 2.1. Where, for the purposes of complying with its obligation at paragraph 3.1 in relation to the setting of Distribution Charges, the Licensee forecasts the Maximum Regulated Distribution Revenue for any Regulatory Tariff Year t (or any data relevant to its calculation), it shall:
 - a) have regard to any information notified to it by the Authority; and
 - b) where directed to do so by the Authority, base its forecast on any such information or make it in accordance with such methodology as the Authority may specify in the direction.
- 2.2. Unless the contrary is expressly stated:
 - a) all monetary figures in this Annex are stated in nominal prices; and
 - b) all inputs and calculations for which provision is made in this Annex are to be carried out in nominal prices.
- 2.3. The values marked with an estimation symbol (ϵ) in Table 3, Table 6, Table 7, Table 8, Table 10, Table 12, Table 13 and Appendix 2 are without prejudice to any future licence modifications made or proposed by the Authority to implement a new restriction on the Licensee's Maximum Regulated Distribution Revenue that is effective from 1 October 2017.
- 2.4. For the purposes of this Annex, the provisions of paragraph 3 shall be deemed to apply with effect from the commencement of RP5, so that the Maximum Regulated Distribution Revenue shall be calculated from the commencement of RP5 onwards, notwithstanding paragraph 15.
- 2.5. The Licensee is prohibited, in the period 26 March 2014 to 30 September 2014, from making changes to Distribution Charges.

3. The Maximum Regulated Distribution Revenue

3.1. Without prejudice to paragraph 15, the Licensee shall with effect from 1 October 2014 use its best endeavours to set its Distribution Charges so as to ensure that, in each Regulatory Tariff Year t , the Regulated Distribution Revenue shall be equal to the Maximum Regulated Distribution Revenue for that Regulatory Tariff Year calculated in accordance with paragraph 3.2.

3.2. **The Maximum Regulated Distribution Revenue for the Regulatory Tariff Year - $RP5T_t$**

3.3. For the purposes of setting tariffs as referred to in paragraph 3.1, the following calculation shall be performed:

$$RP5T_t = (RP5R_t + RP5R_{t+1}) * 0.5$$

Where:

“ $RP5T_t$ ” means the Maximum Regulated Distribution Revenue for the Regulatory Tariff Year t ;

“ $RP5R_t$ ” means the Maximum Regulated Distribution Revenue for the Regulatory Reporting Year t , calculated in accordance with paragraph 3.4.

- 3.4. The Maximum Regulated Distribution Revenue for the Regulatory Reporting Year - $RP5R_t$
- 3.5. For the purposes of paragraph 3.3, the Maximum Regulated Distribution Revenue for the Regulatory Reporting Year t shall be calculated as follows:

$$RP5R_t = DEP_t + RET_t + O_t + P_t + COI_t + TAX_t + RPSI_t + K_t$$

Where:

- DEP_t means the depreciation amount in Regulatory Reporting Year t, calculated in accordance with paragraph 4;
- RET_t means the return amount in Regulatory Reporting Year t, calculated in accordance with paragraph 5;
- O_t means the opex amount in Regulatory Reporting Year t, calculated in accordance with paragraph 6;
- P_t means the pension deficit amount in Regulatory Reporting Year t, calculated in accordance with paragraph 7;
- COI_t means the costs of the investigation amount in Regulatory Reporting Year t, calculated in accordance with paragraph 8;
- TAX_t means the tax amount due in Regulatory Reporting Year t, calculated in accordance with paragraph 9;
- $RPSI_t$ means the revenue protection services incentive amount, in Regulatory Reporting Year t, calculated in accordance with paragraph 10; and
- K_t means the correction factor amount (whether a positive or negative number) calculated in accordance with paragraph 11.

4. The Regulatory Asset Bases - RAB_{X_t}

4.1. For the purposes of this Annex, there shall be, as set out in Table 1 below, the following Regulatory Asset Bases:

Table 1 - The Distribution Business Regulatory Asset Bases

RAB name	RAB_X
Distribution RAB	RAB_{DN}
Enduring Solution RAB	RAB_{ES}
Metering RAB	RAB_{MTRN}
Rathlin RAB	RAB_{RT}
FEMO RAB	RAB_{FE}
NI2007 RAB	RAB_{NI}
5 Year D.RAB	RAB_{D5Y}

4.2. In this Annex, each Regulatory Asset Base is identified as a **RAB**, and RAB_X refers to a Regulatory Asset Base for which X represents the suffix assigned to that RAB at paragraph 4.1.

4.3. The Opening Regulatory Asset Base - $ORAB_{X_t}$

4.4. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X , the opening Regulatory Asset Base, $ORAB_{X_t}$, being the value of that Regulatory Asset Base at the beginning of Regulatory Reporting Year t, shall be defined as:

$$ORAB_X = OE_{X_t} + OADD_{X_t}$$

Where:

OE_{X_t} being the opening value of existing assets, calculated in accordance with paragraph 4.5; and

$OADD_{X_t}$ being the opening value of additional assets, calculated in accordance with paragraph 4.13.

4.5. The opening value of existing assets - OE_{X_t}

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- 4.6. For the purposes of this Annex, in respect of Regulatory Reporting Year $t = 2013$, for each RAB_X, the opening value of existing assets ($OE_{X_{2013}}$) shall be calculated as follows:

$$OE_{X_{2013}} = OE_{2010_X_{2013}} * RPI_{2013} / RPI_{2010}$$

Where:

$OE_{2010_X_{2013}}$ is the opening value of existing assets, in a 2010 price base, for each RAB_X and for the Regulatory Reporting Year $t = 2013$, and shall be equal to the amounts specified in Table 2 below.

Table 2 - The Distribution Business opening value of existing assets (£ million, 2010 prices)

RAB_X	$OE_{2010_X_{2013}}$
RAB_DN	782.36
RAB_ES	21.21
RAB_MTRN	14.49
RAB_RT	3.96
RAB_FE	6.12
RAB_NI	19.21
RAB_D5Y	0.00

- 4.7. For the purposes of this Annex, in each Regulatory Reporting Year t other than $t = 2013$, and for each RAB_X the opening value of existing assets (OE_{X_t}) shall be calculated as follows:

$$OE_{X_t} = (CE_{X_{t-1}}) * RPI_t / RPI_{t-1}$$

Where:

CE_{X_t} is the closing value of existing assets, calculated in accordance with paragraph 4.9.

- 4.8. The closing value of existing assets - CE_{X_t}

- 4.9. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X, the closing value of existing assets (CE_{X_t}) being the value of the existing assets in that RAB at the end of Regulatory Reporting Year t , shall be calculated as follows:

$$CE_{X_t} = OE_{X_t} - FDEP_{X_t}$$

Where:

OE_{X_t} is the opening value of existing assets calculated in accordance with paragraph 4.5; and

$FDEP_{X_t}$ is the fixed depreciation amount, calculated in accordance with paragraph 4.11.

4.10. The fixed depreciation amount - $FDEP_{X_t}$

4.11. For the purposes of this Annex, in each Regulatory Reporting Year t , and for each RAB_X , the fixed depreciation amount ($Fdep_{X_t}$) means the amount representing depreciation of assets acquired pre 31 March 2012 and shall be calculated as follows:

$$FDEP_{X_t} = FDEP_{2010_{X_t}} * RPI_t / RPI_{2010}$$

Where:

$FDEP_{2010_{X_t}}$ is the fixed depreciation amount, in a 2010 price base, for each RAB_X and for each Regulatory Reporting Year t , and shall be equal to the amounts specified in Table 3 below.

Table 3 - The Distribution Business fixed depreciation amount per RAB_X for each Regulatory Reporting Year t (£ million, 2010 prices)¹

Year \ RAB_X	t=2013	t=2014	t=2015	t=2016	t=2017	t=2018
RAB_{DN}	40.47	39.11	37.64	36.37	34.95	17.02 + 17.02e
RAB_{ES}	2.12	2.12	2.12	2.12	2.12	1.06 + 1.06e
RAB_{MTRN}	1.63	1.63	1.63	1.63	1.63	0.82 + 0.82e
RAB_{RT}	0.14	0.14	0.14	0.14	0.14	0.07 + 0.07e
RAB_{FE}	2.72	2.72	0.68	-	-	-
RAB_{NI}	6.83	6.83	3.49	2.07	-	-

4.12. The opening value of additional assets - $OADD_{X_t}$

4.13. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X , the opening value of additional assets ($OADD_{X_t}$) shall be:

- a) 0 (zero) in Regulatory Reporting Year $t = 2013$; and
- b) in each subsequent Regulatory Reporting Year t , calculated as follows:

¹ See paragraph 2.3 regarding figures in this table marked with an estimation symbol (e).

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$$\text{OADD}_X_t = (\text{CADD}_X_{t-1}) * \text{RPI}_t / \text{RPI}_{t-1}$$

Where:

CADD_X_{t-1} means the closing value of additional assets in the previous Regulatory Reporting Year, calculated in accordance with paragraph 4.15.

4.14. The closing value of additional assets - CADD_X_t

4.15. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X , the closing value of additional assets (CADD_X_t) shall be calculated as follows:

$$\text{CADD}_X_t = \text{OADD}_X_t + \text{QCE}_X_t - \text{DIQCE}_X_t + \text{PTCE}_X_t - \text{DIPTCE}_X_t - \text{DEPADD}_X_t - \text{CD}_X_t + \text{CI}_X_t$$

Where:

OADD_X_t means the opening value of additional assets calculated in accordance with paragraph 4.13;

QCE_X_t means the qualifying capex expenditure amount, calculated in accordance with paragraph 4.17;

DIQCE_X_t means the demonstrably inefficient qualifying capex expenditure amount, calculated in accordance with paragraph 4.19;

PTCE_X_t means the pass through capex expenditure amount, calculated in accordance with paragraph 4.21;

DIPTCE_X_t means the demonstrably inefficient pass through capex expenditure amount, calculated in accordance with paragraph 4.25;

DEPADD_X_t means the depreciation amount for additional assets, calculated in accordance with paragraph 4.27;

CD_X_t means the capex disposal amount, calculated in accordance with paragraph 4.30; and

CI_X_t means the capex incentive amount, calculated in accordance with paragraph 4.32.

4.16. The qualifying capex expenditure amount - QCE_X_t

4.17. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X , the qualifying capex expenditure amount (QCE_X_t) shall:

a) be the value of capex incurred by the Licensee (excluding PTCE_X_t) reasonably allocated or attributed to:

i. the Distribution Business;

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- ii. the Regulatory Reporting Year t; and
 - iii. RAB_X; and
- b) exclude any amounts reasonably allocated or attributed to any of the following:
- i. pension deficit repair contributions
 - ii. the net costs (or net contributions) relating to: activities or services subject to the Licensee's connection charges such that the exclusion is consistent with the Licensee's Connection Charging Statement; or any other activities or services that are treated as Excluded Services for the purpose of the restriction on the Licensee's Maximum Regulated Distribution Revenue;
 - iii. any costs recharged by the Licensee to associated businesses or related parties;
 - iv. any Related Party Margin that is charged to the Licensee by a Related Party;
 - v. any costs incurred by the Licensee as part of the PSO Agreement or otherwise recoverable under the restriction on the Licensee's PSO Charges;
 - vi. costs of external advisers incurred by the Licensee in relation to the Competition Commission inquiry which resulted in the Final Determination; and
 - vii. other costs of any description which the Authority may determine from time to time are manifestly unreasonable to include in the qualifying capex expenditure amount.

4.18. Demonstrably inefficient qualifying capex expenditure - DIQCE_{X_t}

4.19. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X, demonstrably inefficient qualifying capex expenditure (DIQCE_{X_t}) shall be the part (if any) of QCE_{X_t} that the Authority determines to be Demonstrably Inefficient or Wasteful Expenditure.

4.20. The pass through capex expenditure amount - PTCE_{X_t}

4.21. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X, the pass through capex expenditure amount (PTCE_{X_t}), shall:

- a) be the value of capex incurred by the Licensee (excluding QCE_{X_t}) reasonably allocated or attributed to:
 - i. the Distribution Business;
 - ii. the Regulatory Reporting Year t; and
 - iii. RAB_X; and

b) be calculated as follows:

$$PTCE_{Xt} = CLD_{Xt} + CC_{Xt}$$

Where:

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CLD_{X_t} means the capex legacy Dt amount calculated in accordance with paragraph 4.23; and

CC_{X_t} means the capex connections amount in Regulatory Reporting Year t and for each RAB_X, being the net costs (or net contributions) relating to activities or services subject to the Licensee's connection charges such that the inclusion is consistent with the Licensee's Connection Charging Statement as approved by the Authority, and where contributions from connecting parties are included on a cash basis. The capex connections amount shall exclude the cost of alterations to existing connections and shall only include costs of the following types of connection:

- i. new domestic and smaller businesses eligible for a subsidy and where the application for connection was prior to 1st October 2012;
- ii. housing sites with 12 or more domestic premises; ~~and~~
- ~~iii.~~ approved generation cluster infrastructure; ~~and~~
- ~~iii.~~ iv. all other connections governed by the Licensee's Connection Charging Statement.

4.22. **The capex legacy Dt amount - CLD_{X_t}**

4.23. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X, CLD_{X_t} is the capex legacy D_t amount incurred by the Licensee that the Authority determines, insofar as the Licensee has incurred these costs in line with the original approval terms, for each of the items referenced in Table 4 below:

Table 4 - The Distribution Business capex legacy Dt items (£ million, 2010 prices)

Legacy Dt items	Approval reference date	Total maximum RP5 spend
33kV reinforcement	21 October 2013	1.9
Enduring Solution project	18 June 2013	5.9

4.24. **Demonstrably inefficient pass through capex expenditure - DIPTCE_{X_t}**

4.25. For the purposes this Annex, in each Regulatory Reporting Year t and for each RAB_X, demonstrably inefficient pass through capex expenditure (DIPTCE_{X_t}) shall be the part (if any) of PTCE_{X_t} that the Authority determines to be Demonstrably Inefficient or Wasteful Expenditure.

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4.26. The depreciation amount for additional assets - $DEPADD_{X_t}$

4.27. For the purposes of paragraph 4.15, in each Regulatory Reporting Year t and for each RAB_X , the depreciation amount for additional assets ($DEPADD_{X_t}$) shall:

a) in Regulatory Reporting Year $t=2013$, be calculated as follows:

$$DEPADD_{X_t} = 0.5 * DEPN_{X_t}$$

b) in each other Regulatory Reporting Year t , provided that the cumulative value of $DEPADD_{X_t}$ over RP5 does not exceed the value of the original net asset cost (especially for net asset additions to RABs RAB_{T5Y} and RAB_{D5Y} in year $t = 2013$) be calculated as follows:

$$DEPADD_{X_t} = 0.5 * DEPN_{X_t} + (DEPADD_{X_{t-1}} + 0.5 * DEPN_{X_{t-1}}) * RPI_t / RPI_{t-1}$$

4.28. For the purposes of paragraph 4.27, $DEPN_{X_t}$ is the full year depreciation for net assets added to RAB_X in Regulatory Reporting Year t and shall be calculated as follows:

$$DEPN_{X_t} = (QCE_{X_t} - DIQCE_{X_t} + PTCE_{X_t} - DIPTCE_{X_t} - CD_{X_t} + CI_{X_t}) * DEPR_X$$

Where:

QCE_{X_t} means the qualifying capex expenditure amount, calculated in accordance with paragraph 4.17;

$DIQCE_{X_t}$ means the demonstrably inefficient qualifying capex expenditure amount, calculated in accordance with paragraph 4.19;

$PTCE_{X_t}$ means the pass through capex expenditure amount, calculated in accordance with paragraph 4.21;

$DIPTCE_{X_t}$ means the demonstrably inefficient pass through capex expenditure amount, calculated in accordance with paragraph 4.25;

CD_{X_t} means the capex disposal amount, calculated in accordance with paragraph 4.30;

CI_{X_t} means the capex incentive amount, calculated in accordance with paragraph 4.32; and

$DEPR_X$ is the depreciation rate for each RAB_X as set out in Table 5 below:

Table 5 - The Distribution Business depreciation rate for each RAB_X

RAB_X	Depreciation rate
RAB_{DN}	3%
RAB_{ES}	10%

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RAB_MTRN	6.66%
RAB_RT	3%
RAB_FE	10%
RAB_NI	10%
RAB_D5Y	20%

4.29. The capex disposal amount - CD_{X_t}

4.30. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X , the capex disposal amount (CD_{X_t}) shall be calculated as follows:

$$CD_{X_t} = OCD_{X_{t-5}} * RPI_t / RPI_{t-5}$$

Where:

OCD_{X_t} means the outturn capex disposal amount, during Regulatory Reporting Year t , the value of which constituted part of RAB_X , being the proceeds of the disposal of any relevant asset/s (including Land, Buildings, Plant, Equipment, but not comprising Land Bank premises or scrap) minus any costs of such disposal that were reasonably incurred by the Licensee.

4.31. The capex incentive amount - CI_{X_t}

4.32. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X , the capex incentive amount (CI_{X_t}) is a sum designed to share equally between the Licensee and customers the value of any outperformance or underperformance of the Licensee against its capex allowances and shall be calculated as follows:

$$CI_{X_t} = (AC_{X_t} + ACIA_{X_t} + ACCOL_{X_t} + ACES_{X_t} - (QCE_{X_t} - DIQCE_{X_t})) * 50\%$$

Where:

AC_{X_t} is the allowed capex as set out at paragraph 4.34 (and paragraph 4.36 in the case of AC_{MTRN_t});

$ACIA_{X_t}$ is the allowed capex (if any) in respect of Regulatory Reporting Year t , for injurious affectation claims, that the Authority determines to be appropriate

for the Licensee to recover, where X corresponds to the suffix which is assigned to RAB_X at paragraph 4.1;

- ACCOL_X_t** is the allowed capex (if any) for changes of law, in an amount determined by the Authority to be appropriate in accordance with paragraph 4.45;
- ACES_X_t** is the allowed capex (if any) in respect of Regulatory Reporting Year t, for the Enduring Solution system, being the additional amount that the Authority determines to be appropriate for the Licensee to recover in respect of significant changes in the specification of the service that the Licensee is required to provide in relation to the Enduring Solution market opening system, where X corresponds to the suffix which is assigned to RAB_X at paragraph 4.1;
- QCE_X_t** is the qualifying capex expenditure amount determined in accordance with paragraph 4.16; and
- DIQCE_X_t** means the demonstrably inefficient qualifying capex expenditure amount calculated in accordance with paragraph 4.19.

4.33. **Allowed capex - AC_X_t**

4.34. For the purposes of this Annex, in each Regulatory Reporting Year t, and for each RAB_X other than RAB_MTRN, the allowed capex (AC_X_t) amounts shall be calculated as follows:

$$AC_X_t = AC_2010_X_t * RPI_t / RPI_{2010}$$

Where:

AC_2010_X_t is the allowed capex amount, in a 2010 price base, for each RAB_X and for each Regulatory Reporting Year t, and shall be equal to the amounts specified in Table 6 below.

Table 6 - The Distribution Business allowed capex per RAB_X for each Regulatory Reporting Year t (£ million, 2010 prices)²

Year \ RAB_X	t=2013	t=2014	t=2015	t=2016	t=2017	t=2018
RAB_DN	41.62	44.10	58.01	57.48	57.13	28.32 + 28.32 ^e
RAB_D5Y	7.03	8.70	6.94	6.87	6.83	3.39 + 3.39 ^e

4.35. **Allowed capex for Metering RAB - AC_MTRN_t**

² See paragraph 2.3 regarding figures in this table marked with an estimation symbol (e).

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4.36. For the purposes of this Annex, in each Regulatory Reporting Year t and for RAB_MTRN, the allowed capex (AC_MTRN_t) shall be calculated as follows:

$$AC_X_t = FMFA_t + (SMFA_t + MVA_t) * RPEPF_t$$

Where:

$FMFA_t$ means the first metering fixed allowance, in Regulatory Reporting Year t , and shall be calculated in accordance with paragraph 4.38;

$SMFA_t$ means the second metering fixed allowance, in Regulatory Reporting Year t , and shall be calculated in accordance with paragraph 4.40;

MVA_t means the metering volume driven allowance, in Regulatory Reporting Year t , and shall be calculated in accordance with paragraph 4.42; and

$RPEPF_t$ is the real price effect & productivity factor for each Regulatory Reporting Year t , and shall be calculated in accordance with paragraph 4.44.

4.37. **First metering fixed allowance ($FMFA_t$)**

4.38. For the purposes of paragraph 4.36, the first metering fixed allowance ($FMFA_t$) shall be calculated as follows:

$$FMFA_t = FMFA_{2010_t} * RPI_t / RPI_{2010}$$

Where:

$FMFA_{2010_t}$ means the first metering fixed allowance amount, in a 2010 price base, for each Regulatory Reporting Year t , and shall be equal to the amounts specified in specified in Table 7 below.

Table 7 - The Distribution Business first metering fixed allowance for each Regulatory Reporting Year t (£ million, 2010 prices)³

Year	t=2013	t=2014	t=2015	t=2016	t=2017	t=2018
Term						
First metering fixed allowance ($FMFA_{2010_t}$)	0.623	0.617	0.611	0.606	0.602	0.298 + 0.298e

4.39. **Second metering fixed allowance ($SMFA_t$)**

4.40. For the purposes of paragraph 4.36, the second metering fixed allowance ($SMFA_t$) shall be calculated as follows:

$$SMFA_t = SMFA_{2010_t} * RPI_t / RPI_{2010}$$

³ See paragraph 2.3 regarding figures in this table marked with an estimation symbol (e).

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Where:

SMFA_{2010_t} means the first metering fixed allowance amount, in a 2010 price base, for each Regulatory Reporting Year t, and shall be equal to the amounts specified in specified in Table 8 below.

Table 8 - The Distribution Business second metering fixed allowance for each Regulatory Reporting Year t (£ million, 2010 prices)⁴

Year	t=2013	t=2014	t=2015	t=2016	t=2017	t=2018
Second metering fixed allowance (SMFA _{2010_t})	0.250	0.250	0.680	0.330	0.330	0.165 + 0.165e

4.41. Metering volume driven allowance (MVA_t)

4.42. For the purposes of paragraph 4.36, the metering volume driven allowance (MVA_t) shall be calculated as follows:

$$MVA_t = \sum_{All_C} (MV_{C_t} * MAU_{2010_C_t}) * RPI_t / RPI_{2010}$$

Where:

$$\sum_{All_C}$$

means the summation of each metering category C listed in Table 9 below;

MV_{C_t} means the volume of Metering units installed, in respect of Regulatory Reporting Year t, as reported to the Authority by the Licensee, for each category C listed in Table 9 below; and

MAU_{2010_{C_t}} is the metering allowance unit cost, in a 2010 price base, in respect of Regulatory Reporting Year t, for each metering category C listed in Table 9 below:

Table 9 - The Distribution Business metering allowance unit cost for each metering category C (2010 prices)

Metering category C	Metering allowance unit cost (MAU _{2010_{C_t}}) ⁵
Certification	£0 (zero) in Regulatory Reporting Years t = 2013 and t = 2014;

⁴ See paragraph 2.3 regarding figures in this table marked with an estimation symbol (e).

⁵ For the avoidance of doubt the reference to 'each other Regulatory Reporting Year t' in this table is without prejudice to any future licence modifications made or proposed by the Authority to implement a new restriction on the Licensee's Maximum Regulated Distribution Revenue that is effective from 1 October 2017.

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	£23.72 in each other Regulatory Reporting Year t.
Recertification	£0 (zero) in Regulatory Reporting Years t = 2013 and t = 2014; £23.72 in each other Regulatory Reporting Year t.
Commercial recertification	£0 (zero) in Regulatory Reporting Years t = 2013 and t = 2014; £242.00 in each other Regulatory Reporting Year t.
Keypad recertification	£0 (zero) in Regulatory Reporting Years t = 2013 and t = 2014; £76.51 in each other Regulatory Reporting Year t.
Keypad other	£72.00
SOSA	£27.80
Commercial	£205.00

4.43. The real price effect & productivity factor (RPEPF_t)

4.44. For the purposes of paragraph 4.36, the real price effect & productivity factor (RPEPF_t) shall, for each Regulatory Reporting Year t shall be equal to the values set out in Table 10 below.

Table 10 - The Distribution Business real price effect & productivity factor for each Regulatory Reporting Year t⁶

Year	Real price effect & productivity factor (RPEPF _t)
t=2013	0.978000
t=2014	0.968220
t=2015	0.959506
t=2016	0.950870
t=2017	0.945165
t=2018	0.936659 or 0.936659e

4.45. The allowed capex amount for changes of law - ACCOL_{X_t}

4.46. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X, the allowed capex amount for changes of law (ACCOL_{X_t}), being the Relevant Change of Law

⁶ See paragraph 2.3 regarding figures in this table marked with an estimation symbol (e).

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capex amount (being a positive or negative figure), determined by the Authority, for the purposes of this paragraph, in accordance with paragraphs 4.47 to 4.50.

4.47. For the purposes of paragraph 4.46, the calculation of $ACCOL_X_t$ shall occur when the Authority has determined that:

- a) there has been or will be a Relevant Change of Law;
- b) there has been or will be an amount (whether a positive or negative figure) that is directly attributable to the Relevant Change of Law; and
- c) having regard to all the circumstances, it is appropriate to include the amount within the calculation of $ACCOL_X_t$ in order to ensure that the financial position and performance of an efficient Licensee will be, so far as is reasonably practicable, the same as if the Relevant Change of Law had not taken place.

4.48. The Authority may make a determination in accordance with paragraph 4.47:

- a) on an application made to it by the Licensee; or
- b) otherwise, following consultation with the Licensee.

4.49. An application made to the Authority by the Licensee pursuant to paragraph 4.47 shall contain or be accompanied by all relevant details of the anticipated cost or revenue, and such other information as the Authority may require and, unless the Authority otherwise consents, may not be given later than the first day of April in the year immediately preceding the first of the Regulatory Reporting Years in respect of which the Licensee wishes that cost or revenue to be included in the calculation of $ACCOL_X_t$.

4.50. Where the Authority determines that an anticipated cost or revenue is appropriate for inclusion in the calculation of $ACCOL_X_t$ in one or more Regulatory Reporting Years, it shall specify the value to be attributed to that cost or revenue in respect of each Regulatory Reporting Year.

4.51. **The depreciation amount - DEP_t**

4.52. For the purposes of this Annex, in each Regulatory Reporting Year t , the depreciation amount (DEP_t) shall be calculated as follows:

$$DEP_t = \sum_{AII\text{RAB}_X} (DEPADD_X_t + FDEP_X_t)$$

Where:

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$$\sum_{AllRAB_X}$$

means the summation of the values for all Regulatory Asset Bases;

DEPADD_{X_t} means the depreciation amount for additional assets for each RAB_X, calculated in accordance with paragraph 4.26; and

FDEP_{X_t} means the fixed depreciation amount for each RAB_X, calculated in accordance with paragraph 4.11.

5. The return amount - RET_t

5.1. For the purposes of this Annex, in Regulatory Reporting Year t , the return amount (RET_t) is calculated as follows:

$$RET_t = \left(\sum_{AllRAB_X} (ORAB_{X_t} + CRAB_{X_t}) / 2 \right) * AVWACC_t$$

Where:

\sum_{AllRAB_X} means the summation of the values for every Regulatory Asset Base, RAB_X ;

$ORAB_{X_t}$ means the opening Regulatory Asset Base in respect of each RAB_X in Regulatory Reporting Year t , has the value established in accordance with paragraph 4.4;

$CRAB_{X_t}$ means the closing Regulatory Asset Base in respect of each RAB_X in Regulatory Reporting Year t , and is equal to:

$$CE_{X_t} + CADD_{X_t}$$

Where:

CE_{X_t} is the closing value of existing assets, and has the value calculated in accordance with paragraph 4.9; and

$CADD_{X_t}$ is the closing value of additional assets, and has the value calculated in accordance with paragraph 4.15.

$AVWACC_t$ means the adjusted vanilla weighted average cost of capital in Regulatory Reporting Year t , and shall be calculated as follows:

$$AVWACC_t = \frac{VWACC_t}{\sqrt{(1 + VWACC_t)}}$$

Where:

$VWACC_t$ means the vanilla weighted average cost of capital in Regulatory Reporting Year t and has a value equal to 4.10%.

6. The opex amount - O_t

6.1. For the purposes of paragraph 3.5, in each Regulatory Reporting Year t , the opex amount (O_t) shall be calculated as follows:

$$O_t = QOE_t - DIQOE_t + PTOE_t - DIPTOE_t + OI_t$$

Where:

- QOE_t means the qualifying opex expenditure amount, calculated in accordance with paragraph 6.3;
- $DIQOE_t$ means the demonstrably inefficient qualifying opex expenditure amount, calculated in accordance with paragraph 6.5;
- $PTOE_t$ means the pass through opex expenditure amount, calculated in accordance with paragraph 6.7;
- $DIPTOE_t$ means the demonstrably inefficient pass through opex expenditure amount, calculated in accordance with paragraph 6.11; and
- OI_t means the opex incentive amount in Regulatory Reporting Year t , calculated in accordance with paragraph 6.13.

6.2. The qualifying opex expenditure amount - QOE_t

6.3. For the purposes of this Annex, in each Regulatory Reporting Year t , the qualifying opex expenditure amount (QOE_t), shall:

- a) be the value of opex incurred by the Licensee (excluding $PTOE_t$) reasonably allocated or attributed to:
 - i. the Distribution Business; and
 - ii. the Regulatory Reporting Year t ; and
- b) exclude any amounts reasonably allocated or attributed to any of the following:
 - i. pension deficit repair contributions;
 - ii. the net costs (or net contributions) relating to: activities or services subject to the Licensee's connection charges such that the exclusion is consistent with the Licensee's Connection Charging Statement; or any other activities or services that are treated as Excluded Services for the purpose of the restriction on the Licensee's Maximum Regulated Distribution Revenue;
 - iii. any costs recharged by the Licensee to associated businesses or related parties;
 - iv. any Related Party Margin that is charged to the Licensee by a Related Party;
 - v. any costs incurred by the Licensee as part of the PSO Agreement or otherwise recoverable under the restriction on the Licensee's PSO Charges;

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- vi. costs of external advisers incurred by the Licensee in relation to the Competition Commission inquiry which resulted in the Final Determination; and
- vii. other costs of any description which the Authority may determine from time to time are manifestly unreasonable to include in the qualifying opex expenditure amount.

6.4. Demonstrably inefficient qualifying opex expenditure - $DIQOE_t$

6.5. For the purposes this Annex, in each Regulatory Reporting Year t , $DIQOE_t$ shall be the part (if any) of QOE_t that the Authority determines to be Demonstrably Inefficient or Wasteful Expenditure.

6.6. Pass through opex expenditure amount - $PTOE_t$

6.7. For the purposes of this Annex, in each Regulatory Reporting Year t , the pass through opex expenditure amount ($PTOE_t$) shall:

- a) be the value of opex incurred by the Licensee (excluding QOE_t) reasonably allocated or attributed to:
 - i. the Distribution Business; and
 - ii. the Regulatory Reporting Year t ; and
- b) be calculated as follows:

$$PTOE_t = OLF_t + OLD_t + OC_t$$

Where:

OLF_t is the opex licence fee amount in Regulatory Reporting Year t , being the licence fee apportioned or allocated to or required from the Licensee under Condition 7 of this Licence;

OLD_t is the opex legacy D_t amount, calculated in accordance with paragraph 6.9; and

OC_t means the opex connections amount in Regulatory Reporting Year t , being the net costs (or net contributions) relating to activities or services subject to the Licensee's connection charges such that the inclusion is consistent with the Licensee's Connection Charging Statement as approved by the Authority, and where contributions from connecting parties are included on a cash basis. The opex connections amount shall exclude the cost of alterations to existing connections and shall only include costs of the following types of connection:

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- i. new domestic and smaller businesses eligible for a subsidy and where the application for connection was prior to 1st October 2012;
- ii. housing sites with 12 or more domestic premises; ~~and~~
- iii. approved generation cluster infrastructure; ~~and~~
- iii-iv. all other connections governed by the Licensee's Connection Charging Statement.

6.8. The opex legacy D_t amount - OLD_t

6.9. For the purposes of this Annex, in each Regulatory Reporting Year t , OLD_t is the opex legacy D_t amount incurred by the Licensee that the Authority determines, insofar as the Licensee has incurred these costs in line with the original approval terms, for each of the items referenced in Table 11 below:

Table 11 - The Distribution Business opex legacy D_t amounts (2010 prices)

Legacy D_t items	Approval reference date(s)	Total maximum RP5 spend
Network Management System	29 May 2012 and 28 Jan 2013	£3.3 million
Smart Grid trial	10 June 2011	£0.1 million
Market opening legacy systems cost	19 June 2012	£0.5 million
Enduring Solution - transitional costs	24 January 2013	£0.7 million
Enduring Solution project	18 June 2013	£0.2 million

6.10. Demonstrably inefficient pass through opex expenditure - $DIPTOE_t$

6.11. For the purposes this Annex, in each Regulatory Reporting Year t , $DIPTOE_t$ shall be the part (if any) of $PTOE_t$ that the Authority determines to be Demonstrably Inefficient or Wasteful Expenditure.

6.12. The opex incentive amount - OI_t

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6.13. For the purposes of this Annex, in each Regulatory Reporting Year t , the opex incentive amount (OI_t) is a sum designed to share equally between the Licensee and customers the value of any outperformance or underperformance of the Licensee against its opex allowances and shall be calculated as follows:

$$OI_t = (AO_t + AOO_t - (QOE_t - DIQOE_t)) * 50\%$$

Where:

AO_t is the allowed opex amount calculated in accordance with paragraph 6.15;

AOO_t is the allowed opex other amount calculated in accordance with paragraph 6.17;

QOE_t is the qualifying opex expenditure amount calculated in accordance with paragraph 6.3; and

$DIQOE_t$ is the demonstrably inefficient qualifying opex expenditure amount calculated in accordance with paragraph 6.5.

6.14. Allowed opex amount - AO_t

6.15. For the purposes of this Annex, in each Regulatory Reporting Year t , the allowed opex (AO_t) amounts shall be calculated as follows:

$$AO_t = AO_{2010_t} * RPI_t / RPI_{2010}$$

Where:

AO_{2010_t} means the allowed opex amount, in a 2010 price base, for each Regulatory Reporting Year t , and shall be equal to the amounts specified in specified in Table 12 below:

Table 12 - The Distribution Business allowed opex amount for each Regulatory Reporting Year t (£ million, 2010 prices)⁷

Year	t=2013	t=2014	t=2015	t=2016	t=2017	t=2018
Term						
Allowed opex amount (AO_{2010_t})	42.19	42.60	41.04	40.48	40.25	20.02 + 20.02 ^e

6.16. Allowed opex other amount - AOO_t

⁷ See paragraph 2.3 regarding figures in this table marked with an estimation symbol (e).

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6.17. For the purposes of this Annex, in each Regulatory Reporting Year t , the allowed opex other amount (AOO_t), being the amounts for other opex items listed immediately below, shall be calculated as follows:

$$AOO_t = ES_t + BD_t + IA_t + RR_t + COL_t$$

Where:

- ES_t is the allowed opex (if any) amount in Regulatory Reporting Year t , for the Enduring Solution, being the additional amount that the Authority determines, to be appropriate for the Licensee to recover in that Regulatory Reporting Year in respect of any significant changes in the specification of the service that the Licensee is required to provide in relation to the Enduring Solution market opening system;
- BD_t is the allowed opex (if any) amount in Regulatory Reporting Year t , for Uncollected Revenue, being the amount appropriate for the Licensee to recover in that Regulatory Reporting Year, in respect of Uncollected Revenue less any amount or part of an amount treated as Uncollected Revenue in respect of a preceding Relevant Reporting Year t that has been paid to the Licensee in Relevant Reporting Year t ;
- IA_t is the allowed opex (if any) amount in Regulatory Reporting Year t , for injurious affectation, being the amount that the Authority determines to be appropriate for the Licensee to recover in respect of injurious affectation claims in that Regulatory Reporting Year;
- RR_t is the allowed opex (if any) amount in Regulatory Reporting Year t , for regulatory reporting, being the additional amount that the Authority determines to be appropriate for the Licensee to recover in that Regulatory Reporting Year, in respect of regulatory reporting costs; and
- COL_t is the allowed opex (if any) amount for changes of law, in an amount determined by the Authority to be appropriate in accordance with paragraph 6.18.

6.18. **The allowed opex amount for changes of law - COL_t**

6.19. For the purposes of this Annex, in each Regulatory Reporting Year t , the allowed opex amount for changes of law (COL_t), being the Relevant Change of Law opex amount (being a positive or negative figure) determined by the Authority, for the purposes of this paragraph, in accordance with paragraphs 6.20 to 6.23.

6.20. For the purposes of paragraph 6.19, the calculation of COL_t shall occur when the Authority has determined that:

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- a) there has been or will be a Relevant Change of Law;
 - b) there has been or will be an amount (whether a positive or negative figure) that is directly attributable to the Relevant Change of Law; and
 - c) having regard to all the circumstances, it is appropriate to include the amount within the calculation of COL_t in order to ensure that the financial position and performance of an efficient Licensee will be, so far as is reasonably practicable, the same as if the Relevant Change of Law had not taken place.
- 6.21. The Authority may make a determination in accordance with paragraph 6.20:
- a) on an application made to it by the Licensee; or
 - b) otherwise, following consultation with the Licensee.
- 6.22. An application made to the Authority by the Licensee pursuant to paragraph 6.20 shall contain or be accompanied by all relevant details of the anticipated cost or revenue, and such other information as the Authority may require and, unless the Authority otherwise consents, may not be given later than the first day of April in the year immediately preceding the first of the Regulatory Reporting Years in respect of which the Licensee wishes that cost or revenue to be included in the calculation of COL_t .
- 6.23. Where the Authority determines that an anticipated cost or revenue is appropriate for inclusion in the calculation of COL_t in one or more Regulatory Reporting Years, it shall specify the value to be attributed to that cost or revenue in respect of each Regulatory Reporting Year.

7. The pension deficit amount - P_t

7.1. For the purposes of this Annex, in each Regulatory Reporting Year t , P_t means the pension deficit amount, including the ERDC amount in Regulatory Reporting Year t , and shall be calculated as follows:

$$P_t = P_{2010_t} * RPI_t / RPI_{2010}$$

Where:

P_{2010_t} means the pension deficit amount, in a 2010 price base, for each Regulatory Reporting Year t , and shall be equal to the amounts specified in specified in Table 13 below:

Table 13 - The Distribution Business pension deficit amount for each Regulatory Reporting Year t (£ million, 2010 prices)⁸

Period \ Term	t=2013	t=2014	t=2015	t=2016	t=2017	t=2018
Historic Deficit Repair	12.60	12.60	12.60	12.60	12.60	6.30 + 6.30 ^e
ERDC Disallowance	(3.59)	(3.59)	(3.59)	(3.59)	(3.59)	(1.79) + (1.79) ^e
Pension deficit amount (P_{2010_t})	9.02	9.02	9.02	9.02	9.02	4.51 + 4.51 ^e

⁸ See paragraph 2.3 regarding figures in this table marked with an estimation symbol (e).

8. The costs of the investigation amount (COI_t)

- 8.1. For the purposes of paragraph 3.5, in each Regulatory Reporting Year t , the costs of the investigation amount (COI_t), shall be calculated as follows:

$$COI_t = COI_{2010_t} * RPI_t / RPI_{2010}$$

Where:

COI_{2010_t} means the costs of the investigation amount, in a 2010 price base, and shall be equal to zero in every Regulatory Reporting Year t except for Regulatory Reporting Year $t = 2014$ where it shall be equal to £1.023 million.

9. The Tax Amount - TAX_t

9.1. For the purposes of paragraph 3.5, in Regulatory Reporting Year t, the tax amount (TAX_t) is calculated as follows in nominal prices:

$$TAX_t = TR_t / (1 - TR_t) * (RET_t + DEP_t - INT_t - CA_t)$$

Where:

- TR_t** means the corporation Tax Rate applicable in Northern Ireland in Regulatory Reporting Year t, as specified from time to time by HMRC;
- RET_t** means the return amount in Regulatory Reporting Year t, calculated in accordance with paragraph 5.1;
- DEP_t** means the depreciation amount in Regulatory Reporting Year t, calculated in accordance with paragraph 4.45;
- INT_t** means an amount equal to the Interest on the value of the average of all Regulatory Asset Bases, in Regulatory Reporting Year t and shall be calculated as follows:

$$INT_t = \frac{\left(\sum_{AllRAB_X} (ORAB_X_t + CRAB_X_t) \right)}{2} * G * NCOD$$

Where:

- \sum_{AllRAB_X} means the summation of the values for all Regulatory Asset Bases;
- ORAB_X_t** is the value of the opening Regulatory Asset Base for each RAB_X in Regulatory Reporting Year t, calculated in accordance with paragraph 4.4;
- CRAB_X_t** is the value of the closing Regulatory Asset Base for each RAB_X in Regulatory Reporting Year t, calculated in accordance with paragraph 5.1;
- G** means notional gearing and has the value of 45%;
- NCOD** means the notional nominal cost of debt and has the value of 6.45%; and
- CA_t** means, in each Regulatory Reporting Year t, an amount equal to the value of regulatory capital allowances in accordance with guidelines published by HMRC considered appropriate by the Authority for the purposes of calculating Maximum Regulated Distribution Revenue in respect of that Regulatory Reporting Year, calculated on a notional basis, under the hypothetical assumptions that:
- i. capital additions, while considering ii, iii, and iv immediately below, are calculated as follows:

$$\sum_{AIRAB_X} (QCE_{X_t} - DIQCE_{X_t} + PTCE_{X_t} - DIPTCE_{X_t} - CD_{X_t} + CI_{X_t})$$

Where:

- \sum_{AIRAB_X} means the summation of the values for all Regulatory Asset Bases;
- QCE_{X_t} means the qualifying capex expenditure amount, calculated in accordance with paragraph 4.17;
- $DIQCE_{X_t}$ means the demonstrably inefficient qualifying capex expenditure amount, calculated in accordance with paragraph 4.19;
- $PTCE_{X_t}$ means the pass through capex expenditure amount, calculated in accordance with paragraph 4.21;
- $DIPTCE_{X_t}$ means the demonstrably inefficient pass through capex expenditure amount, calculated in accordance with paragraph 4.24;
- CD_{X_t} means the capex disposal amount, calculated in accordance with paragraph 4.30; and
- CI_{X_t} means the capex incentive amount, calculated in accordance with paragraph 4.32; and
- ii. the regulatory capital allowances are the maximum capital allowance available to the Licensee, irrespective of whether or not the Licensee chooses to utilise such allowances in full;
 - iii. if the Licensee opts to defer capital allowance claims in respect of any capital allowance in any given year, the amount of capital allowance available in any subsequent year excludes any amounts for which claims were so deferred (to avoid double counting any capital allowance);
 - iv. the regulatory capital allowances include amortization of Deferred Revenue Expenditure; and
 - v. the opening written down values are as specified in Table 14 below:

Table 14 - The Distribution Business opening tax capital allowance values (£ million, nominal prices)

Category	Opening RP5 written down value
General Pool	56.65
Long life asset pool	287.42
Deferred revenue	111.61 ⁹

⁹ The gross value of capital additions before RP5 was £123.82million

10. The revenue protection services incentive amount - $RPSI_t$

10.1. In each Regulatory Reporting Year, the revenue protection services incentive amount, $RPSI_t$, shall be calculated as follows:

$$RPSI_t = RPSR_t * 50\%$$

Where:

$RPSR_t$ means the revenue protection services revenue (being zero (0) or a negative number), in Regulatory Reporting Year t, being the sums recovered or earned by the Licensee during that Regulatory Reporting Year from the provision of revenue protection services, which shall together include in particular:

- i. any money recovered by the Licensee from an electricity consumer in the exercise of the Licensee's powers in relation to illegal abstraction of electricity;
- ii. any money recovered by the Licensee from third parties to cover the cost of the network repairs or other repairs associated with illegal abstraction; and
- iii. any income generated by the Licensee from the provision of revenue protection services to third parties.

11. The correction factor amount - K_t

11.1. For the purposes of paragraph 3.5 and for the closure of the RP5 period, the correction factor amount (K_t) shall be calculated as follows:

- a) in Regulatory Reporting Year $t = 2013$:

$$K_t = KRP4$$

Where:

KRP4 means the closing K factor for the RP4 price control at 31st March 2012 and has the value of -£10.611 million.

- b) in Regulatory Reporting Years $t = 2014$, $t = 2015$, $t = 2016$ and $t = 2017$:

$$K_t = (RP5R_{t-1} - ARP5_{t-1}) * (1 + I_t) + RP4CI_t$$

Where:

RP5R_{t-1} means the Maximum Regulated Distribution Revenue, in Regulatory Reporting Year $t-1$;

ARP5_{t-1} means the actual Regulated Distribution Revenue recovered through Distribution Charges in Regulatory Reporting Year $t-1$, save that for each Regulatory Reporting Year $t=2013$ & $t=2014$ actual Regulated Distribution Revenue will be increased by £12 million (nominal prices); and

I_t means the Average Specified Rate; and

RP4CI_t means the amounts due to the Licensee under the capex efficiency incentive that applied under the RP4 price control and is equal to £1.32 million in year $t=2015$ and zero (0) thereafter.

- c) for the closure of the RP5 period (the 6 months ending 30 September 2017):

$$K_t = (RP5R_{SEP17} - ARP5_{SEP17}) * (1 + I_t)$$

Where:

RP5R_{SEP17} means the Maximum Regulated Distribution Revenue for the 6 months ending 30 September 2017;

ARP5_{SEP17} means the actual Regulated Distribution Revenue recovered through Distribution Charges for the 6 months ending 30 September 2017; and

I_t means the Average Specified Rate.

12. Information to be provided to the Authority in connection with the Distribution Charge Restriction Conditions

12.1. Introduction

12.2. In addition to, and without prejudice to, the provisions of Condition 8 of the Licence, the Licensee shall, in relation to the Distribution Charge Restriction Conditions, furnish the Authority with Specified Information as set out in this paragraph 12.

12.3. Specified Information

12.4. The Licensee shall, subject to other provisions set out in the Licence and in this paragraph 12, provide to the Authority the following Specified Information:

- a) forecasts and/or estimates in accordance with paragraph 12.6, with regards to the setting of Distribution Charges;
- b) any explanation and/or statement as to whether or not the provisions at paragraph 12.11 are likely to be applicable, with regards to the restriction of Distribution Charges;
- c) information to comply with the Authority's Regulatory Instructions and Guidance (RIGs) in accordance with paragraph 12.15;
- d) information which provides a reconciliation of the values published in the accounting statements (referred to at Condition 2 of the Licence) for opex and capex with:
 - i. the qualifying opex expenditure amount (QOE_t) and the pass through opex expenditure amount ($PTOE_t$);
 - ii. the qualifying capex expenditure amount (QCE_{X_t}) for each RAB_X and the pass through capex expenditure amount ($PTCE_{X_t}$) for each RAB_X; and
 - iii. the cost information provided to comply with the Authority's RIGs in accordance with paragraph 12.15;
- e) information regarding pension deficits, in accordance with paragraph 12.20;
- f) information on historical revenues, including:
 - i. all data used in the calculation of the Licensee's Maximum Regulated Distribution Revenue, in accordance with paragraph 12.21;
 - ii. the revenue derived from Excluded Services (showing separately the revenue from each category of excluded service) in accordance with paragraph 13.6;
- g) information on network investment projects and volumes, including:
 - i. a forecast of the network investment for the RP6 price control period, in accordance with paragraph 12.25; and
 - ii. information on pre-funded costs, in accordance with paragraph 12.26;

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- iii. information on outturn RP5 projects and volumes, and planned RP5 projects and volumes in accordance with paragraph 12.29; and
 - h) information on the Licensee's ESQCR compliance, in accordance with paragraph 12.32;
 - i) information on tax, in accordance with paragraph 12.34; and
 - j) the statutory accounts of any Related Party, in accordance with paragraph 12.37.
- 12.5. Unless otherwise specified in this Annex or the Licence, the Specified Information listed at paragraph 12.4 shall be submitted:
- a) for the time period as the Authority may reasonably require and as may be specified in directions issued by the Authority;
 - b) by a date as the Authority may reasonably require and as may be specified in directions issued by the Authority;
 - c) in a format as the Authority may reasonably require and as may be specified in directions issued by the Authority; and
 - d) to the relevant employees of the Authority and to the electricity_network_reporting@uregni.gov.uk mailbox or subsequent equivalent mailbox.
- 12.6. **Forecasts / estimates with regards to setting Distribution Charges**
- 12.7. Where any change is intended to be made in Distribution Charges regulated under paragraph 3, the Licensee shall not later than 14 days prior to the time of publication of such change, provide the Authority with:
- a) a written forecast of the Maximum Regulated Distribution Revenue, together with its components, in respect of each Regulatory Reporting Year t upon which the intended change would affect;
 - b) a written estimate of the Maximum Regulated Distribution Revenue, together with its components, in respect of each Regulatory Reporting Year prior to the first Regulatory Reporting Year t upon which the intended change would affect; and
 - c) a written forecast of the over- or under-recovery in all future Regulatory Tariff Years for which the Licensee forecasts an over- or under- recovery.
- 12.8. If within 3 months of the commencement of any Regulatory Tariff Year t the Licensee has not made any such change in charges as is referred to in paragraph 12.7, the Licensee shall provide the Authority with:
- a) a written forecast of the Maximum Regulated Distribution Revenue, together with its components, in respect of each Regulatory Reporting Year upon which Regulatory Tariff Year t has an effect; and

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- b) a written forecast of the over- or under-recovery in all future Regulatory Tariff Years for which the Licensee forecasts an over- or under- recovery.
- 12.9. Any forecast or estimate provided in accordance with paragraph 12.7 or 12.8 shall be accompanied by such information as regards the assumptions underlying the forecast or estimate as may be necessary to enable the Authority to be satisfied that the forecast or estimate has been properly prepared on a consistent basis.
- 12.10. In addition, any forecast or estimate provided in accordance with paragraph 12.7 or 12.8 shall be published by the Licensee on the Licensee's website.
- 12.11. Restriction of Distribution Charges**
- 12.12. If, in respect of any Regulatory Tariff Year, the Regulated Distribution Revenue exceeds the Maximum Regulated Distribution Revenue by more than the Permitted One-Year Percentage, the Licensee shall furnish an explanation to the Authority, and in the next following Regulatory Tariff Year, the Licensee shall not effect any increase in Distribution Charges unless it has demonstrated to the reasonable satisfaction of the Authority that the Regulated Distribution Revenue would not be likely to exceed the Maximum Regulated Distribution Revenue in that following Regulatory Tariff Year.
- 12.13. If, in respect of any three successive Regulatory Tariff Years, the sum of the amounts by which the Regulated Distribution Revenue has exceeded the Maximum Regulated Distribution Revenue, is more than the Permitted Three-Year Percentage, then in the next following Regulatory Tariff Year the Licensee shall, if required by the Authority, adjust its Distribution Charges such that the Regulated Distribution Revenue would not be likely, in the judgement of the Authority, to exceed the Maximum Regulatory Distribution Revenue in that next following Regulatory Tariff Year.
- 12.14. Not later than six weeks after the commencement of each Regulatory Tariff Year, the Licensee shall send to the Authority a statement as to:
- a) whether or not the provisions of:
 - i. paragraph 12.12 are likely to be applicable in consequence of the Regulated Distribution Revenue in the preceding Regulatory Tariff Year; and / or
 - ii. paragraph 12.13 are likely to be applicable in consequence of the Regulated Distribution Revenue in the preceding 3 Regulatory Tariff Years; and
 - b) the Licensee's best estimate as to the cumulative over- or under- recovery at the last day of the most recently ended Regulatory Tariff Year.

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12.15. Information to comply with Authority's Regulatory Instructions and Guidance (RIGs)

12.16. The Licensee shall, furnish the Authority with any information required to comply with the Authority's RIGs, as may change from time to time.

12.17. The Licensee shall ensure that the RIGs information referred to at paragraph 12.16 includes estimations of the Licensee's confidence in that information and is certified by a relevant director.

12.18. The Licensee shall, publish on the Licensee's website, the information supplied in accordance with paragraph 12.16, subject to the minimum redactions considered necessary by the Authority to protect commercially sensitive information.

12.19. Pension deficits

12.20. The Licensee shall, furnish the Authority with relevant information regarding any pension deficits, splitting accordingly the historic deficit (assuming a cut-off date of 31 March 2012) and incremental deficit.

12.21. Historical data used in the calculation of the Licensee's Maximum Regulated Distribution Revenue

12.22. The Licensee shall, furnish the Authority with all historical data used to calculate the Maximum Regulated Distribution Revenue as set out in the formulas in this Annex.

12.23. The Licensee shall, for the period from 1 April 2012, publish, on the Licensee's website and in the Licensee's accounting statements referred to in Condition 2 of the Licence, the data referred to at 12.22.

12.24. Forecast network investment in the RP6 price control period

12.25. The Licensee shall, on an annual basis submit to the Authority the Licensee's estimate of the expected investments, volumes and projects for the RP6 price control period.

12.26. Information on pre-funded costs

12.27. The Licensee shall, on an annual basis submit to the Authority an estimate of the pre-funded costs, being the network investments, volumes and projects required in periods after RP5 which can be attributed to the cancellation, reduction or deferral of any investments, volumes or projects that the Competition Commission assumed as part of the cost assessment underpinning its Final Determination (the planned investments, volumes and projects).

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- 12.28. The Licensee shall submit to the Authority, on an annual basis, to supplement the information referred to at paragraph 12.27, reconciliations of the information referred to at paragraph 12.27 to the planned investments, volumes and projects specified at Appendix 1 and Appendix 2 below.
- 12.29. **Information on the outturn RP5 projects and volumes, and planned RP5 projects and volumes**
- 12.30. The Licensee shall, on an annual basis, for the RP5 period, submit to the Authority:
- a) information on the outturn investments, volumes and projects; and
 - b) information on the planned investments, volumes and projects.
- 12.31. The Licensee shall submit to the Authority, on an annual basis, to supplement the information referred to at paragraph 12.30, reconciliations of the information referred to at paragraph 12.30 to the planned investments, volumes and projects, specified at Appendix 1 and Appendix 2 below.
- 12.32. **Reporting on the Licensee's ESQCR compliance**
- 12.33. The Licensee shall, report on the Licensee's ESQCR compliance, with additional details on the Licensee's patrolling activity, including a split of low voltage work into low voltage undergrounds and low voltage overhead lines.
- 12.34. **Information on tax**
- 12.35. The Licensee shall, no later than 12 months after the end of each Regulatory Reporting Year, prepare and submit to the Authority an annual report, in a form to be approved by the Authority, setting out:
- a) audited tax reports that enable a full reconciliation between:
 - i. information submitted to HMRC on the Licensee's tax affairs; and
 - ii. information used for the calculation of the tax element of the Licensee's Maximum Regulated Distribution Revenue, as calculated at paragraph 9 of this Annex;
 - b) information submitted to HMRC on the Licensee's tax affairs;
 - c) information used for the calculation of the tax element of the Licensee's Maximum Regulated Distribution Revenue, as calculated at paragraph 9 of this Annex; and
 - d) any retrospective adjustments in respect of previous years together with any restatement of 12.35.a), 12.35.b) and 12.35.c).

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12.36. The Licensee shall, on an annual basis, publish on the Licensee's website the information supplied under 12.35 subject to the minimum redactions, considered necessary by the Authority, to protect commercially sensitive information.

12.37. **The statutory accounts of any Related Party**

12.38. The Licensee shall, no later than 10 months after the end of each Regulatory Reporting Year, prepare and submit to the Authority the financial statements of any Related Party, for the Regulatory Reporting Year, with whom the Licensee has had a transaction in that Regulatory Reporting Year.

13. Excluded Services for purposes of Distribution Business

- 13.1. There may be treated as Excluded Services provided by the Distribution Business such services in respect of which charges are made which:
- a) do not fall within paragraph 13.2; and
 - b) may (subject to paragraph 13.7) be determined by the Licensee as falling under one of the principles set out in paragraphs 13.3 to 13.5.
- 13.2. No service provided as part of the Distribution Business shall be treated as an excluded service insofar as it relates to the provision of services remunerated under use of system charges in accordance with Condition 32 including (without prejudice to the foregoing):
- a) the transport of electricity;
 - b) the carrying out of works for the installation of electric lines or electrical plant (not otherwise payable in the form of connection charges) for the purpose of maintaining or upgrading the Licensee's distribution system;
 - c) the carrying out of works or the provision of maintenance or repair or other services for the purpose of enabling the Licensee to comply with Conditions 19, 26 and 27, the Electricity Supply Regulations (Northern Ireland) 1991 as amended by the Electricity Supply (Amendment) Regulations (Northern Ireland) 1993 or any regulations made under Article 32 of the Order or any other enactment relating to safety or standards applicable in respect of the Distribution Business;
 - d) the provision, installation and maintenance of any meters, switchgear or other electrical plant ancillary to the grant of use of system.
- 13.3. The whole or an appropriate proportion (as the case may be) of the charges of the type described in paragraph 3 of Condition 32 and borne by any person as connection charges in respect of connections made after the grant of this Licence may be treated as Excluded Services.
- 13.4. There may be treated as an excluded service charge for the relocation of electric lines or electrical plant and the carrying out of works associated therewith pursuant to a statutory obligation (other than under Article 12(2) of the Order) imposed on the Licensee.
- 13.5. There may be treated as an excluded service any service of a type not referred to above which:
- a) consists in the provision of services for the specific benefit of a third party requesting the same; and
 - b) is not made available as a normal part of the Distribution Business remunerated by use of system charges, including (without prejudice to the foregoing):

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- i. special metering (including “time of day” metering) to facilitate energy saving programmes for the benefit of customers requesting the same;
 - ii. prepayment metering equipment;
 - iii. charges for moving mains, services or meters forming part of the Licensee’s distribution system to accommodate extension, re-design or re-development of any premises on which the same are located or to which they are connected; and
 - iv. the provision of electric lines and electrical plant (a) insofar as the same are required for the specific purpose of enabling the provision of top-up or standby or (b) to provide a higher degree of security than is required for the purposes of complying with Condition 19.

- 13.6. The Licensee shall following the end of each Regulatory Reporting Year furnish to the Authority, as being one of the items of Specified Information referred to in paragraph 12.3, details specifying separately the nature of all services provided as part of the Distribution Business and treated as Excluded Services by the Licensee during the course of such year and stating the revenues derived in respect of each such service so treated.

- 13.7. Where the Authority is satisfied that it is reasonable in all the circumstances that any service treated by the Licensee as being or not being an excluded service should not be so treated, the Authority shall issue directions to that effect. Any such directions may, where a service is directed to be treated as an excluded service, contain such conditions as the Authority shall see fit in relation to the charges which the Licensee may make for such excluded service and the other terms and conditions upon which the Licensee may provide such excluded service. In accordance with the terms of such directions, such service shall cease to be treated as an excluded service with effect from the date of issue of such directions or such earlier date as may be specified in the directions.

14. Allowances in respect of security costs

14.1. At any time during a Fuel Security Event, the Authority may (having regard to its duties under the Energy Order) by means of directions:

- a) suspend or modify for the unexpired term of the Fuel Security Event the Distribution Charge Restriction Conditions or any part or parts thereof; or
- b) introduce for the unexpired term of the Fuel Security Event new Distribution Charge Restriction Conditions,

in either case, so as to make such provision as in the opinion or estimation of the Authority is requisite or appropriate to enable the Licensee to recover by means of appropriate equitable increases in the charges made in the course of the Distribution Business an amount estimated as being equal to the Licensee's allowed distribution related security costs during such event, and the Licensee shall comply with the terms of any directions so issued.

14.2. Subject to paragraphs 14.3 and 14.5, the Licensee shall in any Regulatory Reporting Year be entitled to recover an aggregate amount equal to the Licensee's allowed distribution related security costs in that year or (insofar as not previously recovered) any previous year, by means of appropriate equitable increases in the charges made by the Licensee in the course of the Distribution Business.

14.3. Paragraph 14.2 shall not apply insofar as such Licensee's allowed distribution related security costs:

- a) were otherwise recovered by the Licensee; or
- b) were taken into account by the Authority in setting charge restriction conditions by means of directions issued under paragraph 14.1.

14.4. The Licensee shall following the end of each Regulatory Reporting Year provide to the Authority details in respect of that Regulatory Reporting Year of:

- a) the aggregate amounts charged under paragraph 14.2 on account of the Licensee's allowed distribution related security costs; and
- b) the bases and calculations underlying the increases in charges made by the Licensee in the course of the Distribution Business under paragraph 14.2.

14.5. Where the Authority is satisfied that the Licensee has recovered amounts in excess of the Licensee's allowed distribution related security costs, the Authority may issue directions requiring the Licensee to take such steps as may be specified to reimburse customers of the Distribution Business for the excess amounts charged to them, and the Licensee shall comply with any directions so issued.

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14.6. No amounts charged by the Licensee under this paragraph 14 (whether or not subsequently required to be reimbursed) shall be taken into account for the purpose of applying the distribution charge restriction provisions of paragraph 3.

15. Duration of the charge restriction conditions

- 15.1. Subject to the following paragraphs of this Annex, the Distribution Charge Restriction Conditions shall apply so long as the Licence continues in force.
- 15.2. The Distribution Charge Restriction Conditions outlined in paragraph 3.2 do not apply to tariff years from 1 October 2017 onwards. In the absence of modifications to those provisions, the licensee shall not be able to increase (in nominal terms) any of the tariffs or charges contributing to its Regulated Distribution Revenue above the levels applicable on 1 October 2016.
- 15.3. **Disapplication**
- 15.4. The Distribution Charge Restriction Conditions shall cease to have effect (in whole or in part, as the case may be) if the Licensee delivers to the Authority a request (a “Disapplication Request”) made in accordance with paragraph 15.6 and:
- a) the Authority agrees in writing to the request; or
 - b) the application of this Annex (or any part of it) is terminated by a notice (a “Disapplication Notice”) given by the Licensee in accordance with paragraph 15.7 and not withdrawn.
- 15.5. Save where the Authority agrees otherwise, no disapplication following delivery of a Disapplication Request pursuant to paragraphs 15.4 to 15.10 shall have effect earlier than the date (the “Disapplication Date”) which is the later of:
- a) the date occurring 18 months after delivery of the Disapplication Request; and
 - b) 30 September 2017.
- 15.6. A Disapplication Request pursuant to paragraphs 15.4 to 15.10 shall:
- a) be in writing addressed to the Authority;
 - b) specify this Annex or any part of it to which the request relates (excluding in either case paragraphs 15.4 to 15.10); and
- 15.7. state the date from which the Licensee wishes the Authority to agree that the Annex or specified part of it shall cease to have effect. A Disapplication Notice pursuant to paragraphs 15.4 to 15.10:
- a) may be given in the circumstances described in either paragraph 15.8 or 15.9;
 - b) may be withdrawn at any time prior to the Disapplication Date; and
 - c) where it is given, shall:
 - i. be in writing addressed to the Authority;

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- ii. specify this Annex or any part of it (which shall comprise only such part as was specified in the Disapplication Request) to which the notice relates;
 - iii. state the date from which the Licensee wishes the notice to take effect, which shall not be earlier than the Disapplication Date.
- 15.8. The circumstances described in this paragraph are that, by the beginning of the period of six months which will end with the Disapplication Date, the Authority has not in response to the Disapplication Request published a decision under Article 14(8) of the Order to modify:
 - a) this Annex (or any part of it) to which the request relates; or
 - b) paragraphs 15.4 to 15.10, so as to remove the right of the Licensee to give to the Authority a Disapplication Notice in respect of the relevant Disapplication Request.
- 15.9. The circumstances described in this paragraph are that:
 - a) by no later than the beginning of the period of six months which will end with the Disapplication Date, the Authority has in response to the Disapplication Request published a decision of a type referred to in paragraph 15.8 above;
 - b) the Licensee has exercised its right to appeal to the CMA against that decision in accordance with Article 14B of the Order;
 - c) the CMA has, in respect of the provisions to which the Disapplication Request relates:
 - i. quashed the decision of the Authority under Article 14E(2)(a) of the Order;
 - ii. neither remitted the matter back to the Authority under Article 14E(2)(b) of the Order nor substituted its own decision for that of the Authority under Article 14E(2)(c) of the Order; and
 - d) no more than 30 days has elapsed since the date on which the CMA quashed the decision of the Authority.
- 15.10. A Disapplication Request or Disapplication Notice served under paragraphs 15.4 to 15.10 may be served in respect of a specified geographic area.

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Appendix 1 - The Distribution Business: planned investments, volumes and projects capitalised to RAB (2010 prices)

Project ID	Project name	Asset name / further information	Predefined output	Direct	Indirect	Allowed capex
D06	Distribution Tower Lines	Refurbishment 26km Tower Lines	Specified number of units, as per BPQ	£1.33 million	£0.07 million	£1.40 million
D07	33kV Overhead Lines	Re-engineer	Specified number of units, as per BPQ	£6.11 million	£2.41 million	£8.52 million
		Refurbish	Specified number of units, as per BPQ			
		TAR	N/A			
D08	11kV Overhead Lines	Re-engineer	Specified number of units, as per BPQ	£34.52 million	£13.64 million	£48.16 million
		Refurbish	Specified number of units, as per BPQ			
		TAR	N/A			
D09	LV Lines	Refurbishment - Urban and rural	Specified number of units, as per BPQ	£9.86 million	£3.90 million	£13.76 million
		TAR	N/A			
		Line Undergrounding (Direct Access)	Specified number of units, as per BPQ			
		Line Undergrounding (Land locked)	Specified number of units, as per BPQ			
D10	Undereaves	Replace 0.4kV services (undereaves)	Specified number of units, as per BPQ	£8.84 million	£3.50 million	£12.34 million
D11	LV cut-outs	Replace house service cut-outs at 8000 properties	Specified number of units	£1.79 million	£0.09 million	£1.88 million
D13	Primary Plant	Indoor Switchgear (33kV)	Specified number of units	£27.72 million	£1.43 million	£29.14 million
		Outdoor switchgear - Circuit Breaker (33Kv)	Specified number of units			
		Outdoor switchgear - replacement of complete Mesh (with indoor switchboard)	Specified number of units			

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		Outdoor switchgear - replacement of Mesh equipment (33kV)	Specified number of units			
		Primary switchgear (33kV, 11kV & 6.6kV)	Specified number of units			
		Building refurbishment	Specified number of units			
		Civil works to primary substations	N/A			
		Primary substation lease renewal	N/A			
D14	Primary Transformers	Replace 33/11kV Transformer (upto 6.25MVA)	Specified number of units	£8.96 million	£0.46 million	£9.42 million
		Replace 33/11kV Transformer (upto 12.5MVA)	Specified number of units			
		Replace 33/11kV Transformer (upto 18.75MVA)	Specified number of units			
		Replace 33/6.6kV Transformer (upto 18.75MVA)	Specified number of units			
		Replace 33/6.6kV Transformer (upto 20/25MVA)	Specified number of units			
D15	Secondary Substations	Replace RMU	Specified number of units	£35.89 million	£1.85 million	£37.74 million
		Replace complete S/S	Specified number of units			
		Replace complete S/S and temp	Specified number of units			
		Replace switchboard	Specified number of units			
		Replace OH fed GMT	Specified number of units			
		Replace H pole S/S	Specified number of units			
		H pole: TX change only	Specified number of units			
		H pole: replace LV cab	Specified number of units			
		Replace 4 pole structure	Specified number of units			
		Replace 4 pole structure defects	Specified number of units			

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		Replace sectionisers	Specified number of units			
		Replace minipillars	Specified number of units			
		Inspection programme	N/A			
		Replace LV wall mounted fuseboard	Specified number of units			
		Ancillary systems	N/A			
D16	Distribution Cables	Refurbishment of 4 x 33kV fluid filled circuits	Specified number of units	£4.40 million	£0.23 million	£4.63 million
		Refurbishment of hydraulic systems	N/A			
		Sheath renewal	N/A			
		Replacement of oil sections OL147 & 148	Specified improvement at specified location(s)			
		Purchase of hydraulic leak detection equipment	N/A			
		Replacement of L42T connections	Specified number of units			
		Purchase and installation of on-line condition monitoring equipment	Specified improvement at specified location(s)			
		Refurbishment/replacement outdoor terminations	N/A			
		Replace 15km of HV cable	Specified number of units			
		Replace 14.5km of LV cable	Specified number of units			
		Replace 6km of VB main cable	Specified number of units			
D17	Fault & emergency ¹⁰	N/A	N/A	£0.00 million	£12.40 million	£12.40 million
D18	Distribution Reactive ¹¹	N/A	N/A	£0.00 million	£8.38 million	£8.38 million
D20	Design & Consultancy	N/A	N/A	£0.00 million	£5.97 million	£5.97 million

¹⁰ This category of expenditure shall not be included in the calculation of pre-funded costs for price controls subsequent to RP5.

¹¹ This category of expenditure shall not be included in the calculation of pre-funded costs for price controls subsequent to RP5.

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D39	SCADA	N/A	N/A	£1.16 million	£0.06 million	£1.22 million
D41	Operational Telecoms network	N/A	N/A	£2.13 million	£0.11 million	£2.24 million
D43	ESQCR - Distribution	Full survey and asset register	A full ESQCR asset register and associated reporting	£8.92 million	£0.00 million	£8.92 million
D49	Smart Grid	Condition monitoring	Specified number of units	£2.67 million	£0.14 million	£2.81 million
D50	Substation Flooding Enforcement (D)	Permanent protection several distribution substations	Specified number of units	£0.76 million	£0.04 million	£0.80 million
D51	Public Realms	Replacement / urban regeneration	N/A	£0.76 million	£0.04 million	£0.80 million
D56	Capitalised Tree Cutting	N/A	N/A			£28.54 million
D57	Distribution load related allowance ¹²	N/A	N/A	£22.88 million	£2.15 million	£25.02 million
D101	Non-recoverable alterations	N/A	N/A	£13.67 million	£4.43 million	£18.09 million
N/A	Non-network capex: ICT	IT infrastructure, telecoms infrastructure and business applications	As per BPQ but after FD adjustments			£9.54 million
N/A	NIE Powerteam assets used for capex	N/A	N/A			£3.25 million
N/A	NIE Powerteam tools and equipment used for capex, plus non-network capex: premises	N/A	N/A			£0.96 million

¹² This category of expenditure shall not be included in the calculation of pre-funded costs for price controls subsequent to RP5.

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N/A	Network investment embedded in managed service charge	N/A	N/A	£5.16 million
N/A	Metering capex	Metering certification, recertification and other work.	Allowed capex subject to volumes of metering work completed (see paragraph 4.35 of Annex 2)	£33.84 million
N/A	Other costs apportioned to Distribution RAB	N/A	N/A	£25.34 million
Total distribution investments capitalised to RAB ¹³				£360.24 million

¹³ The total of £360.24million equals the allowed capex in Table 6 for the RP5 period (£326.42million) plus metering capex of £33.84million (subject to rounding).

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Appendix 2 - The Distribution Business: planned investments allowed as opex for each Regulatory Reporting Year t (2010 prices)¹⁴

<i>Year</i>	t=2013	t=2014	t=2015	t=2016	t=2017	t=2018
Category						
Benchmarked indirect, Inspections, Maintenance, Faults & Tree cutting costs (excl connections) allocated to opex	£22.33 million	£22.04 million	£21.82 million	£21.65 million	£21.56 million	£10.70 million + £10.70e million
Business Rates	£10.71 million	£10.80 million	£10.80 million	£10.88 million	£10.97 million	£5.48 million + £5.48e million
Enduring Solution	£5.60 million	£5.43 million	£4.98 million	£4.56 million	£4.34 million	£2.16 million + £2.16e million
Meter reading	£3.28 million	£3.24 million	£3.20 million	£3.18 million	£3.17 million	£1.57 million + £1.57e million
Other cost allowances	£1.69 million	£2.52 million	£1.65 million	£1.64 million	£1.63 million	£0.81 million + £0.81e million
Other income allowances	-£1.42 million	-£1.42 million	-£1.42 million	-£1.42 million	-£1.42 million	-£0.71 million - £0.71e million
Total¹⁵	£42.19 million	£42.60 million	£41.04 million	£40.48 million	£40.25 million	£20.02 million + £20.02e million

¹⁴ See paragraph 2.3 regarding figures in this table marked with an estimation symbol (e).

¹⁵ The totals in this row match the allowed opex amounts in Table 12.

Schedule 1 Authorised Distribution Area

1. The authorised distribution area shall comprise Northern Ireland.

Schedule 2 Terms as to Revocation

- 1 The Authority may at any time revoke the Licence by not less than 30 days' notice in writing to the Licensee:
- (a) if the Licensee agrees in writing with the Authority that the Licence should be revoked;
 - (b) if any licence fee required to be paid under the Licence is unpaid 30 days after it has become due and remains unpaid for a period of 14 days after the Authority has given the Licensee notice that the payment is overdue provided that no such notice shall be given earlier than the sixteenth day after the day on which the amount payable became due;
 - (c) if the Licensee fails to comply with a final order (within the meaning of Article 42 of the Energy Order) or with a provisional order (within the meaning of Article 42 of the Energy Order) which has been confirmed under Article 42 of the Energy Order and which (in either case) has been made in respect of a contravention or apprehended contravention of a Condition or of a relevant requirement as defined in Article 41(2)(a) of the Energy Order imposed on the Licensee in its capacity as holder of the Licence and (in either case) such failure is not rectified to the satisfaction of the Authority within three months after the Authority has given notice of such failure to the Licensee, provided that no such notice shall be given by the Authority before the expiration of the period within which an application under Article 44 of the Energy Order could be made questioning the validity of the final or provisional order or before the proceedings relating to any such application are finally determined;
 - (d) if the Licensee fails to comply with an order made by a court under section 34 of the Competition Act 1998; or fails to comply with an order made under section 72, 75, 76, 81, 83, 84, 158, 160 or 161 of, or under paragraph 2, 5, 6, 10 or 11 of schedule 7 to, the Enterprise Act 2002; or any partner, director, member, secretary or manager of the Licensee is found guilty of an offence under section 188 or 201 of the Enterprise Act 2002;
 - (e) if the Licensee:
 - (i) is unable to pay its debts (within the meaning of Article 103(1) or (2) of the Insolvency (Northern Ireland) Order 1989, but subject to paragraph 3 of this Schedule) or if any voluntary arrangement is proposed in relation to it under Article 14 of that Order, or if it enters into any scheme of arrangement

- (other than for the purpose of reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by the Authority);
- (ii) has a receiver (which expression shall include an administrative receiver within the meaning of Article 5(1) of the Insolvency (Northern Ireland) Order 1989) of the whole or any material part of its assets or undertaking appointed;
 - (iii) has an administration order under Article 21 of the Insolvency (Northern Ireland) Order 1989 made in relation to it;
 - (iv) passes any resolution for winding-up other than a resolution previously approved in writing by the Authority; or
 - (v) becomes subject to an order for winding-up by a court of competent jurisdiction;
- (f) if the Licensee is convicted of having committed an offence under Article 63 of the Order or under Article 46 of the Gas (Northern Ireland) Order 1996;
- (g) if the Licensee fails to pay any financial penalty (within the meaning of Article 45 of the Energy Order) imposed in respect of a contravention or apprehended contravention of a Condition or of a “relevant requirement” as defined in Article 41(2)(a) of the Energy Order by the due date for such payment and such payment is not made to the Authority within three months after the Authority has given notice in writing of such failure to the Licensee, provided that no such notice shall be given by the Authority before the expiration of the period within which an application under Article 49 of the Energy Order could be made questioning the validity or effect of the financial penalty or before the proceedings relating to any such application are finally determined; or
- (h) if the Licensee ceases to carry on the Distribution Business other than with the consent of the Authority.
- 2 For the purposes of paragraph 1(e)(i) of this Schedule, Article 103(1)(a) of the Insolvency (Northern Ireland) Order 1989 shall have effect as if for “£750” there was substituted “£250,000” or such higher figure as the Authority may from time to time determine by notice in writing to the Authority and the Licensee.
- 3 The Licensee shall not be deemed to be unable to pay its debts for the purposes of paragraph 1(e)(i) of this Schedule if any such demand as is mentioned in Article 103(1)(a) of

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the Insolvency (Northern Ireland) Order 1989 is being contested in good faith by the Licensee with recourse to all appropriate measures and procedures or if any such demand is satisfied before the expiration of such period as may be stated in any notice given by the Authority under paragraph 1 of this Schedule.

Schedule 3 Plans Of Land Comprising The Land Bank

Schedule 9 – Proposed Article 14 modifications to Annex 2 of the Transmission Licence

Annex 2 - Transmission Charge Restriction Conditions

1. Definitions

1.1. In this Annex:

- “Average Specified Rate”** means the arithmetic mean of the daily base rates of Danske Bank Limited (or such other bank as the Authority shall specify from time to time) current from time to time during the period in respect of which the calculation falls to be made;
- “Connection Charging Statement”** means the statement of charges for connection to the Licensee’s transmission system as prepared by the Licensee and approved by the Authority under Condition 22 hereof which is effective for the relevant period.
- “Deferred Revenue Expenditure”** means expenditure which is classified as capital expenditure for accounting purposes (because it gives rise to economic benefits over more than one year) but is not capital expenditure for tax purposes (because it does not create a sufficiently identifiable asset). For example, Deferred Revenue Expenditure may include the replacement of age-expired network components when (for tax purposes) the network as a whole is seen as a single asset.
- “Demonstrably Inefficient or Wasteful Expenditure”** means expenditure which the Authority has (giving the reasons for its decision) determined to be demonstrably inefficient and/or wasteful, given the information reasonably available to the Licensee at the time that the Licensee made the relevant decision about that expenditure. For the avoidance of doubt, no expenditure is Demonstrably Inefficient or Wasteful Expenditure simply by virtue of a statistical or quantitative analysis that compares very aggregated measures of the Licensee’s costs with the costs of other companies.

“ERDC”	means early retirement deficit contributions.
“Excluded Services”	means those services provided as part of the Transmission Owner Business which in accordance with the principles set out in paragraph 13 fall to be treated as Excluded Services.
“Final Determination”	means the report of the Competition Commission (the statutory predecessor to the Competition and Markets Authority) in relation to the Licensee’s Transmission Charge Restriction Conditions, as presented to the Authority on 26 March 2014, taken together with its supporting documentation.
“Fuel Security Event”	means a Fuel Security Event as defined in the Northern Ireland Fuel Security Code, published by the Department of Enterprise, Trade and Investment.
“HMRC”	means HM Revenues and Customs or, in relation to any function of that body referred to in this Annex, such other person as may (whether in relation to the United Kingdom as a whole or Northern Ireland) be allocated the role of performing that function after the commencement of RP5.
“Licensee’s Allowed Transmission Related Security Costs”	means any cost incurred by the Transmission Owner Business and approved by the Authority as being an allowed security cost in accordance with the Northern Ireland Fuel Security Code (as that term is therein defined), but excluding any cost which forms part of: <ul style="list-style-type: none">a) the allowed power procurement business related security costs; orb) the payments to generators in relation to services provided to the power procurement business during Fuel Security Events.
“Maximum Regulated Transmission Revenue”	means the maximum Regulated Transmission Revenue that the Licensee is entitled to recover in:

- a) the Regulatory Tariff Year (as calculated in accordance with the formula at paragraph 3.2);
- b) the Regulatory Reporting Year (as calculated in accordance with the formula at paragraph 3.4); or
- c) the 6 months ending 30 September 2017.

“Metering”

means in relation to any quantity transmitted, Metering equipment required pursuant to and as defined in the Grid Code, and ‘Meter’ shall be construed accordingly.

“Permitted One-Year Percentage”

means 4% of the Maximum Regulated Transmission Revenue.

“Permitted Three-Year Percentage”

means 5% of the Maximum Regulated Transmission Revenue in the second of the Regulatory Tariff years.

“Provision of Law”

means the following, to the extent that it applies to or is binding on the Licensee:

- a) any enactment;
- b) any regulation made by the Council or the Commission of the European Union or any decision taken by the Commission;
- c) any interpretation of law, or finding, contained in any judgment given by a court or tribunal of competent jurisdiction in respect of which:
 - i. the period for making an appeal has expired and;
 - ii. no superior court or tribunal has reached a contrary interpretation or finding; and
- d) any direction of a competent authority other than the Authority or the Department.

“Regulatory Asset Base”	means one of the regulatory asset bases identified at paragraph 4.1.
“Regulatory Instructions and Guidance (RIGs)”	a) means the Regulatory Instructions and Guidance provided by the Authority, including guidance notes, reporting workbooks, commentary templates and assurance templates, as set out by the Authority, to capture various different types of information and data.
“Regulatory Reporting Year”	means a period of twelve months commencing on 1 April in any year and ending on 31 March in the year following its commencement.
“Regulatory Reporting Year t”	means the Regulatory Reporting Year which ends in year t, and is therefore to be read such that: a reference to ‘ Regulatory Reporting year t = 2013 ’ is to the Regulatory Reporting Year ending on 31 March 2013; a reference to ‘ Regulatory Reporting Year t-1 ’ means the Regulatory Reporting Year immediately preceding Regulatory Reporting Year t; and similar expressions are to be construed accordingly.
“Regulatory Tariff Year”	means a period of twelve months commencing on 1 October in any year and ending on 30 September in the immediately following year.
“Regulatory Tariff Year t”	means the Regulatory Tariff Year which ends in year t, and is therefore to be read such that: a reference to ‘ Regulatory Tariff Year t = 2013 ’ is to the Regulatory Tariff Year ending on 30 September 2013.
“Regulated Transmission Revenue”	means the revenue (measured on an accruals basis) that is derived by the Licensee from Transmission Charges after deduction of value added tax (if any) and any other taxes based directly on the amount of the Transmission Charges.

“Related Party”

means both Affiliates and Related Undertakings of the Licensee as defined in Condition 1 of this licence. An Affiliate or Related Undertaking shall remain as a Related Party for the whole of the price control period even if it is no longer part of the group due to restructuring.

“Related Party Margin”

The profit or loss recorded on a transaction with an affiliate being the excess or deficit on actual direct costs and indirect costs (excluding financing costs) fairly attributable to the transaction or the charge and the cost of providing that transaction.

For the avoidance of doubt this does not include exceptional items, tax, fines, penalties or the gain or loss on the disposal of assets or investments (of any sort), i.e. it should be the net operating costs level.

Further, the Related Party Margin does not include any transparently calculated element of such a charge that provides for a reasonable allowance for depreciation and return on capital in relation to assets to the extent that these are employed by the Related Party in the provision of services to the Licensee, and is not otherwise reflected in the Licensee’s Maximum Regulated Transmission Revenue, or recoverable through the Licensee’s connection charges.

For Captive Insurance businesses the margin is to be computed based on the captive’s premium income less reinsurance premiums, claims paid out and movements on technical and IBNR reserves attributable to the Licensee’s business only, i.e. usually reported as the profits/loss on the Technical account. Where a captive insures more than the Licensee, then its profit/loss should be computed pro rata to the premiums paid by the Licensee to total premium income in the captive for the year and the movements on technical and IBNR reserves not attributable to the Licensee’s business must first be removed.

“Relevant Change of Law”	means any of the following, to the extent that it applies to or is binding on the Licensee: <ul style="list-style-type: none">a) the application of any Provision of Law that did not previously have effect;b) the amendment of or change to any Provision of Law that did previously have effect; andc) the revocation or cessation of any Provision of Law that did previously have effect.
“RP4”	means the period commencing on 1 April 2007 and ending on 31 March 2012.
“RP5”	means the period commencing on 1 April 2012 and ending on 30 September 2017.
“RP6”	means the period commencing on 1 October 2017 and ending on 30 September 2022.
“RPI_t”	means the Retail Prices Index (CHAW: 1987 = 100) published by the Office for National Statistics (or successor body) for the October month in each Regulatory Reporting Year t and is therefore to be read such that: a reference to ‘RPI t = 2010’ is to the RPI figure for October 2009.
“Specified Information”	means information (or a category of information) that is so described or defined at paragraph 12.
“Transmission Charge Restriction Conditions”	means the paragraphs set out in this Annex 2 as from time to time modified or replaced in accordance therewith or pursuant to Article 14, 14A, 14E or 18 of the Order, under the Energy Order, under the SEM Order or under the Directive Regulations.
“Transmission Charges”	means all charges for the provision of Transmission Services and for Wheeling, but excluding charges levied under the PSO Agreements (as defined in Condition 24A).

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“Transmission Services”	means all services provided as part of the Transmission Owner Business other than the Excluded Services.
“Uncollected Revenue”	means, where the Licensee is not an affiliate of the system operator (such as SONI Limited, a body corporate registered in Northern Ireland under company number NI038715), any amount owed to the Licensee by that system operator in respect of Regulated Transmission Revenue which is to be included in the uncollected revenue amount in agreement with the Authority; plus the reasonable interest attributable to such amount, calculated in accordance with any such agreement.
“Unit”	means a kilowatt hour.
“Wheeled Unit”	means a unit (whether generated inside or outside Northern Ireland) which enters the total system at any point and is delivered to a place outside Northern Ireland.
“Wheeling”	means the transportation of Wheeled Units on any part of the total system.

2. Introductory Provisions

- 2.1. Where, for the purposes of complying with its obligation at paragraph 3.1 in relation to the setting of Transmission Charges, the Licensee forecasts the Maximum Regulated Transmission Revenue for any Regulatory Tariff Year t (or any data relevant to its calculation), it shall:
 - a) have regard to any information notified to it by the Authority; and
 - b) where directed to do so by the Authority, base its forecast on any such information or make it in accordance with such methodology as the Authority may specify in the direction.
- 2.2. Unless the contrary is expressly stated:
 - a) all monetary figures in this Annex are stated in nominal prices; and
 - b) all inputs and calculations for which provision is made in this Annex are to be carried out in nominal prices.
- 2.3. The values marked with an estimation symbol (e) in Table 3, Table 6, Table 9, Table 10 and Appendix 2 are without prejudice to any future licence modifications made or proposed by the Authority to implement a new restriction on the Licensee's Maximum Regulated Transmission Revenue that is effective from 1 October 2017.
- 2.4. For the purposes of this Annex, the provisions of paragraph 3 shall be deemed to apply with effect from the commencement of RP5, so that the Maximum Regulated Transmission Revenue shall be calculated from the commencement of RP5 onwards, notwithstanding paragraph 15.
- 2.5. The Licensee is prohibited, in the period 26 March 2014 to 30 September 2014, from making changes to Transmission Charges.

3. The Maximum Regulated Transmission Revenue

3.1. Without prejudice to paragraph 15, the Licensee shall with effect from 1 October 2014 use its best endeavours to set its Transmission Charges so as to ensure that, in each Regulatory Tariff Year t , the Regulated Transmission Revenue shall be equal to the Maximum Regulated Transmission Revenue for that Regulatory Tariff Year calculated in accordance with paragraph 3.2.

3.2. **The Maximum Regulated Transmission Revenue for the Regulatory Tariff Year - $RP5T_t$**

3.3. For the purposes of setting tariffs as referred to in paragraph 3.1, the following calculation shall be performed:

$$RP5T_t = (RP5R_t + RP5R_{t+1}) * 0.5$$

Where:

“ $RP5T_t$ ” means the Maximum Regulated Transmission Revenue for the Regulatory Tariff Year t ;

“ $RP5R_t$ ” means the Maximum Regulated Transmission Revenue for the Regulatory Reporting Year t , calculated in accordance with paragraph 3.4.

- 3.4. The Maximum Regulated Transmission Revenue for the Regulatory Reporting Year - $RP5R_t$
- 3.5. For the purposes of paragraph 3.3, the Maximum Regulated Transmission Revenue for the Regulatory Reporting Year t shall be calculated as follows:

$$RP5R_t = DEP_t + RET_t + O_t + P_t + COI_t + TAX_t + K_t$$

Where:

- DEP_t means the depreciation amount in Regulatory Reporting Year t , calculated in accordance with paragraph 4;
- RET_t means the return amount in Regulatory Reporting Year t , calculated in accordance with paragraph 5;
- O_t means the opex amount in Regulatory Reporting Year t , calculated in accordance with paragraph 6;
- P_t means the pension deficit amount in Regulatory Reporting Year t , calculated in accordance with paragraph 0;
- COI_t means the costs of the investigation amount in Regulatory Reporting Year t , calculated in accordance with paragraph 8;
- TAX_t means the tax amount due in Regulatory Reporting Year t , calculated in accordance with paragraph 9; and
- K_t means the correction factor amount (whether a positive or negative number) calculated in accordance with paragraph 11.

4. The Regulatory Asset Bases - RAB_{X_t}

- 4.1. For the purposes of this Annex, there shall be, as set out in Table 1 below, the following Regulatory Asset Bases:

Table 1 - The Transmission Owner Business Regulatory Asset Bases

RAB name	RAB_X
Transmission RAB	RAB_TN
Renewables RAB	RAB_RN
Old NS Interconnector RAB	RAB_NSI
5 Year T.RAB	RAB_T5Y

- 4.2. In this Annex, each Regulatory Asset Base is identified as a **RAB**, and RAB_X refers to a Regulatory Asset Base for which X represents the suffix assigned to that RAB at paragraph 4.1.

4.3. The Opening Regulatory Asset Base - $ORAB_{X_t}$

- 4.4. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X , the opening Regulatory Asset Base, $ORAB_{X_t}$, being the value of that Regulatory Asset Base at the beginning of Regulatory Reporting Year t, shall be defined as:

$$ORAB_X = OE_{X_t} + OADD_{X_t}$$

Where:

OE_{X_t} being the opening value of existing assets, calculated in accordance with paragraph 4.5; and

$OADD_{X_t}$ being the opening value of additional assets, calculated in accordance with paragraph 4.13.

4.5. The opening value of existing assets - OE_{X_t}

- 4.6. For the purposes of this Annex, in respect of Regulatory Reporting Year t = 2013, for each RAB_X , the opening value of existing assets ($OE_{X_{2013}}$) shall be calculated as follows:

$$OE_{X_{2013}} = OE_{2010_X_{2013}} * RPI_{2013} / RPI_{2010}$$

Where:

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OE_2010_X₂₀₁₃ is the opening value of existing assets, in a 2010 price base, for each RAB_X and for the Regulatory Reporting Year t = 2013, and shall be equal to the amounts specified in Table 2 below.

Table 2 - The Transmission Owner Business opening value of existing assets (£ million, 2010 prices)

RAB_X	OE_2010_X ₂₀₁₃
RAB_TN	191.20
RAB_RN	11.91
RAB_NSI	1.06
RAB_T5Y	0.00

4.7. For the purposes of this Annex, in each Regulatory Reporting Year t other than t = 2013, and for each RAB_X the opening value of existing assets (**OE_X_t**) shall be calculated as follows:

$$OE_X_t = (CE_{X_{t-1}}) * RPI_t / RPI_{t-1}$$

Where:

CE_X_t is the closing value of existing assets, calculated in accordance with paragraph 4.9.

4.8. **The closing value of existing assets - CE_X_t**

4.9. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X, the closing value of existing assets (**CE_X_t**) being the value of the existing assets in that RAB at the end of Regulatory Reporting Year t, shall be calculated as follows:

$$CE_X_t = OE_X_t - FDEP_X_t$$

Where:

OE_X_t is the opening value of existing assets calculated in accordance with paragraph 4.5; and

FDEP_X_t is the fixed depreciation amount, calculated in accordance with paragraph 4.11.

4.10. **The fixed depreciation amount - FDEP_X_t**

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4.11. For the purposes of this Annex, in each Regulatory Reporting Year t , and for each RAB_X, the fixed depreciation amount ($Fdep_{X_t}$) means the amount representing depreciation of assets acquired pre 31 March 2012 and shall be calculated as follows:

$$FDEP_{X_t} = FDEP_{2010_{X_t}} * RPI_t / RPI_{2010}$$

Where:

$FDEP_{2010_{X_t}}$ is the fixed depreciation amount, in a 2010 price base, for each RAB_X and for each Regulatory Reporting Year t , and shall be equal to the amounts specified in Table 3 below.

Table 3 - The Transmission Owner Business fixed depreciation amount per RAB_X for each Regulatory Reporting Year t (£ million, 2010 prices)¹

Year \ RAB_X	t=2013	t=2014	t=2015	t=2016	t=2017	t=2018
RAB_TN	9.36	9.07	8.74	8.46	8.15	3.98 + 3.98e
RAB_RN	0.37	0.37	0.37	0.37	0.37	0.19 + 0.19e
RAB_NSI	0.06	0.06	0.06	0.04	0.04	0.02 + 0.02e

4.12. The opening value of additional assets - $OADD_{X_t}$

4.13. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X, the opening value of additional assets ($OADD_{X_t}$) shall be:

- 0 (zero) in Regulatory Reporting Year $t = 2013$; and
- in each subsequent Regulatory Reporting Year t , calculated as follows:

$$OADD_{X_t} = (CADD_{X_{t-1}}) * RPI_t / RPI_{t-1}$$

Where:

$CADD_{X_{t-1}}$ means the closing value of additional assets in the previous Regulatory Reporting Year, calculated in accordance with paragraph 4.15.

4.14. The closing value of additional assets - $CADD_{X_t}$

4.15. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X, the closing value of additional assets ($CADD_{X_t}$) shall be calculated as follows:

$$CADD_{X_t} = OADD_{X_t} + QCE_{X_t} - DIQCE_{X_t} + PTCE_{X_t} - DIPTCE_{X_t} - DEPADD_{X_t} - CD_{X_t} + CI_{X_t}$$

¹ See paragraph 2.3 regarding figures in this table marked with an estimation symbol (e).

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Where:

- OADD_{X_t}** means the opening value of additional assets calculated in accordance with paragraph 4.13;
- QCE_{X_t}** means the qualifying capex expenditure amount, calculated in accordance with paragraph 4.17;
- DIQCE_{X_t}** means the demonstrably inefficient qualifying capex expenditure amount, calculated in accordance with paragraph 4.19;
- PTCE_{X_t}** means the pass through capex expenditure amount, calculated in accordance with paragraph 4.21;
- DIPTCE_{X_t}** means the demonstrably inefficient pass through capex expenditure amount, calculated in accordance with paragraph 4.25;
- DEPADD_{X_t}** means the depreciation amount for additional assets, calculated in accordance with paragraph 4.27;
- CD_{X_t}** means the capex disposal amount, calculated in accordance with paragraph 4.30; and
- CI_{X_t}** means the capex incentive amount, calculated in accordance with paragraph 4.32.

4.16. The qualifying capex expenditure amount - QCE_{X_t}

4.17. For the purposes of this Annex, in each Regulatory Reporting Year *t* and for each RAB_X, the qualifying capex expenditure amount (QCE_{X_t}) shall:

- a) be the value of capex incurred by the Licensee (excluding PTCE_{X_t}) reasonably allocated or attributed to:
 - i. the Transmission Owner Business;
 - ii. the Regulatory Reporting Year *t*; and
 - iii. RAB_X; and
- b) exclude any amounts reasonably allocated or attributed to any of the following:
 - i. pension deficit repair contributions
 - ii. the net costs (or net contributions) relating to: activities or services subject to the Licensee's connection charges such that the exclusion is consistent with the Licensee's Connection Charging Statement; or any other activities or services that are treated as Excluded Services for the purpose of the restriction on the Licensee's Maximum Regulated Transmission Revenue;
 - iii. any costs recharged by the Licensee to associated businesses or related parties;
 - iv. any Related Party Margin that is charged to the Licensee by a Related Party;
 - v. any costs incurred by the Licensee as part of the PSO Agreement or otherwise recoverable under the restriction on the Licensee's PSO Charges;

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- vi. costs of external advisers incurred by the Licensee in relation to the Competition Commission inquiry which resulted in the Final Determination; and
- vii. other costs of any description which the Authority may determine from time to time are manifestly unreasonable to include in the qualifying capex expenditure amount.

4.18. Demonstrably inefficient qualifying capex expenditure - $DIQCE_{X_t}$

4.19. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X , demonstrably inefficient qualifying capex expenditure ($DIQCE_{X_t}$) shall be the part (if any) of QCE_{X_t} that the Authority determines to be Demonstrably Inefficient or Wasteful Expenditure.

4.20. The pass through capex expenditure amount - $PTCE_{X_t}$

4.21. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X , the pass through capex expenditure amount ($PTCE_{X_t}$), shall:

- a) be the value of capex incurred by the Licensee (excluding QCE_{X_t}) reasonably allocated or attributed to:
 - i. the Transmission Owner Business;
 - ii. the Regulatory Reporting Year t ; and
 - iii. RAB_X ; and
- b) be calculated as follows:

$$PTCE_{X_t} = CLD_{X_t} + CC_{X_t}$$

Where:

CLD_{X_t} means the capex legacy D_t amount calculated in accordance with paragraph 4.23; and

CC_{X_t} means the capex connections amount in Regulatory Reporting Year t and for each RAB_X , being the net costs (or net contributions) relating to activities or services subject to the Licensee's connection charges such that the inclusion is consistent with the Licensee's Connection Charging Statement as approved by the Authority, and where contributions from connecting parties are included on a cash basis. The capex connections amount shall exclude the cost of alterations to existing connections and shall only include costs of connections relating to the following types of connection:

- i. -approved generation cluster infrastructure; and-
- ii. all other connections governed by the Licensee's Connection Charging Statement.

4.22. The capex legacy D_t amount - CLD_{X_t}

NIE Transmission Licence - (extract to show proposed new Annex 2)

- 4.23. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X , CLD_{X_t} is the capex legacy D_t amount incurred by the Licensee that the Authority determines, insofar as the Licensee has incurred these costs in line with the original approval terms, for each of the items referenced in Table 4 below:

Table 4 - The Transmission Owner Business capex legacy D_t items (£ million, 2010 prices)

Legacy D_t items	Approval reference date	Total maximum RP5 spend
Wind farm clusters	21 December 2010	0.5
Medium term plan I	15 June 2011	3.8
Medium term plan II	22 February 2013	25.2

- 4.24. **Demonstrably inefficient pass through capex expenditure - $DIPTCE_{X_t}$**

- 4.25. For the purposes this Annex, in each Regulatory Reporting Year t and for each RAB_X , demonstrably inefficient pass through capex expenditure ($DIPTCE_{X_t}$) shall be the part (if any) of $PTCE_{X_t}$ that the Authority determines to be Demonstrably Inefficient or Wasteful Expenditure.

- 4.26. **The depreciation amount for additional assets - $DEPADD_{X_t}$**

- 4.27. For the purposes of paragraph 4.15, in each Regulatory Reporting Year t and for each RAB_X , the depreciation amount for additional assets ($DEPADD_{X_t}$) shall:

- a) in Regulatory Reporting Year $t=2013$, be calculated as follows:

$$DEPADD_{X_t} = 0.5 * DEP_{N_{X_t}}$$

- b) in each other Regulatory Reporting Year t , provided that the cumulative value of $DEPADD_{X_t}$ over RP5 does not exceed the value of the original net asset cost (especially for net asset additions to RABs RAB_{T5Y} and RAB_{D5Y} in year $t = 2013$) be calculated as follows:

$$DEPADD_{X_t} = 0.5 * DEP_{N_{X_t}} + (DEPADD_{X_{t-1}} + 0.5 * DEP_{N_{X_{t-1}}}) * RPI_t / RPI_{t-1}$$

- 4.28. For the purposes of paragraph 4.27, $DEPN_{X_t}$ is the full year depreciation for net assets added to RAB_X in Regulatory Reporting Year t and shall be calculated as follows:

$$DEPN_{X_t} = (QCE_{X_t} - DIQCE_{X_t} + PTCE_{X_t} - DIPTCE_{X_t} - CD_{X_t} + CI_{X_t}) * DEPR_X$$

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Where:

- QCE_{X_t}** means the qualifying capex expenditure amount, calculated in accordance with paragraph 4.17;
- DIQCE_{X_t}** means the demonstrably inefficient qualifying capex expenditure amount, calculated in accordance with paragraph 4.19;
- PTCE_{X_t}** means the pass through capex expenditure amount, calculated in accordance with paragraph 4.21;
- DIPTCE_{X_t}** means the demonstrably inefficient pass through capex expenditure amount, calculated in accordance with paragraph 4.25;
- CD_{X_t}** means the capex disposal amount, calculated in accordance with paragraph 4.30;
- CI_{X_t}** means the capex incentive amount, calculated in accordance with paragraph 4.32; and
- DEPR_X** is the depreciation rate for each RAB_X as set out in Table 5 below:

Table 5 - The Transmission Owner Business depreciation rate for each RAB_X

RAB _X	Depreciation rate (DEPR _X)
RAB _{TN}	3%
RAB _{RN}	3%
RAB _{NSI}	3%
RAB _{T5Y}	20%

4.29. The capex disposal amount - CD_{X_t}

4.30. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X, the capex disposal amount (CD_{X_t}) shall be calculated as follows:

$$CD_{X_t} = OCD_{X_{t-5}} * RPI_t / RPI_{t-5}$$

Where:

- OCD_{X_t}** means the outturn capex disposal amount, during Regulatory Reporting Year t, the value of which constituted part of RAB_X, being the proceeds of the disposal of any relevant asset/s (including Land, Buildings, Plant, Equipment, but not comprising Land Bank premises or scrap) minus any costs of such disposal that were reasonably incurred by the Licensee.

4.31. The capex incentive amount - CI_{X_t}

- 4.32. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB $_X$, the capex incentive amount (CI_{X_t}) is a sum designed to share equally between the Licensee and customers the value of any outperformance or underperformance of the Licensee against its capex allowances and shall be calculated as follows:

$$CI_{X_t} = (AC_{X_t} + ACIA_{X_t} + ACTS_{X_t} + ACCOL_{X_t} - (QCE_{X_t} - DIQCE_{X_t})) * 50\%$$

Where:

- AC_{X_t} is the allowed capex as set out at paragraph 4.34;
- $ACIA_{X_t}$ is the allowed capex (if any) in respect of Regulatory Reporting Year t , for injurious affectation claims, that the Authority determines to be appropriate for the Licensee to recover, where X corresponds to the suffix which is assigned to RAB $_X$ at paragraph 4.1;
- $ACTS_{X_t}$ is the allowed capex (if any) for transmission system capacity or capability, in an amount determined by the Authority to be appropriate in accordance with paragraph 4.35;
- $ACCOL_{X_t}$ is the allowed capex (if any) for changes of law, in an amount determined by the Authority to be appropriate in accordance with paragraph 4.38;
- QCE_{X_t} is the qualifying capex expenditure amount determined in accordance with paragraph 4.16; and
- $DIQCE_{X_t}$ means the demonstrably inefficient qualifying capex expenditure amount calculated in accordance with paragraph 4.19.

- 4.33. **Allowed capex - AC_{X_t}**

- 4.34. For the purposes of this Annex, in each Regulatory Reporting Year t , and for each RAB $_X$, the allowed capex (AC_{X_t}) amounts shall be calculated as follows:

$$AC_{X_t} = AC_{2010_{X_t}} * RPI_t / RPI_{2010}$$

Where:

- $AC_{2010_{X_t}}$ is the allowed capex amount, in a 2010 price base, for each RAB $_X$ and for each Regulatory Reporting Year t , and shall be equal to the amounts specified in Table 6 below.

Table 6 - The Transmission Owner Business allowed capex per RAB $_X$ for each Regulatory Reporting Year t (£ million, 2010 prices)²

² See paragraph 2.3 regarding figures in this table marked with an estimation symbol (e).

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Year RAB_X	t=2013	t=2014	t=2015	t=2016	t=2017	t=2018
RAB_TN	5.65	9.48	23.17	22.96	22.82	11.31 + 11.31e
RAB_T5Y	0.30	0.72	0.70	0.70	0.69	0.34 + 0.34e

4.35. Allowed capex for transmission system capacity or capability - $ACTS_{X_t}$

4.36. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X, the allowed capex for transmission system capacity or capability ($ACTS_{X_t}$), is any amount that the Authority deems to be appropriate, for the expected incremental efficient costs to increase the transmission system capacity or capability in respect of specific projects.

4.37. The value of $ACTS_{X_t}$ in each Regulatory Reporting Year t and for each RAB_X shall be that which the Authority considers appropriate, and for these purposes:

- a) an allowance may be determined in respect of any project only if the project is sufficiently material and has been requested by the relevant system operator (e.g. SONI) in line with the Transmission Interface Arrangements, in a submission which is in such format and contains such information as may be specified by the Authority for that purpose (e.g. including whole life costs and benefits in an objective cost benefit analysis).
- b) no allowance may be determined in respect of any project to the extent to which it takes the form of:
 - i. Distribution works, ~~save for works wholly necessary directly required~~ to facilitate transmission developments; or
 - ii. Asset replacement expenditure (other than any asset replacement works forming part of approved projects); and
- c) the Authority may follow such procedure as it considers appropriate prior to making its determination, including by providing for any audit, assessment or consultation in respect of the project submission;
- d) the Authority may make its determination subject to conditions with which the Licensee shall be required to comply, including in particular conditions as to any monitoring, audit and reporting in relation to the project; and
- e) the Authority may only make a fresh assessment of projects considered in the Final Determination where there has been substantial changes to the nature or scope of these

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projects, otherwise, the allowances for these projects shall be based on the project cost estimates provided in Table 7 below.

Table 7 - The Transmission Owner Business pre-determined transmission load related project allowances (2010 prices)

Project	Project Name	Allowed capex before adjusting for: real price effects; productivity factors; or price base.
T26	Ballylumford 110kV switchboard replacement	£15.3 million
T27	Airport Road 110/33kV substation	£4.0 million
T30	4 th transformer at Castlereagh 275/110 kV substation	£2.2 million
T31	Armagh Main 110/33 kV substation	£2.0 million
T33	Castlereagh-Knock 110kV partial cable replacement	£1.6 million
T34	Tandragee 275kV substation 2 nd bus coupler	£1.3 million
T38	Cregagh 110kV substation isolators and earth switches	£0.4 million
T39	Hannahstown & Kells 275kV substation	£0.2 million

4.38. The allowed capex amount for changes of law - $ACCOL_{X_t}$

4.39. For the purposes of this Annex, in each Regulatory Reporting Year t and for each RAB_X , the allowed capex amount for changes of law ($ACCOL_{X_t}$), being the Relevant Change of Law capex amount (being a positive or negative figure), determined by the Authority, for the purposes of this paragraph, in accordance with paragraphs 4.40 to 4.43.

4.40. For the purposes of paragraph 4.39, the calculation of $ACCOL_{X_t}$ shall occur when the Authority has determined that:

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- a) there has been or will be a Relevant Change of Law;
- b) there has been or will be an amount (whether a positive or negative figure) that is directly attributable to the Relevant Change of Law; and
- c) having regard to all the circumstances, it is appropriate to include the amount within the calculation of $ACCOL_{X_t}$ in order to ensure that the financial position and performance of an efficient Licensee will be, so far as is reasonably practicable, the same as if the Relevant Change of Law had not taken place.

4.41. The Authority may make a determination in accordance with paragraph 4.40:

- a) on an application made to it by the Licensee; or
- b) otherwise, following consultation with the Licensee.

4.42. An application made to the Authority by the Licensee pursuant to paragraph 4.40 shall contain or be accompanied by all relevant details of the anticipated cost or revenue, and such other information as the Authority may require and, unless the Authority otherwise consents, may not be given later than the first day of April in the year immediately preceding the first of the Regulatory Reporting Years in respect of which the Licensee wishes that cost or revenue to be included in the calculation of $ACCOL_{X_t}$.

4.43. Where the Authority determines that an anticipated cost or revenue is appropriate for inclusion in the calculation of $ACCOL_{X_t}$ in one or more Regulatory Reporting Years, it shall specify the value to be attributed to that cost or revenue in respect of each Regulatory Reporting Year.

4.44. **The depreciation amount - DEP_t**

4.45. For the purposes of this Annex, in each Regulatory Reporting Year t , the depreciation amount (DEP_t) shall be calculated as follows:

$$DEP_t = \sum_{AllRAB_X} (DEPADD_{X_t} + FDEP_{X_t})$$

Where:

\sum_{AllRAB_X} means the summation of the values for all Regulatory Asset Bases;

$DEPADD_{X_t}$ means the depreciation amount for additional assets for each RAB_X , calculated in accordance with paragraph 4.26; and

$FDEP_{X_t}$ means the fixed depreciation amount for each RAB_X , calculated in accordance with paragraph 4.11.

5. The return amount - RET_t

5.1. For the purposes of this Annex, in Regulatory Reporting Year t , the return amount (RET_t) is calculated as follows:

$$RET_t = \left(\sum_{AllRAB_X} (ORAB_{X_t} + CRAB_{X_t}) / 2 \right) * AWACC_t$$

Where:

\sum_{AllRAB_X} means the summation of the values for every Regulatory Asset Base, RAB_X ;

$ORAB_{X_t}$ means the opening Regulatory Asset Base in respect of each RAB_X in Regulatory Reporting Year t , has the value established in accordance with paragraph 4.4;

$CRAB_{X_t}$ means the closing Regulatory Asset Base in respect of each RAB_X in Regulatory Reporting Year t , and is equal to:

$$CE_{X_t} + CADD_{X_t}$$

Where:

CE_{X_t} is the closing value of existing assets, and has the value calculated in accordance with paragraph 4.9; and

$CADD_{X_t}$ is the closing value of additional assets, and has the value calculated in accordance with paragraph 4.15.

$AWACC_t$ means the adjusted vanilla weighted average cost of capital in Regulatory Reporting Year t , and shall be calculated as follows:

$$AWACC_t = \frac{VWACC_t}{\sqrt{(1 + VWACC_t)}}$$

Where:

$VWACC_t$ means the vanilla weighted average cost of capital in Regulatory Reporting Year t and has a value equal to 4.10%.

6. The opex amount - O_t

6.1. For the purposes of paragraph 3.5, in each Regulatory Reporting Year t , the opex amount (O_t) shall be calculated as follows:

$$O_t = QOE_t - DIQOE_t + PTOE_t - DIPTOE_t + OI_t$$

Where:

- QOE_t means the qualifying opex expenditure amount, calculated in accordance with paragraph 6.3;
- $DIQOE_t$ means the demonstrably inefficient qualifying opex expenditure amount, calculated in accordance with paragraph 6.5;
- $PTOE_t$ means the pass through opex expenditure amount, calculated in accordance with paragraph 6.7;
- $DIPTOE_t$ means the demonstrably inefficient pass through opex expenditure amount, calculated in accordance with paragraph 6.11; and
- OI_t means the opex incentive amount in Regulatory Reporting Year t , calculated in accordance with paragraph 6.13.

6.2. The qualifying opex expenditure amount - QOE_t

6.3. For the purposes of this Annex, in each Regulatory Reporting Year t , the qualifying opex expenditure amount (QOE_t), shall:

- a) be the value of opex incurred by the Licensee (excluding $PTOE_t$) reasonably allocated or attributed to:
 - i. the Transmission Owner Business; and
 - ii. the Regulatory Reporting Year t ; and
- b) exclude any amounts reasonably allocated or attributed to any of the following:
 - i. pension deficit repair contributions;
 - ii. the net costs (or net contributions) relating to: activities or services subject to the Licensee's connection charges such that the exclusion is consistent with the Licensee's Connection Charging Statement; or any other activities or services that are treated as Excluded Services for the purpose of the restriction on the Licensee's Maximum Regulated Transmission Revenue;
 - iii. any costs recharged by the Licensee to associated businesses or related parties;
 - iv. any Related Party Margin that is charged to the Licensee by a Related Party;
 - v. any costs incurred by the Licensee as part of the PSO Agreement or otherwise recoverable under the restriction on the Licensee's PSO Charges;
 - vi. costs of external advisers incurred by the Licensee in relation to the Competition Commission inquiry which resulted in the Final Determination; and

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- vii. other costs of any description which the Authority may determine from time to time are manifestly unreasonable to include in the qualifying opex expenditure amount.

6.4. Demonstrably inefficient qualifying opex expenditure - $DIQOE_t$

6.5. For the purposes this Annex, in each Regulatory Reporting Year t , $DIQOE_t$ shall be the part (if any) of QOE_t that the Authority determines to be Demonstrably Inefficient or Wasteful Expenditure.

6.6. Pass through opex expenditure amount - $PTOE_t$

6.7. For the purposes of this Annex, in each Regulatory Reporting Year t , the pass through opex expenditure amount ($PTOE_t$) shall:

- a) be the value of opex incurred by the Licensee (excluding QOE_t) reasonably allocated or attributed to:
 - i. the Transmission Owner Business; and
 - ii. the Regulatory Reporting Year t ; and
- b) be calculated as follows:

$$PTOE_t = OLF_t + OLD_t + OC_t$$

Where:

OLF_t is the opex licence fee amount in Regulatory Reporting Year t , being the licence fee apportioned or allocated to or required from the Licensee under Condition 7 of this Licence;

OLD_t is the opex legacy D_t amount, calculated in accordance with paragraph 6.9; and

OC_t means the opex connections amount in Regulatory Reporting Year t , being the net costs (or net contributions) relating to activities or services subject to the Licensee's connection charges such that the inclusion is consistent with the Licensee's Connection Charging Statement as approved by the Authority, and where contributions from connecting parties are included on a cash basis. The opex connections amount shall exclude the cost of alterations to existing connections and shall only include costs of connections relating to the following types of connection:

- i. -approved generation cluster infrastructure; and-
- ii. all other connections governed by the Licensee's Connection Charging Statement.

6.8. The opex legacy D_t amount - OLD_t

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- 6.9. For the purposes of this Annex, in each Regulatory Reporting Year t , OLD_t is the opex legacy D_t amount incurred by the Licensee that the Authority determines, insofar as the Licensee has incurred these costs in line with the original approval terms, for each of the items referenced in Table 8 below:

Table 8 - The Transmission Owner Business opex legacy D_t amounts (2010 prices)

Legacy D_t items	Approval reference date(s)	Total maximum RP5 spend
SONI pension deficit repair	30 June 2008	£4.3 million
North-South Interconnector	12 Jan 2012, 11 June 2012, and 20 September 2012	£4.1 million

- 6.10. **Demonstrably inefficient pass through opex expenditure - $DIPTOE_t$**
- 6.11. For the purposes this Annex, in each Regulatory Reporting Year t , $DIPTOE_t$ shall be the part (if any) of $PTOE_t$ that the Authority determines to be Demonstrably Inefficient or Wasteful Expenditure.
- 6.12. **The opex incentive amount - OI_t**
- 6.13. For the purposes of this Annex, in each Regulatory Reporting Year t , the opex incentive amount (OI_t) is a sum designed to share equally between the Licensee and customers the value of any outperformance or underperformance of the Licensee against its opex allowances and shall be calculated as follows:

$$OI_t = (AO_t + AOO_t - (QOE_t - DIQOE_t)) * 50\%$$

Where:

- AO_t is the allowed opex amount calculated in accordance with paragraph 6.15;
- AOO_t is the allowed opex other amount calculated in accordance with paragraph 6.17;
- QOE_t is the qualifying opex expenditure amount calculated in accordance with paragraph 6.3; and
- $DIQOE_t$ is the demonstrably inefficient qualifying opex expenditure amount calculated in accordance with paragraph 6.5.

- 6.14. **Allowed opex amount - AO_t**

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- 6.15. For the purposes of this Annex, in each Regulatory Reporting Year t , the allowed opex (AO_t) amounts shall be calculated as follows:

$$AO_t = AO_{2010_t} * RPI_t / RPI_{2010}$$

Where:

AO_{2010_t} means the allowed opex amount, in a 2010 price base, for each Regulatory Reporting Year t , and shall be equal to the amounts specified in specified in Table 9 below:

Table 9 - The Transmission Owner Business allowed opex amount for each Regulatory Reporting Year t (£ million, 2010 prices)³

Year	t=2013	t=2014	t=2015	t=2016	t=2017	t=2018
Term						
Allowed opex amount (AO_{2010_t})	5.73	5.84	5.65	5.64	5.63	2.80 + 2.80 ^e

- 6.16. **Allowed opex other amount - AOO_t**

- 6.17. For the purposes of this Annex, in each Regulatory Reporting Year t , the allowed opex other amount (AOO_t), being the amounts for other opex items listed immediately below, shall be calculated as follows:

$$AOO_t = BD_t + IA_t + RR_t + COL_t$$

Where:

BD_t is the allowed opex (if any) amount in Regulatory Reporting Year t , for Uncollected Revenue, being the amount appropriate for the Licensee to recover in that Regulatory Reporting Year, in respect of Uncollected Revenue less any amount or part of an amount treated as Uncollected Revenue in respect of a preceding Relevant Reporting Year t that has been paid to the Licensee in Relevant Reporting Year t ;

IA_t is the allowed opex (if any) amount in Regulatory Reporting Year t , for injurious affectation, being the amount that the Authority determines to be appropriate for the Licensee to recover in respect of injurious affectation claims in that Regulatory Reporting Year;

RR_t is the allowed opex (if any) amount in Regulatory Reporting Year t , for regulatory reporting, being the additional amount that the Authority determines to be appropriate for the Licensee to recover in that Regulatory Reporting Year, in respect of regulatory reporting costs; and

³ See paragraph 2.3 regarding figures in this table marked with an estimation symbol (e).

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COL_t is the allowed opex (if any) amount for changes of law, in an amount determined by the Authority to be appropriate in accordance with paragraph 6.18.

- 6.18. **The allowed opex amount for changes of law - COL_t**
- 6.19. For the purposes of this Annex, in each Regulatory Reporting Year t , the allowed opex amount for changes of law (COL_t), being the Relevant Change of Law opex amount (being a positive or negative figure) determined by the Authority, for the purposes of this paragraph, in accordance with paragraphs 6.20 to 6.23.
- 6.20. For the purposes of paragraph 6.19, the calculation of COL_t shall occur when the Authority has determined that:
- there has been or will be a Relevant Change of Law;
 - there has been or will be an amount (whether a positive or negative figure) that is directly attributable to the Relevant Change of Law; and
 - having regard to all the circumstances, it is appropriate to include the amount within the calculation of COL_t in order to ensure that the financial position and performance of an efficient Licensee will be, so far as is reasonably practicable, the same as if the Relevant Change of Law had not taken place.
- 6.21. The Authority may make a determination in accordance with paragraph 6.20:
- on an application made to it by the Licensee; or
 - otherwise, following consultation with the Licensee.
- 6.22. An application made to the Authority by the Licensee pursuant to paragraph 6.20 shall contain or be accompanied by all relevant details of the anticipated cost or revenue, and such other information as the Authority may require and, unless the Authority otherwise consents, may not be given later than the first day of April in the year immediately preceding the first of the Regulatory Reporting Years in respect of which the Licensee wishes that cost or revenue to be included in the calculation of COL_t .
- 6.23. Where the Authority determines that an anticipated cost or revenue is appropriate for inclusion in the calculation of COL_t in one or more Regulatory Reporting Years, it shall specify the value to be attributed to that cost or revenue in respect of each Regulatory Reporting Year.

7. The pension deficit amount - P_t

7.1. For the purposes of this Annex, in each Regulatory Reporting Year t , P_t means the pension deficit amount, including the ERDC amount in Regulatory Reporting Year t , and shall be calculated as follows:

$$P_t = P_{2010_t} * RPI_t / RPI_{2010}$$

Where:

P_{2010_t} means the pension deficit amount, in a 2010 price base, for each Regulatory Reporting Year t , and shall be equal to the amounts specified in specified in Table 10 below:

Table 10 - The Transmission Owner Business pension deficit amount for each Regulatory Reporting Year t (£ million, 2010 prices)⁴

Period / Term	t=2013	t=2014	t=2015	t=2016	t=2017	t=2018
Historic Deficit Repair	1.10	1.10	1.10	1.10	1.10	0.55 + 0.55e
ERDC Disallowance	(0.31)	(0.31)	(0.31)	(0.31)	(0.31)	(0.16) + (0.16)e
Pension deficit amount (P_{2010_t})	0.78	0.78	0.78	0.78	0.78	0.39 + 0.39e

⁴ See paragraph 2.3 regarding figures in this table marked with an estimation symbol (e).

8. The costs of the investigation amount (COI_t)

- 8.1. For the purposes of paragraph 3.5, in each Regulatory Reporting Year t , the costs of the investigation amount (COI_t), shall be calculated as follows:

$$COI_t = COI_{2010_t} * RPI_t / RPI_{2010}$$

Where:

COI_{2010_t} means the costs of the investigation amount, in a 2010 price base, and shall be equal to zero in every Regulatory Reporting Year t except for Regulatory Reporting Year $t = 2014$ where it shall be equal to £0.181 million.

9. The Tax Amount - TAX_t

9.1. For the purposes of paragraph 3.5, in Regulatory Reporting Year t , the tax amount (TAX_t) is calculated as follows in nominal prices:

$$TAX_t = TR_t / (1 - TR_t) * (RET_t + DEP_t - INT_t - CA_t)$$

Where:

- TR_t means the corporation Tax Rate applicable in Northern Ireland in Regulatory Reporting Year t , as specified from time to time by HMRC;
- RET_t means the return amount in Regulatory Reporting Year t , calculated in accordance with paragraph 5.1;
- DEP_t means the depreciation amount in Regulatory Reporting Year t , calculated in accordance with paragraph 4.38;
- INT_t means an amount equal to the Interest on the value of the average of all Regulatory Asset Bases, in Regulatory Reporting Year t and shall be calculated as follows:

$$INT_t = \frac{\left(\sum_{AllRAB_X} (ORAB_X_t + CRAB_X_t) \right)}{2} * G * NCOD$$

Where:

- \sum_{AllRAB_X} means the summation of the values for all Regulatory Asset Bases;
- $ORAB_X_t$ is the value of the opening Regulatory Asset Base for each RAB_X in Regulatory Reporting Year t , calculated in accordance with paragraph 4.4;
- $CRAB_X_t$ is the value of the closing Regulatory Asset Base for each RAB_X in Regulatory Reporting Year t , calculated in accordance with paragraph 5.1;
- G means notional gearing and has the value of 45%;
- $NCOD$ means the notional nominal cost of debt and has the value of 6.45%; and
- CA_t means, in each Regulatory Reporting Year t , an amount equal to the value of regulatory capital allowances in accordance with guidelines published by HMRC considered appropriate by the Authority for the purposes of calculating Maximum Regulated Transmission Revenue in respect of that Regulatory Reporting Year, calculated on a notional basis, under the hypothetical assumptions that:
- i. capital additions, while considering ii, iii, and iv immediately below, are calculated as follows:

$$\sum_{AllRAB_X} (QCE_X_t - DIQCE_X_t + PTCE_X_t - DIPTCE_X_t - CD_X_t + CI_X_t)$$

Where:

- \sum_{AllRAB_X} means the summation of the values for all Regulatory Asset Bases;
- QCE_X_t means the qualifying capex expenditure amount, calculated in accordance with paragraph 4.17;
- $DIQCE_X_t$ means the demonstrably inefficient qualifying capex expenditure amount, calculated in accordance with paragraph 4.19;
- $PTCE_X_t$ means the pass through capex expenditure amount, calculated in accordance with paragraph 4.21;
- $DIPTCE_X_t$ means the demonstrably inefficient pass through capex expenditure amount, calculated in accordance with paragraph 4.24;
- CD_X_t means the capex disposal amount, calculated in accordance with paragraph 4.30; and
- CI_X_t means the capex incentive amount, calculated in accordance with paragraph 4.32; and
- ii. the regulatory capital allowances are the maximum capital allowance available to the Licensee, irrespective of whether or not the Licensee chooses to utilise such allowances in full;
 - iii. if the Licensee opts to defer capital allowance claims in respect of any capital allowance in any given year, the amount of capital allowance available in any subsequent year excludes any amounts for which claims were so deferred (to avoid double counting any capital allowance);
 - iv. the regulatory capital allowances include amortization of Deferred Revenue Expenditure; and
 - v. the opening written down values are as specified in Table 11 below:

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Table 11 - The Transmission Owner Business opening tax capital allowance values (£ million, nominal prices)

Category	Opening RP5 written down value
General Pool	0.00
Long life asset pool	65.05
Deferred revenue	24.50 ⁵

⁵ The gross value of capital additions before RP5 was £27.18million

10. Not Used

11. The correction factor amount - K_t

11.1. For the purposes of paragraph 3.5 and for the closure of the RP5 period, the correction factor amount (K_t) shall be calculated as follows:

- a) in Regulatory Reporting Year $t = 2013$:

$$K_t = KRP4$$

Where:

KRP4 means the closing K factor for the RP4 price control at 31st March 2012 and has the value of £13.087 million.

- b) in Regulatory Reporting Years $t = 2014$, $t = 2015$, $t = 2016$ and $t = 2017$:

$$K_t = (RP5R_{t-1} - ARP5_{t-1}) * (1 + I_t) + RP4CI_t$$

Where:

RP5R_{t-1} means the Maximum Regulated Transmission Revenue, in Regulatory Reporting Year $t-1$;

ARP5_{t-1} means the actual Regulated Transmission Revenue recovered through Transmission Charges in Regulatory Reporting Year $t-1$; and

I_t means the Average Specified Rate; and

RP4CI_t means the amounts due to the Licensee under the capex efficiency incentive that applied under the RP4 price control and is equal to £0.234 million in year $t=2015$ and zero (0) thereafter.

- c) for the closure of the RP5 period (the 6 months ending 30 September 2017):

$$K_t = (RP5R_{SEP17} - ARP5_{SEP17}) * (1 + I_t)$$

Where:

RP5R_{SEP17} means the Maximum Regulated Transmission Revenue for the 6 months ending 30 September 2017;

ARP5_{SEP17} means the actual Regulated Transmission Revenue recovered through Transmission Charges for the 6 months ending 30 September 2017; and

I_t means the Average Specified Rate.

12. Information to be provided to the Authority in connection with the Transmission Charge Restriction Conditions

12.1. Introduction

12.2. In addition to, and without prejudice to, the provisions of Condition 8 of the Licence, the Licensee shall, in relation to the Transmission Charge Restriction Conditions, furnish the Authority with Specified Information as set out in this paragraph 12.

12.3. Specified Information

12.4. The Licensee shall, subject to other provisions set out in the Licence and in this paragraph 12, provide to the Authority the following Specified Information:

- a) forecasts and/or estimates in accordance with paragraph 12.6, with regards to the setting of Transmission Charges;
- b) any explanation and/or statement as to whether or not the provisions at paragraph 12.11 are likely to be applicable, with regards to the restriction of Transmission Charges;
- c) information to comply with the Authority's Regulatory Instructions and Guidance (RIGs) in accordance with paragraph 12.15;
- d) information which provides a reconciliation of the values published in the accounting statements (referred to at Condition 2 of the Licence) for opex and capex with:
 - i. the qualifying opex expenditure amount (QOE_t) and the pass through opex expenditure amount ($PTOE_t$);
 - ii. the qualifying capex expenditure amount (QCE_{X_t}) for each RAB_X and the pass through capex expenditure amount ($PTCE_{X_t}$) for each RAB_X; and
 - iii. the cost information provided to comply with the Authority's RIGs in accordance with paragraph 12.15;
- e) information regarding pension deficits, in accordance with paragraph 12.20;
- f) information on historical revenues, including:
 - i. all data used in the calculation of the Licensee's Maximum Regulated Transmission Revenue, in accordance with paragraph 12.21;
 - ii. the revenue derived from Excluded Services (showing separately the revenue from each category of excluded service) in accordance with paragraph 13.6;
- g) information on network investment projects and volumes, including:
 - i. a forecast of the network investment for the RP6 price control period, in accordance with paragraph 12.25; and
 - ii. information on pre-funded costs, in accordance with paragraph 12.26;

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- iii. information on outturn RP5 projects and volumes, and planned RP5 projects and volumes in accordance with paragraph 12.29; and
 - h) information on the Licensee's ESQCR compliance, in accordance with paragraph 12.32;
 - i) information on tax, in accordance with paragraph 12.34; and
 - j) the statutory accounts of any Related Party, in accordance with paragraph 12.37.
- 12.5. Unless otherwise specified in this Annex or the Licence, the Specified Information listed at paragraph 12.4 shall be submitted:
- a) for the time period as the Authority may reasonably require and as may be specified in directions issued by the Authority;
 - b) by a date as the Authority may reasonably require and as may be specified in directions issued by the Authority;
 - c) in a format as the Authority may reasonably require and as may be specified in directions issued by the Authority; and
 - d) to the relevant employees of the Authority and to the electricity_network_reporting@uregni.gov.uk mailbox or subsequent equivalent mailbox.
- 12.6. **Forecasts / estimates with regards to setting Transmission Charges**
- 12.7. Where any change is intended to be made in Transmission Charges regulated under paragraph 3, the Licensee shall not later than 14 days prior to the time of publication of such change, provide the Authority with:
- a) a written forecast of the Maximum Regulated Transmission Revenue, together with its components, in respect of each Regulatory Reporting Year t upon which the intended change would affect;
 - b) a written estimate of the Maximum Regulated Transmission Revenue, together with its components, in respect of each Regulatory Reporting Year prior to the first Regulatory Reporting Year t upon which the intended change would affect; and
 - c) a written forecast of the over- or under-recovery in all future Regulatory Tariff Years for which the Licensee forecasts an over- or under- recovery.
- 12.8. If within 3 months of the commencement of any Regulatory Tariff Year t the Licensee has not made any such change in charges as is referred to in paragraph 12.7, the Licensee shall provide the Authority with:
- a) a written forecast of the Maximum Regulated Transmission Revenue, together with its components, in respect of each Regulatory Reporting Year upon which Regulatory Tariff Year t has an effect; and
 - b) a written forecast of the over- or under-recovery in all future Regulatory Tariff Years for which the Licensee forecasts an over- or under- recovery.

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- 12.9. Any forecast or estimate provided in accordance with paragraph 12.7 or 12.8 shall be accompanied by such information as regards the assumptions underlying the forecast or estimate as may be necessary to enable the Authority to be satisfied that the forecast or estimate has been properly prepared on a consistent basis.
- 12.10. In addition, any forecast or estimate provided in accordance with paragraph 12.7 or 12.8 shall be published by the Licensee on the Licensee's website.
- 12.11. **Restriction of Transmission Charges**
- 12.12. If, in respect of any Regulatory Tariff Year, the Regulated Transmission Revenue exceeds the Maximum Regulated Transmission Revenue by more than the Permitted One-Year Percentage, the Licensee shall furnish an explanation to the Authority, and in the next following Regulatory Tariff Year, the Licensee shall not effect any increase in Transmission Charges unless it has demonstrated to the reasonable satisfaction of the Authority that the Regulated Transmission Revenue would not be likely to exceed the Maximum Regulated Transmission Revenue in that following Regulatory Tariff Year.
- 12.13. If, in respect of any three successive Regulatory Tariff Years, the sum of the amounts by which the Regulated Transmission Revenue has exceeded the Maximum Regulated Transmission Revenue, is more than the Permitted Three-Year Percentage, then in the next following Regulatory Tariff Year the Licensee shall, if required by the Authority, adjust its Transmission Charges such that the Regulated Transmission Revenue would not be likely, in the judgement of the Authority, to exceed the Maximum Regulatory Transmission Revenue in that next following Regulatory Tariff Year.
- 12.14. Not later than six weeks after the commencement of each Regulatory Tariff Year, the Licensee shall send to the Authority a statement as to:
- a) whether or not the provisions of:
 - i. paragraph 12.12 are likely to be applicable in consequence of the Regulated Transmission Revenue in the preceding Regulatory Tariff Year; and/ or
 - ii. paragraph 12.13 are likely to be applicable in consequence of the Regulated Transmission Revenue in the preceding 3 Regulatory Tariff Years; and
 - b) the Licensee's best estimate as to the cumulative over- or under- recovery at the last day of the most recently ended Regulatory Tariff Year.
- 12.15. **Information to comply with Authority's Regulatory Instructions and Guidance (RIGs)**
- 12.16. The Licensee shall, furnish the Authority with any information required to comply with the Authority's RIGs, as may change from time to time.

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- 12.17. The Licensee shall ensure that the RIGs information referred to at paragraph 12.16 includes estimations of the Licensee's confidence in that information and is certified by a relevant director.
- 12.18. The Licensee shall, publish on the Licensee's website, the information supplied in accordance with paragraph 12.16, subject to the minimum redactions considered necessary by the Authority to protect commercially sensitive information.
- 12.19. **Pension deficits**
- 12.20. The Licensee shall, furnish the Authority with relevant information regarding any pension deficits, splitting accordingly the historic deficit (assuming a cut-off date of 31 March 2012) and incremental deficit.
- 12.21. **Historical data used in the calculation of the Licensee's Maximum Regulated Transmission Revenue**
- 12.22. The Licensee shall, furnish the Authority with all historical data used to calculate the Maximum Regulated Transmission Revenue as set out in the formulas in this Annex.
- 12.23. The Licensee shall, for the period from 1 April 2012, publish, on the Licensee's website and in the Licensee's accounting statements referred to in Condition 2 of the Licence, the data referred to at 12.22.
- 12.24. **Forecast network investment in the RP6 price control period**
- 12.25. The Licensee shall, on an annual basis submit to the Authority the Licensee's estimate of the expected investments, volumes and projects for the RP6 price control period.
- 12.26. **Information on pre-funded costs**
- 12.27. The Licensee shall, on an annual basis submit to the Authority an estimate of the pre-funded costs, being the network investments, volumes and projects required in periods after RP5 which can be attributed to the cancellation, reduction or deferral of any investments, volumes or projects that the Competition Commission assumed as part of the cost assessment underpinning its Final Determination (the planned investments, volumes and projects).
- 12.28. The Licensee shall submit to the Authority, on an annual basis, to supplement the information referred to at paragraph 12.27, reconciliations of the information referred to at paragraph 12.27 to the planned investments, volumes and projects specified at Appendix 1 and Appendix 2 below.
- 12.29. **Information on the outturn RP5 investments, projects and volumes, and planned RP5 investments, projects and volumes**

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- 12.30. The Licensee shall, on an annual basis, for the RP5 period, submit to the Authority:
- a) information on outturn investments, volumes and projects; and
 - b) information on planned investments, volumes and projects.
- 12.31. The Licensee shall submit to the Authority, on an annual basis, to supplement the information referred to at paragraph 12.30, reconciliations of the information referred to at paragraph 12.30 to the planned investments, volumes and projects, specified at Appendix 1 and Appendix 2 below.
- 12.32. **Reporting on the Licensee's ESQCR compliance**
- 12.33. The Licensee shall, report on the Licensee's ESQCR compliance, with additional details on the Licensee's patrolling activity, including a split of low voltage work into low voltage undereaves and low voltage overhead lines.
- 12.34. **Information on tax**
- 12.35. The Licensee shall, no later than 12 months after the end of each Regulatory Reporting Year, prepare and submit to the Authority an annual report, in a form to be approved by the Authority, setting out:
- a) audited tax reports that enable a full reconciliation between:
 - i. information submitted to HMRC on the Licensee's tax affairs; and
 - ii. information used for the calculation of the tax element of the Licensee's Maximum Regulated Transmission Revenue, as calculated at paragraph 9 of this Annex;
 - b) information submitted to HMRC on the Licensee's tax affairs;
 - c) information used for the calculation of the tax element of the Licensee's Maximum Regulated Transmission Revenue, as calculated at paragraph 9 of this Annex; and
 - d) any retrospective adjustments in respect of previous years together with any restatement of 12.35.a), 12.35.b) and 12.35.c).
- 12.36. The Licensee shall, on an annual basis, publish on the Licensee's website the information supplied under 12.35 subject to the minimum redactions, considered necessary by the Authority, to protect commercially sensitive information.
- 12.37. **The statutory accounts of any Related Party**
- 12.38. The Licensee shall, no later than 10 months after the end of each Regulatory Reporting Year, prepare and submit to the Authority the financial statements of any Related Party, for the Regulatory Reporting Year, with whom the Licensee has had a transaction in that Regulatory Reporting Year.

13. Excluded Services for purposes of Transmission Owner Business

- 13.1. There may be treated as Excluded Services provided by the Transmission Owner Business such services in respect of which charges are made which:
- a) do not fall within paragraph 13.2; and
 - b) may (subject to paragraph 13.7) be determined by the Licensee as falling under one of the principles set out in paragraphs 13.3 to 13.5.
- 13.2. No service provided as part of the Transmission Owner Business shall be treated as an excluded service insofar as it relates to the provision of services remunerated under charges in accordance with Condition 22 including (without prejudice to the foregoing):
- a) the transport of electricity;
 - b) the carrying out of works for the installation of electric lines or electrical plant (not otherwise payable in the form of connection charges) for the purpose of maintaining or upgrading the Licensee's transmission system;
 - c) the carrying out of works or the provision of maintenance or repair or other services for the purpose of enabling the Licensee to comply with Conditions 19 and 26, the Electricity Supply Regulations (Northern Ireland) 1991 as amended by the Electricity Supply (Amendment) Regulations (Northern Ireland) 1993 or any regulations made under Article 32 of the Order or any other enactment relating to safety or standards applicable in respect of the Transmission Owner Business;
 - d) the provision, installation and maintenance of any meters, switchgear or other electrical plant ancillary to the grant of use of system.
- 13.3. The whole or an appropriate proportion (as the case may be) of the charges of the type described in paragraph 3 of Condition 22 and borne by any person as connection charges in respect of connections made after the grant of this Licence may be treated as Excluded Services.
- 13.4. There may be treated as an excluded service charge for the relocation of electric lines or electrical plant and the carrying out of works associated therewith pursuant to a statutory obligation (other than under Article 12(2) of the Order) imposed on the Licensee.
- 13.5. There may be treated as an excluded service any service of a type not referred to above which:
- a) consists in the provision of services for the specific benefit of a third party requesting the same; and
 - b) is not made available as a normal part of the Transmission Owner Business remunerated by Transmission Charges, including (without prejudice to the foregoing):

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- i. special metering (including “time of day” metering) to facilitate energy saving programmes for the benefit of customers requesting the same;
 - ii. prepayment metering equipment;
 - iii. charges for moving mains, services or meters forming part of the Licensee’s transmission system to accommodate extension, re-design or re-development of any premises on which the same are located or to which they are connected; and
 - iv. the provision of electric lines and electrical plant (a) insofar as the same are required for the specific purpose of enabling the provision of top-up or standby or (b) to provide a higher degree of security than is required for the purposes of complying with Condition 19.
- 13.6. The Licensee shall following the end of each Regulatory Reporting Year furnish to the Authority, as being one of the items of Specified Information referred to in paragraph 12.3, details specifying separately the nature of all services provided as part of the Transmission Owner Business and treated as Excluded Services by the Licensee during the course of such year and stating the revenues derived in respect of each such service so treated.
- 13.7. Where the Authority is satisfied that it is reasonable in all the circumstances that any service treated by the Licensee as being or not being an excluded service should not be so treated, the Authority shall issue directions to that effect. Any such directions may, where a service is directed to be treated as an excluded service, contain such conditions as the Authority shall see fit in relation to the charges which the Licensee may make for such excluded service and the other terms and conditions upon which the Licensee may provide such excluded service. In accordance with the terms of such directions, such service shall cease to be treated as an excluded service with effect from the date of issue of such directions or such earlier date as may be specified in the directions.

14. Allowances in respect of security costs

14.1. At any time during a Fuel Security Event, the Authority may (having regard to its duties under the Energy Order) by means of directions:

- a) suspend or modify for the unexpired term of the Fuel Security Event the Transmission Charge Restriction Conditions or any part or parts thereof; or
- b) introduce for the unexpired term of the Fuel Security Event new Transmission Charge Restriction Conditions,

in either case, so as to make such provision as in the opinion or estimation of the Authority is requisite or appropriate to enable the Licensee to recover by means of appropriate equitable increases in the charges made in the course of the Transmission Owner Business an amount estimated as being equal to the Licensee's allowed transmission related security costs during such event, and the Licensee shall comply with the terms of any directions so issued.

14.2. Subject to paragraphs 14.3 and 14.5, the Licensee shall in any Regulatory Reporting Year be entitled to recover an aggregate amount equal to the Licensee's allowed transmission related security costs in that year or (insofar as not previously recovered) any previous year, by means of appropriate equitable increases in the charges made by the Licensee in the course of the Transmission Owner Business.

14.3. Paragraph 14.2 shall not apply insofar as such Licensee's allowed transmission related security costs:

- a) were otherwise recovered by the Licensee; or
- b) were taken into account by the Authority in setting charge restriction conditions by means of directions issued under paragraph 14.1.

14.4. The Licensee shall following the end of each Regulatory Reporting Year provide to the Authority details in respect of that Regulatory Reporting Year of:

- a) the aggregate amounts charged under paragraph 14.2 on account of the Licensee's allowed transmission related security costs; and
- b) the bases and calculations underlying the increases in charges made by the Licensee in the course of the Transmission Owner Business under paragraph 14.2.

14.5. Where the Authority is satisfied that the Licensee has recovered amounts in excess of the Licensee's allowed transmission related security costs, the Authority may issue directions requiring the Licensee to take such steps as may be specified to reimburse customers of the Transmission Owner Business for the excess amounts charged to them, and the Licensee shall comply with any directions so issued.

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- 14.6. No amounts charged by the Licensee under this paragraph 14 (whether or not subsequently required to be reimbursed) shall be taken into account for the purpose of applying the transmission charge restriction provisions of paragraph 3.

15. Duration of the charge restriction conditions

- 15.1. Subject to the following paragraphs of this Annex, the Transmission Charge Restriction Conditions shall apply so long as the Licence continues in force.
- 15.2. The Transmission Charge Restriction Conditions outlined in paragraph 3.2 do not apply to tariff years from 1 October 2017 onwards. In the absence of modifications to those provisions, the licensee shall not be able to increase (in nominal terms) any of the tariffs or charges contributing to its Regulated Transmission Revenue above the levels applicable on 1 October 2016.
- 15.3. **Disapplication**
- 15.4. The Transmission Charge Restriction Conditions shall cease to have effect (in whole or in part, as the case may be) if the Licensee delivers to the Authority a request (a “Disapplication Request”) made in accordance with paragraph 15.6 and:
- a) the Authority agrees in writing to the request; or
 - b) the application of this Annex (or any part of it) is terminated by a notice (a “Disapplication Notice”) given by the Licensee in accordance with paragraph 15.7 and not withdrawn.
- 15.5. Save where the Authority agrees otherwise, no disapplication following delivery of a Disapplication Request pursuant to paragraphs 15.4 to 15.10 shall have effect earlier than the date (the “Disapplication Date”) which is the later of:
- a) the date occurring 18 months after delivery of the Disapplication Request; and
 - b) 30 September 2017.
- 15.6. A Disapplication Request pursuant to paragraphs 15.4 to 15.10 shall:
- a) be in writing addressed to the Authority;
 - b) specify this Annex or any part of it to which the request relates (excluding in either case paragraphs 15.4 to 15.10); and
- 15.7. state the date from which the Licensee wishes the Authority to agree that the Annex or specified part of it shall cease to have effect. A Disapplication Notice pursuant to paragraphs 15.4 to 15.10:
- a) may be given in the circumstances described in either paragraph 15.8 or 15.9;
 - b) may be withdrawn at any time prior to the Disapplication Date; and
 - c) where it is given, shall:
 - i. be in writing addressed to the Authority;

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- ii. specify this Annex or any part of it (which shall comprise only such part as was specified in the Disapplication Request) to which the notice relates;
 - iii. state the date from which the Licensee wishes the notice to take effect, which shall not be earlier than the Disapplication Date.
- 15.8. The circumstances described in this paragraph are that, by the beginning of the period of six months which will end with the Disapplication Date, the Authority has not in response to the Disapplication Request published a decision under Article 14(8) of the Order to modify:
 - a) this Annex (or any part of it) to which the request relates; or
 - b) paragraphs 15.4 to 15.10, so as to remove the right of the Licensee to give to the Authority a Disapplication Notice in respect of the relevant Disapplication Request.
- 15.9. The circumstances described in this paragraph are that:
 - a) by no later than the beginning of the period of six months which will end with the Disapplication Date, the Authority has in response to the Disapplication Request published a decision of a type referred to in paragraph 15.8 above;
 - b) the Licensee has exercised its right to appeal to the CMA against that decision in accordance with Article 14B of the Order;
 - c) the CMA has, in respect of the provisions to which the Disapplication Request relates:
 - i. quashed the decision of the Authority under Article 14E(2)(a) of the Order;
 - ii. neither remitted the matter back to the Authority under Article 14E(2)(b) of the Order nor substituted its own decision for that of the Authority under Article 14E(2)(c) of the Order; and
 - d) no more than 30 days has elapsed since the date on which the CMA quashed the decision of the Authority.
- 15.10. A Disapplication Request or Disapplication Notice served under paragraphs 15.4 to 15.10 may be served in respect of a specified geographic area.

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Appendix 1 - The Transmission Owner Business: planned investments, volumes and projects capitalised to RAB (2010 prices)

<i>Project ID</i>	<i>Project name</i>	<i>Asset name / further information</i>	<i>Predefined output</i>	<i>Direct</i>	<i>Indirect</i>	<i>Allowed capex</i>
T06	Transmission Plant Switch Houses	Refurbish two 275kV substation buildings and associated works	Specified improvement at specified location(s), as per BPQ	£2.22 million	£0.11 million	£2.33 million
T07	Kells 110kV substation	Increase fault rating of SWGR to 40kA	Specified improvement at specified location(s), as per BPQ	£7.23 million	£0.37 million	£7.60 million
T08	Tandragee 110kV Substation	Increase fault rating of SWGR to 40kA	Specified improvement at specified location(s), as per BPQ	£2.84 million	£0.15 million	£2.99 million
T09	Castlereagh 110kV Substation	Increase fault rating of SWGR to 40kA	Specified improvement at specified location(s), as per BPQ	£2.70 million	£0.14 million	£2.84 million
T10	110kV swithgear at 3 substations	Replacement SWGR at 3 substations (Ballyvallah, Dungannon, Lisburn) Associated cable replacement	Specified number of units Linked to associated deliverable	£5.63 million	£0.29 million	£5.92 million
T11	275kV Plant Ancillaries	Replacement 275kV switchgear and other equipment Catenaries Cladding replacement Protection Asbestos removal Concrete structure refurbishment Transformer Bunding Holthum	As per BPQ N/A Specified improvement at specified location(s) Specified improvement at specified location(s) Specified improvement at specified location(s) N/A Specified improvement at specified location(s) N/A	£4.94 million	£0.26 million	£5.19 million

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		Security systems	Specified improvement at specified location(s)			
		Generator	Replace 5 standby generators			
		DC Standby systems	Specified improvement at specified location(s)			
		FMJL & Reyrolle Hairpin CTs	N/A			
		Earthing	Specified improvement at specified location(s)			
		AC rewire	Specified improvement at specified location(s)			
		Control room refurb	Specified improvement at specified location(s)			
		Drainage	N/A			
T12	110kV Plant ancillaries	Replacement 110kV switchgear and other equipment.	As per BPQ	£6.22 million	£0.32 million	£6.55 million
		Protection	Specified improvement at specified location(s)			
		Cable ducts	N/A			
		Structure refurb	N/A			
		Tx Bunding	Specified improvement at specified location(s)			
		Holthum Generator	N/A Replace 2 standby generators			
		External lighting	N/A			
		DC standby systems	Specified improvement at specified location(s)			
		AC system rewire	Specified improvement at specified location(s)			
		Busbars, isolators and VTs	N/A			
		Security	Specified improvement at specified location(s)			
		CO2 refurb	N/A			
		Eathing	N/A			
		Civil	N/A			
		Strabane Main transformer refurbishment	Specified improvement at specified location(s)			
T13	275kV/110kV Transformer Replacement	Transformers (275/110kV)	Specified number of units	£6.92 million	£0.36 million	£7.28 million

NIE Transmission Licence - (extract to show proposed new Annex 2)

T14	110/33kV Transformer Replacement	Procurement of transformers Installation of transformers Associated cable replacement	Specified number of units Linked to associated deliverable Linked to associated deliverable	£6.16 million	£0.32 million	£6.48 million
T15	22kV Reactor replacement	Procurement of reactors Installation of reactors	Specified number of units Linked to associated deliverable	£1.25 million	£0.06 million	£1.31 million
T16	Transmission Transformer Refurbishment	275kV Bushing Refurbishment 275kV Plant Painting 275kV disconnector Refurbishment and spares 275/110kV TX Tap changer refurbishment 110kV Cooler replacements 110kV Bushings replacements 110kV Plant Painting 110kV Disconnector Refurbishment 110/33kV TX Tap changer refurbishment	Specified number of units Specified number of units Specified improvement at specified location(s) Specified number of units Specified number of units Specified number of units Specified number of units Specified improvement at specified location(s) Specified number of units	£1.02 million	£0.05 million	£1.07 million
T17	275kV Overhead Line Asset Replacement	Replace colour and number plates Spacers Replace suspension insulator Replace tension insulator Tower Painting Foundation assessment (towers) Condition assessment Vegetation	Specified number of units Specified number of units Specified number of units Specified number of units Specified number of units N/A N/A N/A	£6.03 million	£2.39 million	£8.42 million
T19	110kV Overhead Line Asset Replacement	Replace conductors	Specified number of units	£6.33 million	£2.51 million	£8.85 million

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		Replace colour and number plates	Specified number of units			
		Replace suspension insulator	Specified number of units			
		Replace damper	Specified number of units			
		Replace tension insulator	Specified number of units			
		Tower painting	Specified number of units			
		Replace wood poles	Specified number of units			
		Foundation assessment	N/A			
		Condition assessment	N/A			
		Vegetation Management	N/A			
T20	Transmission Cables	Refurbishment of cable tunnels & installation of permanent pumps	Specified improvement at specified location(s)	£4.17 million	£0.22 million	£4.39 million
		Replacement of 110kV double circuit (2.6km)	Specified number of units			
		Replacement of Sheath Voltage Limiters	Specified improvement at specified location(s)			
		Refurbishment cost of double circuit Donegal Main - Whitla Street	Specified improvement at specified location(s)			
		Replacement of existing mineral oil with modern DDB fluid	Specified number of units			
		Refurbishment of 110kV sealing ends	N/A			
		Refurbishment of hydraulic ancillary systems	Specified improvement at specified location(s)			
		Sheath testing programme and refurbishment	N/A			
T21	Fault and emergency ⁶	N/A	N/A			£2.77 million
T22	Transmission reactive ⁷	N/A	N/A			£0.50 million
T23	Design & Consultancy	N/A	N/A			£3.30 million
T36	Belfast North Main 110/33kV Bulk Supply Substation	Replace 90MVA transformer	Specified number of units	£1.43 million	£0.07 million	£1.51 million

⁶ This category of expenditure shall not be included in the calculation of pre-funded costs for price controls subsequent to RP5.

⁷ This category of expenditure shall not be included in the calculation of pre-funded costs for price controls subsequent to RP5.

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T40	ESQCR	Full survey and asset register	A full ESQCR asset register and associated reporting	£0.77 million	£0.00 million	£0.77 million
T42	Substation Flooding Enforcement	Permanent protection to at risk substations	Specified improvement at specified location(s)	£0.55 million	£0.03 million	£0.58 million
N/A	Non-network capex: ICT	IT infrastructure, telecoms infrastructure and business applications	As per BPQ but after FD adjustments			£2.58 million
N/A	NIE Powerteam assets used for capex	N/A	N/A			£0.88 million
N/A	NIE Powerteam tools and equipment used for capex, plus non-network capex: premises	N/A	N/A			£0.26 million
N/A	Network investment embedded in managed service charge	N/A	N/A			£1.40 million
N/A	Capitalised Tree Cutting	N/A	N/A			£0.74 million
N/A	Other costs apportioned to Transmission RAB	N/A	N/A			£12.35 million
Total transmission investments capitalised to RAB ⁸						<u>£98.86 million</u>

⁸ The total of £98.86million equals the allowed capex in Table 6 for the RP5 period (subject to rounding).

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Appendix 2 - The Transmission Owner Business: planned investments allowed as opex for each Regulatory Reporting Year t (2010 prices)⁹

<i>Year</i>	t=2013	t=2014	t=2015	t=2016	t=2017	t=2018
Category						
Benchmarked indirect, Inspections, Maintenance, Faults & Tree cutting costs (excl connections) allocated to opex	£3.94 million	£3.89 million	£3.85 million	£3.82 million	£3.80 million	£1.89 million + £1.89e million
Business Rates	£1.89 million	£1.91 million	£1.91 million	£1.92 million	£1.94 million	£0.97 million + £0.97e million
Other cost allowances	£0.15 million	£0.30 million	£0.15 million	£0.15 million	£0.15 million	£0.07 million + £0.07e million
Other income allowances	-£0.25 million	-£0.25 million	-£0.25 million	-£0.25 million	-£0.25 million	-£0.13 million - £0.13e million
Total ¹⁰	£5.73 million	£5.84 million	£5.65 million	£5.64 million	£5.63 million	£2.80 million + £2.80e million

⁹ See paragraph 2.3 regarding figures in this table marked with an estimation symbol (e).

¹⁰ The totals in this row match the allowed opex amounts in Table 9.

Schedule 1 Authorised Transmission Area

1. The authorised transmission area shall comprise Northern Ireland.

Schedule 2 Terms as to Revocation

- 1 The Authority may at any time revoke the Licence by not less than 30 days' notice in writing to the Licensee:
- (a) if the Licensee agrees in writing with the Authority that the Licence should be revoked;
 - (b) if any licence fee required to be paid under the Licence is unpaid 30 days after it has become due and remains unpaid for a period of 14 days after the Authority has given the Licensee notice that the payment is overdue provided that no such notice shall be given earlier than the sixteenth day after the day on which the amount payable became due;
 - (c) if the Licensee fails to comply with a final order (within the meaning of Article 42 of the Energy Order) or with a provisional order (within the meaning of Article 42 of the Energy Order) which has been confirmed under Article 42 of the Energy Order and which (in either case) has been made in respect of a contravention or apprehended contravention of a Condition or of a relevant requirement as defined in Article 41(2)(a) of the Energy Order imposed on the Licensee in its capacity as holder of the Licence and (in either case) such failure is not rectified to the satisfaction of the Authority within three months after the Authority has given notice of such failure to the Licensee, provided that no such notice shall be given by the Authority before the expiration of the period within which an application under Article 44 of the Energy Order could be made questioning the validity of the final or provisional order or before the proceedings relating to any such application are finally determined;
 - (d) if the Licensee fails to comply with an order made by a court under section 34 of the Competition Act 1998; or fails to comply with an order made under section 72, 75, 76, 81, 83, 84, 158, 160 or 161 of, or under paragraph 2, 5, 6, 10 or 11 of schedule 7 to, the Enterprise Act 2002; or any partner, director, member, secretary or manager of the Licensee is found guilty of an offence under section 188 or 201 of the Enterprise Act 2002;
 - (e) if the Licensee:
 - (i) is unable to pay its debts (within the meaning of Article 103(1) or (2) of the Insolvency (Northern Ireland) Order 1989, but subject to paragraph 3 of this Schedule) or if any voluntary arrangement is proposed in relation to it under Article 14 of that Order, or if it enters into any scheme of arrangement (other than for the purpose of reconstruction or amalgamation upon terms

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- and within such period as may previously have been approved in writing by the Authority);
- (ii) has a receiver (which expression shall include an administrative receiver within the meaning of Article 5(1) of the Insolvency (Northern Ireland) Order 1989) of the whole or any material part of its assets or undertaking appointed;
 - (iii) has an administration order under Article 21 of the Insolvency (Northern Ireland) Order 1989 made in relation to it;
 - (iv) passes any resolution for winding-up other than a resolution previously approved in writing by the Authority; or
 - (v) becomes subject to an order for winding-up by a court of competent jurisdiction;
- (f) if the Licensee is convicted of having committed an offence under Article 63 of the Order or under Article 46 of the Gas (Northern Ireland) Order 1996;
- (g) if the Licensee fails to pay any financial penalty (within the meaning of Article 45 of the Energy Order) imposed in respect of a contravention or apprehended contravention of a Condition or of a “relevant requirement” as defined in Article 41(2)(a) of the Energy Order by the due date for such payment and such payment is not made to the Authority within three months after the Authority has given notice in writing of such failure to the Licensee, provided that no such notice shall be given by the Authority before the expiration of the period within which an application under Article 49 of the Energy Order could be made questioning the validity or effect of the financial penalty or before the proceedings relating to any such application are finally determined; or
- (h) if the Licensee ceases to carry on the Transmission Owner Business other than with the consent of the Authority.
- 2 For the purposes of paragraph 1(e)(i) of this Schedule, Article 103(1)(a) of the Insolvency (Northern Ireland) Order 1989 shall have effect as if for “£750” there was substituted “£250,000” or such higher figure as the Authority may from time to time determine by notice in writing to the Authority and the Licensee.
- 3 The Licensee shall not be deemed to be unable to pay its debts for the purposes of paragraph 1(e)(i) of this Schedule if any such demand as is mentioned in Article 103(1)(a) of the Insolvency (Northern Ireland) Order 1989 is being contested in good faith by the Licensee with recourse to all appropriate measures and procedures or if any such demand is

satisfied before the expiration of such period as may be stated in any notice given by the Authority under paragraph 1 of this Schedule.